

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2217

Introduced by

Senator Cleary

1 A BILL for an Act to create and enact a new section to chapter 43-20 and a new section to
2 chapter 43-28 of the North Dakota Century Code, relating to volunteer licenses; and to amend
3 and reenact sections 43-20-01.1, 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-03, 43-20-05,
4 43-20-12, 43-20-12.3, 43-20-13, 43-20-13.1, and 43-20-13.2, subsection 6 of section 43-28-02,
5 section 43-28-03, subsection 5 of section 43-28-04, sections 43-28-05, 43-28-06, 43-28-08,
6 43-28-11, 43-28-13, 43-28-15, 43-28-16.2, and 43-28-18, subsection 1 of section 43-28-18.1,
7 and sections 43-28-18.2 and 43-28-18.3 of the North Dakota Century Code, relating to the
8 licensing and practice of dental hygienists and dentists, and the board of dental examiners.

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

10 **SECTION 1. AMENDMENT.** Section 43-20-01.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-20-01.1. Definitions.**

13 As used in this chapter and chapter 43-28, unless the context otherwise requires:

- 14 1. "Dental anesthesia assistant" means an individual authorized to perform anesthesia-
15 related duties under the supervision of a dentist established by rule and does not
16 include individuals issued a permit by the board for the application of local anesthetic,
17 such as block or infiltration anesthesia.
- 18 2. "Dental assistant" means an individual who provides dental assistance under the
19 supervision of a dentist and within the scope of practice established by rule and
20 section 43-20-13.
- 21 2.3. "Dental hygienist" means an individual licensed to practice dental hygiene.
- 22 3.4. "Qualified dental assistant" means an individual registered as a qualified dental
23 assistant to provide dental assistance as established by rule.

5. "Qualified dental assistant limited radiology registrant" means a qualified dental assistant registered with the board who may carry out dental assisting duties, including taking radiographs, under the supervision of a dentist as established by rule.

4.6. "Registered dental assistant" means an individual registered as a registered dental assistant to provide dental assistance as established by rule.

SECTION 2. AMENDMENT. Section 43-20-01.2 of the North Dakota Century Code is amended and reenacted as follows:

43-20-01.2. Dental hygienist licensing.

1. An individual seeking a license, registration, permit, credential, or endorsement related to the practice of dental hygiene in this state shall apply to the executive director of the board on forms prescribed by the board.

2. The application must ~~be verified~~:

a. Be verified under oath ~~to the effect that all of the statements contained in the application are true to the applicant's own knowledge, and must be received by the executive director of the board at least thirty days before the board meeting at which the application is considered. The applicant shall enclose with the application;~~

b. Contain a recent autographed picture of the applicant; and an

c. Include the application fee established by the board ~~by rule.~~

3. The board may, by rule, create or modify fees associated with any license, registration, permit, credential, or endorsement. A fee created or modified under this section is not a new fee for purposes of subsection 7 of section 54-35-27.

4. The board may grant a license to practice dental hygiene to an applicant who has met all of the following requirements:

1. a. The applicant is a graduate of a dental hygiene school accredited by the American dental association's commission on dental accreditation.

2. b. The applicant has passed an examination administered by the joint commission on national dental examinations.

3. c. The applicant has passed a clinical competency examination administered by a regional dental testing service or a licensing jurisdiction approved by the board by rule.

- 1 4. d. The applicant has passed, within one year of making application, a written
2 examination on the laws and rules governing the practice of dentistry in this state.
3 5. e. Grounds for denial of the application under section 43-20-05 do not exist.
4 6. f. The applicant has met any requirement for licensure established by the board by
5 rule.

6 **SECTION 3. AMENDMENT.** Section 43-20-01.3 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-20-01.3. Licensure by credential review.**

9 Applications for licensure to practice dental hygiene by credential review must be made on
10 forms provided by the board and ~~submitted thirty days before the examination administered by~~
11 ~~the board~~. The board may issue a license and certificate of registration to practice dental
12 hygiene to an applicant who meets all of the following requirements:

- 13 1. The applicant, for at least three years immediately preceding application, has been
14 licensed in good standing and has been actively practicing dental hygiene in another
15 jurisdiction where the requirements are at least substantially equivalent to those of this
16 state.
17 2. Grounds for denial of the application under section 43-20-05 do not exist.
18 3. The applicant has paid to the board the fee established by the board by rule.
19 4. The applicant has delivered to the board a certificate from the examining or licensing
20 board of every jurisdiction in which the individual is licensed to practice, certifying that
21 the individual is a licensed and registered dental hygienist in good standing in that
22 jurisdiction.
23 5. The applicant has passed a written examination on the laws and rules governing the
24 practice of dentistry in this state administered by the board at a meeting.
25 6. The applicant has met any requirement for licensure established by the board by rule.

26 **SECTION 4. AMENDMENT.** Section 43-20-01.4 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **43-20-01.4. License renewal - Audit.**

- 29 1. Dental hygienist licenses expire on December thirty-first of every odd-numbered year.
30 2. Licenses may be renewed by December thirty-first of the odd-numbered year by
31 submitting a renewal application, a renewal fee established by the board by rule, and

proof of completion of the continuing education requirements established by the board by rule, provided ~~the dental hygienist's license is not revoked or grounds for denial~~ under section 43-20-05 do not exist as determined by the board.

3. If the renewal application, renewal fee, and proof of completion of continuing education are not received by December thirty-first of the odd-numbered year, the license expires and the ~~dental hygienist~~individual may not practice dental hygiene.

4. Within sixty days after December thirty-first of the odd-numbered year, an expired license may be renewed ~~by submitting~~if the individual submits the renewal application, renewal fee, proof of completion of continuing education, and a late fee established by the board by rule.

5. Between sixty-one days and one year after December thirty-first of the odd-numbered year, an expired license may be renewed if the individual submits a renewal application, pays the renewal fee, pays an amount equal to twice the late renewal fee, and submits other documentation sought by the board confirming the individual retains the skills necessary to practice.

6. If the renewal application, renewal fee, proof of completion of continuing education, and late fee are not received within ~~sixty days~~one year after December thirty-first of the odd-numbered year, the license may not be renewed, and the ~~dental hygienist~~individual must apply for and meet the requirements for licensure to be granted a license.

~~6.7.~~ The board may extend the renewal deadlines for a ~~dental hygienist~~an individual providing proof of medical or other hardship rendering the ~~dental hygienist~~individual unable to meet the deadline.

~~7.8.~~ The board may audit continuing education credits. Each licensee shall maintain certificates or records of continuing education activities for three years. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities listed on the licensee's continuing education form. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

SECTION 5. A new section to chapter 43-20 of the North Dakota Century Code is created and enacted as follows:

1 **Volunteer license.**

2 The board may establish rules governing the issuance of a volunteer license to practice
3 dental hygiene to an individual previously licensed in this state or an individual who holds a
4 license, in good standing, to practice dental hygiene issued by another state.

5 **SECTION 6. AMENDMENT.** Section 43-20-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **43-20-03. Dental hygienists - Practice by.**

8 1. As used in this chapter, "dental hygiene" and the practice thereof means the removal
9 of accumulated matter from the natural and restored surfaces of teeth and from
10 restorations in the human mouth, the polishing of such surfaces, and the topical
11 application of drugs to the surface tissues of the mouth and to the surface of teeth if
12 such acts are performed under the direct, indirect, or general supervision of a licensed
13 dentist. ~~General supervision may be used if the procedures are authorized in advance~~
14 ~~by the supervising dentist, except procedures which may only be used under direct~~
15 ~~supervision as established by the board by rule.~~

16 2. Only a person licensed as a dental hygienist may be referred to as a dental hygienist.
17 Additional

18 3. The board may outline by rule additional tasks permitted to be performed by licensed
19 dental hygienists ~~may be outlined by the board of dental examiners by appropriate~~
20 ~~rules.~~

21 **SECTION 7. AMENDMENT.** Section 43-20-05 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-20-05. Licenses and registrations - Denial and discipline.**

24 1. The board may deny an application for or take disciplinary action against a dental
25 hygienist's license or a registered or qualified dental assistant's registration, upon any
26 one or more of the following grounds:

27 4. a. Gross immorality or unprofessional conduct, which includes knowingly failing to
28 comply with commonly accepted national infection control guidelines and
29 standards.

30 2. b. Failure, neglect, or refusal to renew a license biennially.

- 1 3. c. Nonobservance or violation of this chapter, or of any board rule adopted under
- 2 this chapter.
- 3 4. d. Gross incompetency in the practice of dental hygiene.
- 4 5. e. Conviction of an offense determined by the board to have a direct bearing on the
- 5 individual's ability to serve the public as a dental hygienist or a registered or
- 6 qualified dental assistant, or the board determines, following conviction for any
- 7 offense, that the individual is not sufficiently rehabilitated under section
- 8 12.1-33-02.1.
- 9 6. f. Been adjudged mentally ill and not judicially restored by the regularly constituted
- 10 authorities, or having a physical or mental disability materially affecting the ability
- 11 to carry out the duties within the scope of practice in a competent manner.
- 12 7. ~~Abused, is dependent on, or addicted to the~~
- 13 g. The use of alcohol or drugs to such a degree as to interfere with the licensee's
- 14 ability to safely perform the duties within the scope of practice for dental hygiene
- 15 or dental assisting.
- 16 8. h. Engaged in fraud or deceit in obtaining a dental hygiene license or dental
- 17 assisting registration.
- 18 9. i. Disclosed confidential information.
- 19 10. j. Received a fee for the referral of patients to a dentist or dental hygienist.
- 20 11. k. Used unethical measures to draw dental patronage from the practice of another
- 21 licensee.
- 22 12. l. Fraudulently prescribed or dispensed drugs or medications.
- 23 13. m. Knowingly submitted misleading, deceptive, untrue, or fraudulent information on
- 24 a claim form, bill, or statement to a third party.
- 25 14. n. Advised or directed patients to dental laboratories or dental laboratory
- 26 technicians for a dental service or advised or directed patients to deal directly
- 27 with laboratories or dental laboratory technicians.
- 28 15. o. Violated the code of ethics adopted by the board by rule.
- 29 16. p. Had a registration or license suspended, revoked, or disciplined in another
- 30 jurisdiction.

1 47. g. Failed to report to the board in writing within sixty days a violation of this chapter
2 or chapter 43-28.

3 48. r Practiced outside the scope of practice established by the board by rules and this
4 chapter.

5 s. Failed to fully and completely cooperate in any investigation initiated by the
6 board, including the failure to promptly provide any information legally sought by
7 the board, its investigative panel, its investigators, or its authorized agents.

8 t. Noncompliance with the terms of a program contracted for under section
9 43-28-06.

10 2. The procedure ~~to be followed~~ for taking disciplinary action under this section must be
11 the same as the procedure required by section 43-28-18.2.

12 **SECTION 8. AMENDMENT.** Section 43-20-12 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **43-20-12. Dental hygienist - Scope of permitted practice.**

A licensed dentist may delegate to a competent dental hygienist those procedures over which the dentist exercises full responsibility, except those procedures that require professional judgment and skill such as in diagnosis and, treatment planning, or the cutting of hard or soft tissue, ~~or any intraoral procedure which would lead to the fabrication of any appliance that, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.~~ The board of dental examiners may adopt rules governing the scope of practice of dental hygienists.

22 **SECTION 9. AMENDMENT.** Section 43-20-12.3 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **43-20-12.3. Supervised administration of anesthesialocal anesthetic - Board rules.**

25 A licensed dentist may delegate to a dental hygienist licensed by the board the
26 administration of block and infiltration anesthesia to a patient ~~who is at least eighteen years old.~~
27 The dental hygienist administering local anesthetic under this section must be under the direct-
28 supervision of a dentist, as established by rule, and the dental hygienist must complete the
29 educational requirements as required by the commission on dental accreditation and approved
30 by the board. The board shall adopt rules to implement this section.

1 **SECTION 10. AMENDMENT.** Section 43-20-13 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-20-13. Dental assistant - Scope of permitted practice.**

4 A dental assistant is an auxiliary to the practice of dentistry. To the extent applicable and to
5 the extent they are not inconsistent with this chapter, the requirements and rules adopted by the
6 board of dental examiners under chapter 43-28 apply to the practice of dental assistants. A
7 dentist may delegate to a dental assistant who is under that dentist's ~~direct, indirect, or general~~
8 supervision procedures over which the dentist exercises full responsibility as provided by rules
9 adopted by the board of dental examiners.

10 **SECTION 11. AMENDMENT.** Section 43-20-13.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-20-13.1. Registration renewal - Continuing education audit.**

- 13 1. ~~All registrations of registered and qualified dental assistants~~assistant registrations,
14 including any permits, credentials, or endorsements issued by the board, expire on
15 December thirty-first of every even-numbered year.
- 16 2. A registration may be renewed by submitting a renewal application, renewal fee
17 established by the board by rule, and proof of completion of the continuing education
18 requirements established by the board by rule, provided the registration is not revoked
19 or grounds for denial under section 43-20-05 do not exist.
- 20 3. If the renewal application, renewal fee, and proof of completion of continuing
21 education are not received by December thirty-first of the even-numbered year, the
22 registration expires and the ~~registered or qualified dental assistant~~individual may not
23 practice as a registered or qualified dental assistant.
- 24 4. Within sixty days after December thirty-first of the even-numbered year, an expired
25 registration may be renewed by submitting the renewal application, renewal fee, proof
26 of completion of continuing education, and a late fee established by the board by rule.
- 27 5. Between sixty-one days and one year after December thirty-first of the odd-numbered
28 year, an expired license may be renewed if the individual submits a renewal
29 application, pays the renewal fee, pays an amount equal to twice the late renewal fee,
30 and submits other documentation sought by the board confirming the individual retains
31 the skills necessary to practice.

1 6. If the renewal application, renewal fee, proof of completion of continuing education,
2 and late fee are not received within ~~sixty days~~one year after December thirty-first of
3 the even-numbered year, the registration may not be renewed, and the ~~registered or~~
4 ~~qualified dental assistant~~individual must apply for and meet the requirements for
5 registration to be granted registration.

6 ~~6.7.~~ The board may extend the renewal deadline for a ~~registered or qualified dental~~
7 ~~assistant~~an individual providing proof of medical or other hardship rendering the
8 ~~registered or qualified dental assistant~~individual unable to meet the deadline.

9 8. The board may audit continuing education credits. Each dental assistant who is
10 required to be registered with the board shall maintain certificates or records of
11 continuing education activities for three years. Upon receiving notice of an audit from
12 the board, a dental assistant shall provide satisfactory documentation of attendance
13 at, or participation in, the continuing education activities listed on the dental assistant's
14 continuing education form. Failure to comply with the audit is grounds for nonrenewal
15 or disciplinary action against the dental assistant.

16 **SECTION 12. AMENDMENT.** Section 43-20-13.2 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 ~~43-20-13.2. Registered and qualified dental assistant registration~~Registration of
19 dental assistants.

20 To be registered as a registered ~~or dental assistant~~, qualified dental assistant, dental
21 anesthesia assistant, qualified dental assistant limited radiology registrant, or for any individual
22 to be issued a permit, credential, or endorsement by the board related to dental assisting, an
23 individual shall apply and meet the requirements established by the board by rule.

24 **SECTION 13. AMENDMENT.** Subsection 6 of section 43-28-02 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 6. To a registered nurse, licensed practical nurse, ~~registered dental hygienist, qualified~~
27 dental assistant, or registered dental assistant who is applying topical fluoride varnish
28 to an individual and is acting under the direct or general supervision of a physician or
29 licensed dentist if the registered nurse, licensed practical nurse, ~~registered dental~~
30 hygienist, qualified dental assistant, or registered dental assistant has successfully
31 completed a training program approved by the board.

1 **SECTION 14. AMENDMENT.** Section 43-28-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-28-03. State board of dental examiners - Members - Appointment - Terms of office -**
4 **Oath - Vacancies.**

5 1. The state board of dental examiners consists of nine members appointed by the
6 governor. The membership of the board must include ~~six~~:

7 a. Six dentist members, at least one of whom is a board-eligible or board-certified
8 oral and maxillofacial surgeon; ~~one~~

9 b. One dental hygienist member; ~~one~~

10 c. One dental assistant member; and ~~one~~

11 d. One independent consumer member.

12 2. Appointment to the board is for a term of five years, with terms of office arranged so
13 no more than two terms expire on March sixteenth of each year. Each member of the
14 board shall hold office until a successor is appointed and qualified. An individual
15 appointed to the board qualifies by taking the oath required of civil officers.

16 3. A member may not serve more than ~~ten years or two~~ full and consecutive 5-year
17 appointed terms of office. An appointment to fill a vacancy occurring for reasons other
18 than the expiration of a term may be made only for the remainder of the unexpired
19 term, and does not constitute a full term or apply to term limits.

20 4. If a member of the board is absent from two consecutive regular meetings, the board
21 may declare a vacancy to exist.

22 5. All vacancies on the board must be filled by the governor by appointment.

23 **SECTION 15. AMENDMENT.** Subsection 5 of section 43-28-04 of the North Dakota
24 Century Code is amended and reenacted as follows:

25 5. The dental hygienist, dental assistant, and independent consumer member of the
26 board shall exercise full voting privileges in all areas except that the dental hygienist
27 may not participate in the clinical examination of dentists for licensure and the dental
28 assistant and independent consumer member may not participate in the clinical
29 examination of dentists or hygienists for licensure. Each appointee must continue to
30 meet the criteria for appointment for the duration of the appointee's term.

1 **SECTION 16. AMENDMENT.** Section 43-28-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-28-05. Meeting of board - Officers - Bond - Compensation of members - Quorum.**

4 1. The board shall hold a regular annual meeting at a place designated by the board and
5 special meetings when necessary. ~~At the regular meeting of the board, the~~
6 ~~members~~The board shall elect from ~~their number a~~ its members:

7 a. A president, ~~a member who has at least two years remaining on that member's~~
8 ~~term, ;~~

9 b. A president-elect, ~~a member who has at least three years remaining on that~~
10 ~~member's term, ;~~ and a

11 c. A secretary-treasurer. ~~The executive director shall furnish a bond in the amount~~
12 ~~fixed by the board.~~

13 2. Each member of the board shall receive as compensation for each day actually
14 engaged in the duties of the office per diem at a rate established by the board and
15 reimbursement for expenses as provided in section 54-06-09 while attending meetings
16 of the board. The executive director may be paid an annual salary in an amount
17 determined by the board. ~~Four members of the board constitute a quorum but a~~
18 ~~smaller number may adjourn from time to time.~~

19 **SECTION 17. AMENDMENT.** Section 43-28-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-28-06. Powers of board.**

22 The board may:

23 1. Adopt and enforce reasonable rules to govern its proceedings and to carry out this
24 chapter.

25 2. Examine applicants for licenses, or registration to practice dentistry, dental hygiene, or
26 dental assisting in this state, either by direct examination or by accepting the results of
27 national or regional dental testing services in which the board participates or which the
28 board recognizes.

29 3. Issue, suspend, revoke, limit, cancel, restrict, and reinstate licenses registrations,
30 permits, credentials, or endorsements related to the practice of dentistry, dental

1 ~~assisting~~, or dental hygiene and the biennial certificates of registration upon any
2 grounds authorized by this chapter or rules adopted by the board.

3 4. Issue subpoenas to require the attendance of witnesses and the production of
4 documentary evidence and may administer oaths. Any member or executive officer of
5 the board may administer oaths to witnesses, or issue subpoenas, ~~but all subpoenas~~
6 ~~so issued must be attested by the secretary who shall affix the seal of the board~~
7 ~~thereto.~~

8 5. Employ and compensate an executive director, attorneys, investigative staff, and
9 clerical assistants and may perform any other duties imposed upon the board by this
10 chapter.

11 6. Establish minimum continuing professional education requirements for dentists, dental
12 hygienists, and dental assistants.

13 7. Enter an agreement with the same professional organization with which the North
14 Dakota board of medicine has entered an agreement under subsection 6 of section
15 43-17-07.1 and adopt rules to establish an alternative to discipline program through
16 that contract. Records of an alternative to discipline program, including the identity of a
17 licensee participating in the alternative to discipline program, are exempt records
18 under section 44-04-17.1. Records of an alternative to discipline program may be
19 disclosed by the board if the board determines disclosure of the records is necessary
20 to protect health, safety, and welfare of the public, if ordered by a court of competent
21 jurisdiction, or if otherwise determined by the board. Fees assessed by rule for this
22 program are not new fees as contemplated by subsection 7 of section 54-35-27.

23 8. Impose fines, not to exceed five thousand dollars for each violation of section
24 43-28-18.2. All fines collected by the board must be deposited in the general fund.

25 **SECTION 18. AMENDMENT.** Section 43-28-08 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **43-28-08. Records of board - Use as evidence.**

28 The board shall keep full and complete minutes of its proceedings and of its receipts and
29 disbursements and a full and accurate list of all persons licensed and registered by it. ~~The~~
30 ~~records of the board, together with the list of all licensed and registered dentists, are public~~
31 ~~records and must be open to public inspection at all reasonable times. Such records, or a~~

transcript of the same or any part thereof, under the seal of the board, duly certified by its secretary-treasurer, are competent evidence of the facts therein stated. A certificate of the secretary-treasurer under the seal of the board stating that any person is or is not a duly licensed and registered dentist is prima facie evidence of such fact the board, and shall maintain all records in full compliance with chapter 44-04.

SECTION 19. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Volunteer license.

The board may establish rules governing the issuance of a volunteer license to practice dentistry to an individual previously licensed in this state or an individual who holds a license, in good standing, to practice dentistry issued by another state.

SECTION 20. AMENDMENT. Section 43-28-11 of the North Dakota Century Code is amended and reenacted as follows:

43-28-11. Application - Fees.

1. An individual seeking to practice dentistry in this state shall apply to the executive director of the board on forms prescribed by the board a license, registration, permit, credential, or endorsement related to the practice of dentistry, shall apply to the executive director on forms prescribed by the board.
2. The application must be verified:
 - a. Be verified under oath to the effect that all of the statements contained in the application are true to the applicant's own knowledge, and must be received by the executive director of the board at least thirty days before the board meeting at which it is considered. The applicant shall enclose with the application :
 - b. Contain a recent autographed picture of the applicant; and an
 - c. Include the application fee as determined established by the board by rule.
3. The board may, by rule, create or modify fees associated with any license, registration, permit, credential, or renewal. A fee created or modified under this section is not a new fee for purposes of subsection 7 of section 54-35-27.

SECTION 21. AMENDMENT. Section 43-28-13 of the North Dakota Century Code is amended and reenacted as follows:

1 **43-28-13. When re-examination required.**

2 ~~Any dentist~~An individual who does not undertake the actual practice of dentistry within five
3 years from the date of the ~~dentist's~~individual's license and registration; or any holder of any
4 privilege related to the practice of dentistry shall, before engaging in the practice of dentistry in
5 this state, notify the board of the intention in writing. The board, after a full investigation, may re-
6 examine the ~~dentist~~individual as to the ~~dentist's~~individual's qualifications to practice dentistry in
7 this state, if the board deems such re-examination necessary. The failure of the ~~dentist~~individual
8 to give the written notice to the board before engaging in the practice of dentistry in this state is
9 grounds for disciplinary action.

10 **SECTION 22. AMENDMENT.** Section 43-28-15 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **43-28-15. Licensure by credential review.**

13 1. The board may issue a license and certificate of registration to practice dentistry in this
14 state to an applicant who meets ~~all of~~ the following requirements:

15 ~~4.~~ a. The applicant, for at least five years immediately preceding application, has been
16 licensed in good standing and has been actively practicing dentistry in another
17 jurisdiction where the requirements are at least substantially equivalent to those
18 of this state;:

19 ~~2.~~ b. Grounds for denial of the application under section 43-28-18 do not exist;:

20 ~~3.~~ c. The applicant pays to the board the fee determined by the board by rule;:

21 ~~4.~~ d. The applicant delivers to the board a certificate from the examining or licensing
22 board of every jurisdiction in which the individual is practicing or is licensed to
23 practice, certifying that the individual is a licensed and registered dentist in good
24 standing in that jurisdiction;:

25 ~~5.~~ e. The applicant passes a written examination on the laws and rules governing the
26 practice of dentistry in this state administered by the board at a meeting.

27 ~~6.~~ f. The applicant meets any requirement for licensure established by the board by
28 rule.

29 2. The board may issue a license and certificate of registration to practice dentistry in this
30 state to an applicant in good standing under the laws of another jurisdiction and

1 possesses qualifications, education, and experience substantially similar to the
2 requirements in subsection 1.

3 **SECTION 23. AMENDMENT.** Section 43-28-16.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-28-16.2. License renewals.**

- 6 1. Licenses expire on December thirty-first of every odd-numbered year.
- 7 2. Licenses may be renewed by December thirty-first of the odd-numbered year by
8 submitting a renewal application, a renewal fee established by the board by rule, and
9 proof of completion of the continuing education requirements established by the board
10 by rule, provided ~~the dentist's license is not revoked or~~ grounds for denial under
11 section 43-28-18 do not exist as determined by the board.
- 12 3. If the renewal application, renewal fee, and proof of completion of continuing
13 education are not received by December thirty-first of the odd-numbered year, the
14 license expires and the ~~dentist~~individual may not practice dentistry.
- 15 4. Within sixty days after December thirty-first of the odd-numbered year, an expired
16 license may be renewed by submitting the renewal application, renewal fee, proof of
17 completion of continuing education, and a late fee established by the board by rule.
- 18 5. Between sixty-one days and one year after December thirty-first of the odd-numbered
19 year, an expired license may be renewed if the individual submits a renewal
20 application, pays the renewal fee, pays an amount equal to twice the late renewal fee,
21 and submits other documentation sought by the board confirming the individual retains
22 the skills necessary to practice.
- 23 6. If the renewal application, renewal fee, proof of completion of continuing education,
24 and late fee are not received within ~~sixty days~~one year after December thirty-first of
25 the odd-numbered year, the license may not be renewed, and the ~~dentist~~individual
26 must apply for and meet the requirements for licensure to be granted a license.
- 27 ~~6-7.~~ The board may extend the renewal deadlines for a ~~dentist~~an individual providing proof
28 of medical or other hardship rendering the ~~dentist~~individual unable to meet the
29 deadline.

30 **SECTION 24. AMENDMENT.** Section 43-28-18 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **43-28-18. Grounds for denial of or disciplinary action against license and certificate.**

2 The board may deny an application or take disciplinary action against the license and the
3 certificate of registration of any applicant or dentist who has:

- 4 1. Engaged in dishonorable, unprofessional, or immoral conduct.
- 5 2. Been convicted of an offense determined by the board to have a direct bearing upon
6 the individual's ability to serve the public as a dentist, or the board determines,
7 following conviction for any offense, that the individual is not sufficiently rehabilitated
8 under section 12.1-33-02.1.
- 9 3. Been adjudged mentally ill and not judicially restored by the regularly constituted
10 authorities or have a physical or mental disability materially affecting the ability to carry
11 out the duties within the scope of practice in a competent manner.
- 12 4. ~~Abused, is dependent on, or addicted to the use of~~Used alcohol or drugs to such a
13 degree as to interfere with the licensee's ability to safely perform the duties within the
14 scope of practice for dentistry.
- 15 5. Employed or permitted an unlicensed individual to practice dentistry in the office under
16 the dentist's control.
- 17 6. Been grossly negligent in the practice of dentistry.
- 18 7. Engaged in fraud or deceit in obtaining the license or in the practice of dentistry.
- 19 8. Disclosed confidential information.
- 20 9. Shared any professional fee with anyone or paid anyone for sending or referring
21 patients to the dentist. However, this does not prohibit dentists from practicing in a
22 partnership and sharing one another's professional fees, nor prohibit a dentist from
23 employing any other dentist or dental hygienist.
- 24 10. Used any advertising of any character tending to mislead and deceive the public,
25 including advertising the public could reasonably interpret as indicating the dentist is
26 qualified to practice a dental specialty, if the practice of that dental specialty would be
27 outside the scope of practice for which the dentist is qualified to practice.
- 28 11. Failed to meet minimum standards of professional competence.
- 29 12. Prescribed, administered, or dispensed medications for reasons or conditions outside
30 the scope of dental practice.

- 1 13. Fraudulently, carelessly, negligently, or inappropriately prescribed drugs or
2 medications.
- 3 14. Directed others to perform acts or provide dental services for which they were not
4 licensed or qualified or were prohibited by law or rule from performing or providing.
- 5 15. Submitted fraudulent insurance claims.
- 6 16. Made any false, fraudulent, deceptive, or untrue statements in connection with the
7 practice of dentistry, or in an application for an examination to obtain a license to
8 practice dentistry.
- 9 17. Made any false representations that the individual is the holder of a license or
10 certificate of registration to practice dentistry.
- 11 18. Made any false claims that the individual is a graduate of a dental college or the holder
12 of any diploma or degree from a dental college.
- 13 19. Failed to comply with commonly accepted national infection control guidelines and
14 standards.
- 15 20. Abandoned the dentist's practice in violation of rules adopted by the board.
- 16 21. Failed to report to the board as required under section 43-28-18.1.
- 17 22. Failed to practice within the scope of that dentist's education or advanced training as
18 recognized by the board, the American dental association, or other professional entity
19 recognized by the board.
- 20 23. Failed to release, within a reasonable time, copies of dental or medical records
21 requested by a patient of record or violated section 23-12-14, or failure to provide a
22 complying written statement to a patient, the board, or other requester. Dental records
23 may include any document, charting, study models, doctor's notations, billing
24 information, insurance document or combination of documents that pertains to a
25 patient's medical history, diagnosis, prognosis, or medical condition, which is
26 generated and maintained in the process of the patient's dental health care treatment.
27 Within ten days after receipt of request, a dentist who fails to release patient records
28 shall provide a written statement, detailing the cause of delay and an estimation of
29 when records will be produced, to the patient or requester.
- 30 24. Advised or directed patients to dental laboratories or dental laboratory technicians for
31 any dental service or advised or directed patients to deal directly with laboratories or

1 dental laboratory technicians without first having furnished the dental laboratory or
2 dental laboratory technician a written prescription.

3 25. Worked or cooperated with dental laboratories that advertise for public patronage by
4 delegating work to such laboratories in return for the referral of laboratory patrons for
5 professional services.

6 26. Used the services of a person or entity not licensed to practice dentistry in this state,
7 or constructed, altered, repaired, or duplicated a denture, plate, partial plate, bridge,
8 splint, or orthodontic or prosthetic appliance, except as provided by rule adopted by
9 the board.

10 27. Violated the code of ethics adopted by the board by rule.

11 28. Violated this chapter or rules adopted by the board.

12 29. Had the applicant's or dentist's license suspended, revoked, or disciplined in another
13 jurisdiction.

14 30. Maintained a lack of appropriate documentation in dental records for diagnosis,
15 testing, or treatment of patients.

16 31. Failed to fully and completely cooperate in an investigation by the board, including
17 failure to promptly provide legally sought information to the board or any investigative
18 panel, investigator, or authorized agent of the board.

19 32. Failed to comply with the terms of a program contracted for under section 43-28-06.

20 **SECTION 25. AMENDMENT.** Subsection 1 of section 43-28-18.1 of the North Dakota
21 Century Code is amended and reenacted as follows:

22 1. A dentist shall report to the board in writing within sixty days of the event any illegal,
23 unethical, or errant behavior or conduct of the dentist, including the following events,
24 proceedings, or formal or informal actions:

25 a. A dental malpractice judgment or malpractice settlement or a final judgment by a
26 court in favor of any party and against the licensee.

27 b. A final disposition regarding the surrender of a license, or adverse action taken
28 against a license by a licensing agency in another state, territory, or country; a
29 governmental agency; a law enforcement agency; or a court for an act or conduct
30 that would constitute grounds for discipline under this chapter.

1 c. A mortality or other incident occurring in an outpatient facility of the dentist which
2 results in temporary or permanent physical or mental injury requiring
3 hospitalization of the patient during or as a direct result of a dental procedure or
4 related use of general anesthesia, deep sedation, conscious sedation with a
5 parenteral drug, or enteral sedation.

6 d. An arrest by a law enforcement officer or criminal charges filed by a prosecutor.

7 **SECTION 26. AMENDMENT.** Section 43-28-18.2 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-28-18.2. Disciplinary procedure.**

- 10 1. A person may file a written and signed complaint with the board alleging a dentist
11 engaged in conduct identified as grounds for disciplinary action under section
12 43-28-18. The board may also initiate a complaint and investigation on the board's
13 motion.
- 14 2. The board may direct a complaint committee to investigate a complaint and
15 recommend whether the board should initiate a disciplinary action against the dentist.
- 16 3. The board or complaint committee shall notify the dentist of the complaint, and require
17 a written response from the dentist. The board or complaint committee may examine
18 and copy records, including patient records, examine witnesses, obtain expert
19 opinions, require the dentist to be physically or mentally examined, or both, by
20 qualified professionals selected by the board, and take any other action necessary to
21 investigate the complaint. A request by the board or complaint committee is-
22 ~~authorized~~provides sufficient authorization to disclose patient information and records
23 to the board or complaint committee. Patient information and records disclosed to the
24 board or complaint committee are confidential. The dentist shall cooperate with the
25 board or the complaint committee in the investigation, including responding promptly,
26 truthfully, and completely to a request or requirement.
- 27 4. The complaint, response, and any record received by the board ~~in investigating~~
28 ~~the~~during the investigation of a complaint or other allegation are exempt records, as
29 defined in section 44-04-17.1, until the board determines to proceed with a disciplinary
30 action.

- 1 5. The board shall determine if there is a reasonable basis to believe the dentist engaged
2 in conduct identified as grounds for disciplinary action under section 43-28-18. If the
3 board determines there is not a reasonable basis to believe, the board shall notify the
4 complainant and the dentist. If the board determines there is a reasonable basis to
5 believe, the board shall proceed with a disciplinary action in accordance with chapter
6 28-32.
- 7 6. The board, at any time, may offer or accept a proposal for informal resolution of the
8 complaint or disciplinary action.
- 9 7. The board may impose a fee on the dentist for all or part of the costs of an
10 investigation or action resulting in discipline, including administrative costs,
11 investigation costs, attorney's fees, witness fees, the cost of the office of
12 administrative hearings' services, and court costs.
- 13 8. In any agreement, order, or decision arising out of any disciplinary investigation or
14 action undertaken by the board, the board may direct the licensee or registrant to pay
15 the board a sum not to exceed the reasonable and actual costs, including reasonable
16 attorneys fees incurred by the board or investigative panels of the board in the
17 investigation or prosecution. The board may suspend a license or registration until
18 costs are paid to the board. Within thirty days of the issuance of an agreement, order,
19 or decision, a licensee or registrant may challenge the reasonableness of any cost
20 item by requesting a hearing under chapter 28-32. An administrative law judge may
21 approve, deny, or modify any cost item, and the determination of the judge is final. The
22 hearing must occur before the license or registration may be suspended for
23 nonpayment.

24 **SECTION 27. AMENDMENT.** Section 43-28-18.3 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **43-28-18.3. Temporary suspension - Appeal.**

- 27 1. When, based on verified evidence, the board determines by a clear and convincing
28 standard that the evidence presented to the board indicates that the continued
29 practice by the dentist would create a significant risk of serious and ongoing harm to
30 the public while a disciplinary proceeding is pending, and that immediate suspension
31 of the dentist's license is required to reasonably protect the public from that risk of

1 harm, the board may order a temporary suspension ex parte. For purposes of this
2 section, "verified evidence" means testimony taken under oath and based on personal
3 knowledge. The board shall give prompt written notice to the dentist of the ex parte
4 temporary suspension ~~to the dentist~~, which must include a copy of the order and
5 complaint, the date set for a full hearing on the merits of the evidence that resulted in
6 the ex parte temporary suspension, and a specific description of the nature of the
7 evidence, including a list of all known witnesses and a description of any documents
8 relied upon by the board in ordering the ex parte temporary suspension which, upon
9 request, must be made available to the dentist.

10 2. ~~An~~Unless the ex parte temporary suspension is otherwise terminated by the board, an
11 ex parte temporary suspension remains in effect until a final order is issued
12 ~~after following a full hearing or on the merits conducted under chapter 28-32 or~~
13 following an appeal under this section or until the suspension is otherwise terminated
14 ~~by the board.~~

15 3. ~~The board shall conduct a full~~ hearing on the merits of the allegations to determine
16 what disciplinary action, if any, must be taken against the dentist who is the subject of
17 the ex parte temporary suspension. ~~That hearing~~ must be held not later than thirty
18 days from the issuance of the ex parte temporary suspension order or as soon as
19 practicable as determined by the hearing officer. The dentist is entitled to a
20 continuance of the thirty-day period upon request for a period determined by the
21 hearing officer.

22 4. The dentist may appeal the ex parte temporary suspension order before the full
23 hearing. ~~For purposes of appeal, on the merits occurs.~~ The appeal must be filed with
24 the district court of Burleigh County. The district court shall decide whether the board
25 acted reasonably or arbitrarily when ordering the ex parte temporary suspension. The
26 district court shall give priority to the appeal for prompt disposition.

27 5. A dental or medical record of a patient, or other document containing personal
28 information relating to a patient, ~~which is~~ obtained by the board is confidential.