

Introduced by

Industry, Business and Labor Committee

(At the request of the State Board of Dental Examiners)

1 A BILL for an Act to create and enact section 43-28-25.1 of the North Dakota Century Code,
2 relating to the ownership of a dental office or clinic; and to amend and reenact sections
3 43-20-03, 43-20-12.3, 43-20-13.2, 43-28-15, 43-28-18.1, and 43-28-18.2 of the North Dakota
4 Century Code, relating to the practice and licensing of dental assistants and hygienists and
5 dentists.

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

7 **SECTION 1. AMENDMENT.** Section 43-20-03 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-20-03. Dental hygienists - Practice by.**

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

17 Only a person licensed as a dental hygienist may be referred to as a dental hygienist.
18 Additional tasks permitted to be performed by licensed dental hygienists may be outlined by the
19 board of dental examiners by appropriate rules.

20 **SECTION 2. AMENDMENT.** Section 43-20-12.3 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-20-12.3. Supervised administration of anesthesia - Board rules.**

23 A licensed dentist may delegate to a dental hygienist licensed by the board the
24 administration of block and infiltration anesthesia ~~to a patient who is at least eighteen years old.~~

1 The dental hygienist must be under the ~~direct~~indirect supervision of a dentist and the dental
2 hygienist must complete the educational requirements as required by the commission on dental
3 accreditation and approved by the board. The board shall adopt rules to implement this section.

4 **SECTION 3. AMENDMENT.** Section 43-20-13.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-20-13.2. Registered and qualified dental assistant registration.**

7 To be registered as a registered or qualified dental assistant, an individual shall apply ~~and~~
8 ~~meet the requirements established by the board by rule~~to the executive director of the board on
9 forms prescribed by the board. The application must be verified under oath to the effect that all
10 of the statements contained in the application are true of the applicant's own knowledge. The
11 applicant shall enclose with the application a recent autographed picture of the applicant and an
12 application fee as determined by the board by rule. The board may grant a registration to an
13 applicant who has met all of the following requirements:

- 14 1. The applicant passed, within one year of making application, a written examination on
15 the laws and rules governing the practice of dentistry in this state.
- 16 2. Grounds for denial of the application under section 43-20-05 do not exist.
- 17 3. The applicant met any requirement for registration established by the board by rule.
- 18 4. The applicant met any requirement for registration established by the board by rule.

19 **SECTION 4. AMENDMENT.** Section 43-28-15 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **43-28-15. Licensure by credential review.**

22 The board may issue a license and certificate of registration to practice dentistry in this
23 state to an applicant who meets all of the following requirements:

- 24 1. The applicant, for at least five years immediately preceding application, has been
25 licensed in good standing and has been actively ~~practicing~~engaged in the practice of
26 dentistry in another jurisdiction where the requirements are at least substantially
27 equivalent to those of this state.
- 28 2. Grounds for denial of the application under section 43-28-18 do not exist.
- 29 3. The applicant pays to the board the fee determined by the board by rule.
- 30 4. The applicant delivers to the board a certificate from the examining or licensing board
31 of every jurisdiction in which the individual is practicing or is licensed to practice,

1 certifying that the individual is a licensed and registered dentist in good standing in
2 that jurisdiction.

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

5 6. The applicant meets any requirement for licensure established by the board by rule.

6 **SECTION 5. AMENDMENT.** Section 43-28-18.1 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-28-18.1. Duty to report.**

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

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

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

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

23 d. Actions based on professional conduct or competence resulting in the revocation,
24 suspension, temporary suspension, restriction, reduction, or voluntary surrender
25 or withdrawal of clinical or hospital privileges.

26 2. A dentist shall advise the board in a timely manner if the dentist reasonably believes
27 another dentist has committed an illegal or immoral act or has otherwise failed to
28 make a report as required under subsection 1.

29 **SECTION 6. AMENDMENT.** Section 43-28-18.2 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **43-28-18.2. Disciplinary procedure.**

- 2 1. A person may file a written and signed complaint with the board alleging a dentist
3 engaged in conduct identified as grounds for disciplinary action under section
4 43-28-18. The board or board president may also initiate a complaint and investigation
5 on the board's motion.
- 6 2. The board or board president may direct a complaint committee to investigate a
7 complaint and recommend whether the board should initiate a disciplinary action
8 against the dentist.
- 9 3. The board or complaint committee shall notify the dentist of the complaint, and require
10 a written response from the dentist. The board or complaint committee may examine
11 and copy records, including patient records, examine witnesses, obtain expert
12 opinions, require the dentist to be physically or mentally examined, or both, by
13 qualified professionals selected by the board, and take any other action necessary to
14 investigate the complaint. A request by the board or complaint committee is authorized
15 to disclose patient information and records to the board or complaint committee.
16 Patient information and records disclosed to the board or complaint committee are
17 confidential. The dentist shall cooperate with the board or the complaint committee in
18 the investigation, including responding promptly and completely to a request or
19 requirement.
- 20 4. The complaint, response, and any record received by the board in investigating the
21 complaint are exempt records, as defined in section 44-04-17.1, until the board
22 determines to proceed with a disciplinary action.
- 23 5. The board shall determine if there is a reasonable basis to believe the dentist engaged
24 in conduct identified as grounds for disciplinary action under section 43-28-18. If the
25 board determines there is not a reasonable basis to believe, the board shall notify the
26 complainant and the dentist. If the board determines there is a reasonable basis to
27 believe, the board shall proceed with a disciplinary action in accordance with chapter
28 28-32.
- 29 6. The board, at any time, may offer or accept a proposal for informal resolution of the
30 complaint or disciplinary action.

1 7. The board may impose a fee on the dentist for all or part of the costs of an action
2 resulting in discipline, including administrative costs, investigation costs, attorney's
3 fees, witness fees, the cost of the office of administrative hearings' services, and court
4 costs.

5 **SECTION 7.** Section 43-28-25.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 **43-28-25.1. Ownership and operation of a dental office or clinic.**

- 8 1. Any individual or organization that owns or operates a dental office or clinic at which
9 the practice of dentistry takes place shall designate a dentist as the dental director of
10 the dental office or clinic. The dental director is responsible for the clinical practice of
11 dentistry at the dental office or clinic, including:
- 12 a. The overall quality of patient care rendered or performed in the clinical practice of
13 dentistry;
 - 14 b. The supervision of dental hygienists, dental assistants, and other personnel
15 involved in direct patient care and the authorization of procedures performed by
16 the dental hygienists, dental assistants, and other personnel in accordance with
17 the standards of supervision established by law or rule;
 - 18 c. The retention of patient dental records as required by law and the rules adopted
19 by the board;
 - 20 d. To ensure each patient receiving services from the dental office or clinic has a
21 dentist of record; and
 - 22 e. The maintenance of current records of the names of the dentists who supervise
23 the clinical activities of dental hygienists, dental assistants, or other personnel
24 involved in direct patient care. The records must be available to the board upon
25 written request.
- 26 2. The provisions of this section do not apply to a board-approved medical clinic,
27 hospital, or public health setting with which a dentist is associated; a board-approved
28 nonprofit organization created to serve the dental needs of an underserved population;
29 or the heir or personal representative of a deceased dentist.