

Introduced by

Senators J. Lee, Dever

Representatives Beadle, Weisz

1 A BILL for an Act to amend and reenact sections 43-62-01, 43-62-02, 43-62-03, 43-62-04,
2 43-62-08, 43-62-09, 43-62-11, 43-62-14, 43-62-15, and 43-62-18, and subsection 13 of section
3 43-62-19 of the North Dakota Century Code, relating to the regulation of medical imaging and
4 radiation therapy; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 43-62-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **43-62-01. Definitions.**

9 As used in this chapter:

- 10 1. "Board" means the North Dakota medical imaging and radiation therapy board of
11 examiners.
- 12 2. "Certification organization" means a national certification organization that specializes
13 in the certification and registration of ~~certification~~ of medical imaging and radiation
14 therapy technical personnel and which has programs accredited by the national
15 commission for certifying agencies, American national standards institute or the
16 international organization for standardization, or other accreditation organization
17 recognized by the board.
- 18 3. "Licensed practitioner" means a licensed physician, advanced practice registered
19 nurse, ~~surgeon~~, chiropractor, dentist, or podiatrist.
- 20 4. "Licensee" means an individual licensed by the board to perform medical imaging or
21 radiation therapy ~~procedures and operate medical imaging or radiation therapy~~
22 ~~equipment, including a nuclear medicine technologist, radiation therapist,~~
23 ~~radiographer, radiologist assistant, or sonographer~~within the scope of practice of an
24 identified medical imaging and radiation therapy modality.

- 1 5. "Medical imaging" means the performance of any diagnostic or interventional
2 procedure or operation of medical imaging equipment intended for use in the
3 diagnosis or visualization of disease or other medical conditions in human beings,
4 including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or
5 x-rays.
- 6 6. "Medical physicist" means an individual who is certified by the American board of
7 radiology, American board of medical physics, American board of science in nuclear
8 medicine, or Canadian college of physics in medicine in radiological physics or one of
9 the subspecialties of radiological physics.
- 10 7. "Protected health information" has the same meaning as provided under section
11 23-01.3-01.
- 12 8. "Radiation therapy" means the performance of any procedure or operation of radiation
13 therapy equipment intended for use in the treatment of disease or other medical
14 conditions in human beings.
- 15 ~~8.9. "Radiation therapist" means a nonphysician licensed by the board to perform radiation~~
16 ~~therapy~~an individual, other than a licensed practitioner or authorized user, who
17 performs procedures and operateapplies ionizing radiation therapy equipment emitted
18 from x-ray machines, particle accelerators, or sealed radioactive sources to human
19 beings for therapeutic purposes.

20 **SECTION 2. AMENDMENT.** Section 43-62-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-62-02. License required.**

23 ~~After December 31, 2015, an~~An individual may not perform or offer to perform medical
24 imaging or radiation therapy ~~procedures~~ on humans for diagnostic or therapeutic purposes ~~as~~
25 defined in this chapter or otherwise indicate or imply that the individual is licensed to perform
26 medical imaging or radiation therapy unless that individual is licensed under this chapter.

27 **SECTION 3. AMENDMENT.** Section 43-62-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **43-62-03. Exemptions.**

30 This chapter does not apply to the following:

- 31 1. A licensed practitioner performing medical imaging or radiation therapy.

- 1 2. A dental assistant or dental hygienist licensed under chapter 43-20.
- 2 3. A student enrolled in and attending a school or college of medicine, medical imaging,
- 3 or radiation therapy who performs medical imaging or radiation therapy procedures on
- 4 humans while under the supervision of a licensed practitioner or a radiographer,
- 5 radiation therapist, nuclear medicine technologist, radiologist assistant, or
- 6 sonographer holding a license in the medical imaging or radiation therapy modality for
- 7 which the student is enrolled or attending ~~under this chapter~~.
- 8 4. An individual administering medical imaging or radiation ~~procedures~~therapy and who
- 9 is employed by the United States government when performing duties associated with
- 10 that employment.
- 11 5. A nurse licensed under chapter 43-12.1 who performs sonography on a focused
- 12 imaging target to assess specific and limited information about a patient's immediate
- 13 medical condition or to provide real-time visual guidance for another procedure.
- 14 6. A limited x-ray machine operator who meets the requirements of rules adopted by the
- 15 state department of health under section 23-20.1-04.
- 16 7. Medical imaging performed as a part of a post-mortem examination or on other
- 17 nonliving remains.
- 18 8. Medical imaging performed by emergency medical services personnel certified or
- 19 licensed under section 23-27-04.3.

20 **SECTION 4. AMENDMENT.** Section 43-62-04 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **43-62-04. North Dakota medical imaging and radiation therapy board of examiners.**

- 23 1. The governor shall appoint a ~~state board of~~North Dakota medical imaging and
- 24 radiation therapy ~~medical examiners~~board consisting of nine members including:
 - 25 a. Five medical imaging or radiation therapy professionals, one each from the areas
 - 26 of radiography, radiation therapy, nuclear medicine technology, sonography, and
 - 27 medical imaging or radiation therapy education;
 - 28 b. One radiologist;
 - 29 c. One medical physicist;
 - 30 d. One physician from a rural area; and
 - 31 e. One public member.

- 1 2. Each medical imaging or radiation therapy member of the board must:
 - 2 a. Be a practicing medical imaging or radiation therapy licensee of integrity and
 - 3 ability.
 - 4 b. Be a resident of and currently licensed in the member's medical imaging or
 - 5 radiation therapy modality in this state.
 - 6 c. Be currently certified by a ~~nationally recognized~~ certification organization in the
 - 7 member's medical imaging or radiation therapy modality.
 - 8 d. Have been engaged in the active practice of the medical imaging or radiation
 - 9 therapy profession within this state for a period of at least five years.
- 10 3. Each public member of the board must:
 - 11 a. Be a resident of this state.
 - 12 b. Be at least twenty-one years of age.
 - 13 c. Not be affiliated with any group or profession that provides or regulates health
 - 14 care.
- 15 4. The radiologist, medical physicist, and physician members of the board must:
 - 16 a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
 - 17 b. Be a resident of and be licensed to practice as a physician or registered as a
 - 18 medical physicist in this state.
- 19 5. An individual appointed to the board shall qualify by taking the oath required of civil
- 20 officers.

21 **SECTION 5. AMENDMENT.** Section 43-62-08 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-62-08. Meetings of the board.**

24 The board shall hold at least two meetings each year to conduct business and to review the
25 standards and rules for improving the administration of medical imaging or radiation therapy
26 procedures. The board shall establish the procedures for calling, holding, and conducting
27 regular and special meetings. A majority of board members constitutes a quorum.

28 **SECTION 6. AMENDMENT.** Section 43-62-09 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **43-62-09. Powers of the board.**

31 In addition to any other powers, the board may:

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Legislative Assembly

- 1 1. Administer this chapter.
- 2 2. Issue interpretations of this chapter.
- 3 3. Adopt rules as may be necessary to carry out this chapter.
- 4 4. Employ and fix the compensation of personnel the board determines necessary to
5 carry into effect this chapter and incur other expenses necessary to effectuate this
6 chapter.
- 7 5. Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions
8 authorized by this chapter.
- 9 6. Set fees for licensure, license renewal, and other services deemed necessary to carry
10 out the purposes of this chapter.
- 11 7. Conduct investigations for the purpose of determining whether violations of this
12 chapter or grounds for disciplining licensees exist. The board may establish an
13 investigative panel to conduct an investigation under this subsection.
- 14 8. Develop standards and adopt rules for the improvement of the administration of
15 medical imaging or radiation therapy ~~procedures~~ in this state.
- 16 9. Employ or contract with one or more certification organizations known to provide
17 acceptable examinations leading to certification of technical personnel performing
18 medical imaging or radiation therapy ~~procedures~~.
- 19 10. Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal
20 penalties against anyone who violates or attempts to violate examination security,
21 anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone
22 who knowingly assists in that type of activity.
- 23 11. Require information on an applicant's or licensee's fitness, qualifications, and previous
24 professional record and performance from recognized data sources, licensing and
25 disciplinary authorities of other jurisdictions, certification organizations, professional
26 education and training institutions, liability insurers, health care institutions, or other
27 employers, and law enforcement agencies be reported to the board. The board or its
28 investigative panels may require an applicant for licensure or a licensee who is the
29 subject of a disciplinary investigation to submit to a statewide and nationwide criminal
30 history record check. The nationwide criminal history record check must be conducted

1 in the manner provided by section 12-60-24. All costs associated with the criminal
2 history record check are the responsibility of the licensee or applicant.

3 12. Require the self-reporting by an applicant or a licensee of any information the board
4 determines may indicate possible deficiencies in practice, performance, fitness, or
5 qualifications.

6 13. Establish a mechanism for dealing with a licensee who abuses or is dependent upon
7 or addicted to alcohol or other addictive chemical substances, and enter an agreement
8 with a professional organization possessing relevant procedures and techniques the
9 board has evaluated and approved for the organization's cooperation or participation.

10 14. Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed
11 practice, a violation of this chapter, or a violation of the rules of the board.

12 15. Issue a conditional, restricted, or otherwise circumscribed license as the board
13 determines necessary.

14 **SECTION 7. AMENDMENT.** Section 43-62-11 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **43-62-11. Records of the board.**

17 The board shall keep a record of its proceedings and applications for licensure. An
18 application record must be preserved for at least six years beyond the disposition of the
19 application or the last annual registration of the licensee, whichever is later. Protected health
20 information in the board's possession is an exempt record.

21 **SECTION 8. AMENDMENT.** Section 43-62-14 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **43-62-14. License requirements.**

24 1. The board ~~may~~shall issue a license to ~~any~~qualified applicant ~~who has submitted.~~ In
25 order to qualify for licensure an applicant shall comply with the modality licensure
26 requirements under subsection 2, shall comply with board requirements adopted by
27 rule, and shall submit satisfactory evidence, verified by oath or affirmation, that the
28 applicant:

29 a. At the time of the application is at least eighteen years of age.

- 1 b. Has successfully completed a four-year course of study in a secondaryhigh
2 school ~~approved by the state board of higher education~~ or passed an approved
3 equivalency test.
- 4 2. ~~In addition to the requirements of subsection 1~~To qualify for licensure, an individual
5 ~~seeking to obtain a license~~applicant shall meet the requirements for a specific modality
6 of medical imaging or radiation therapy ~~shall comply with the following requirements,~~
7 including:
- 8 a. Provide satisfactory completion of a course of study ~~inappropriate for the~~
9 specified modality, such as radiography, radiation therapy, nuclear medicine
10 technology, radiologist assistant, or sonography, or its equivalent to be
11 determined by the board. The curriculum for each course of study may not be
12 less stringent than the standards approved by the joint review committee on
13 education in radiologic technology, joint review committee on nuclear medicine
14 technology, commission on accreditation of allied health education programs, or
15 any other appropriate accreditation agency approved by the board, provided the
16 standards are not in conflict with board policy.
- 17 b. Pass a certification examination established or approved by the board given by a
18 certification organization recognized by the board.
- 19 c. Show evidence of compliance with continuing education or recertification
20 requirements required for registration of certification by a certification
21 organization recognized by the board.
- 22 3. The board may establish by rule specific changes or exceptions for those modalities in
23 which the accreditation agency or certification organization differs in certification or
24 registration requirements from subsection 2.
- 25 4. ~~The board, upon application and payment of proper fees,~~ may grant a license to an
26 ~~individual~~applicant who submits the necessary application and fees who has been
27 licensed, certified, or registered to perform or administer medical imaging or radiation
28 therapy ~~procedures~~ in another jurisdiction if that jurisdiction's standards of licensure
29 are substantially equivalent to those provided in this chapter in accordance with rules
30 adopted by the board.

1 5. On a case-by-case basis, the board may establish unique individualized licensing and
2 practice standards and requirements for an applicant who does not meet the licensure
3 requirements to receive a license in one or more modalities of medical imaging or
4 radiation therapy. This subsection is limited to an applicant who was practicing at a
5 critical access hospital before January 1, 2017. Under this subsection, standards and
6 requirements the board requires of a licensee must be designed to maintain
7 reasonable services and public safety at a critical access hospital. A license granted
8 under this subsection does not grant the licensee the privilege to practice outside a
9 critical access hospital. A license granted under this subsection expires and may not
10 be renewed if the licensee attains a full license in the applicable modality.

11 **SECTION 9. AMENDMENT.** Section 43-62-15 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **43-62-15. Scope of practice.**

- 14 1. A license issued by the board under this chapter must specify the medical imaging or
15 radiation therapy modality for which the licensee is qualified to practice.
- 16 2. The board shall ~~establish~~adopt by rule licensure standards for the following medical
17 imaging and radiation therapy modalities, including:
- 18 a. Nuclear medicine technologist;
19 b. Radiation therapist;
20 c. Radiographer;
21 d. Radiologist assistant; and
22 e. Sonographer.
- 23 ~~2.3.~~ An individual holding a license under this chapter may performA licensee's
24 performance of medical imaging or radiation therapy ~~procedures~~ on humans for
25 diagnostic or therapeutic purposes ~~only~~must be by written, facsimile, electronic, or
26 verbal prescription of an individual authorized by this state to prescribe medical
27 imaging or radiation therapy ~~procedures~~ and must be under the supervision of a
28 licensed practitioner.
- 29 ~~3.4.~~ An individual holding a license under this chapter may performA licensee's
30 performance of medical imaging and radiation therapy ~~procedures~~ on humans for
31 diagnostic or therapeutic purposes ~~only~~within is limited to the scope of the medical

1 imaging and radiation therapy modality of that license as specified under the rules
2 adopted by the board.

3 **SECTION 10. AMENDMENT.** Section 43-62-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-62-18. Disciplinary action.**

6 1. The board may take disciplinary action against a licensee by any of the following
7 means:

8 4. a. Revocation of license.

9 2. b. Suspension of license.

10 3. c. Probation.

11 4. d. Imposition of stipulations, limitations, or conditions relating to the performance of
12 medical imaging or radiation therapy ~~procedures~~.

13 5. e. Letter of censure.

14 6. f. Imposition of a penalty, not to exceed one thousand dollars for any single
15 disciplinary action.

16 2. Any fines collected by the board must be deposited in the state general fund.

17 3. Payment of the board's expenses, including legal fees, may be deposited in the
18 board's operating fund.

19 **SECTION 11. AMENDMENT.** Subsection 13 of section 43-62-19 of the North Dakota
20 Century Code is amended and reenacted as follows:

21 13. The failure to maintain in good standing, including completion of continuing education
22 or recertification requirements, a certification from a ~~nationally-recognized~~ certification
23 organization recognized by the board for the medical imaging or radiation therapy
24 modality for which a license has been issued by the board.

25 **SECTION 12. EMERGENCY.** This Act is declared to be an emergency measure.