

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1041
(Legislative Management)
(Long-Term Care Committee)

AN ACT to create and enact a new chapter to title 23, subsection 13 to section 43-12.1-04, and section 43-12.1-16.1 of the North Dakota Century Code, relating to a nurse aide registry, individuals exempt from regulation by the state board of nursing, and supervision of nursing interventions; to amend and reenact subsection 9 of section 43-12.1-02 and sections 43-12.1-16 and 50-30-02 of the North Dakota Century Code, relating to definitions, individuals exempt from regulation by the state board of nursing, delegation of medication administration, and the health care trust fund; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

Definitions.

As used in this chapter, unless the context otherwise requires, the following definitions apply:

1. "Certified nurse aide" means an individual who is registered on the nurse aide registry and who has either successfully completed the requirements for the department-approved training and competency evaluation program or has successfully completed the requirements of the department-approved competency evaluation program.
2. "Department" means the state department of health.
3. "Home health aide" means an individual who is registered on the nurse aide registry and who renders personal related service under the supervision of a registered professional nurse.
4. "Medication assistant" means an individual who is registered on the nurse aide registry and who has successfully completed the requirements of a department-approved medication assistant program for a specific employment setting. A medication assistant may be designated a medication assistant I or a medication assistant II.
5. "Nurse aide" means an individual who is registered on the nurse aide registry and who has successfully completed the competency requirements identified by the department to provide nursing or nursing-related services to an individual in a health care facility or other setting.
6. "Nurse aide registry" means a listing of individuals who the department has determined have successfully completed the requirements established by the department to be designated as certified nurse aide, home health aide, nurse aide, or medication assistant.

Nurse aide registry - Rules.

1. The department shall establish and administer a nurse aide registry. The registry must include disciplinary findings, including findings of abuse, neglect, or misappropriation of property, and must include the eligibility of the individual to be employed.
2. The health council shall adopt rules to regulate and register an individual who receives compensation for engaging in the provision of nursing or nursing-related services to an individual in a health care facility or other setting. The rules do not apply to a licensed health care professional practicing within the scope of that profession, an unlicensed assistive person

under chapter 43-12.1, or a volunteer in the course of providing services without pay. In developing the rules, the health council shall consult with the state board of nursing and other key stakeholders.

3. The rules required under subsection 2 must include the regulation of certified nurse aides, home health aides, medication assistants, and nurse aides. For each category of regulated individuals, the rules must address:
 - a. Nurse aide registry requirements;
 - b. Training and competency requirements;
 - c. Approval of training programs;
 - d. Initial registration and renewal of registration of individuals who have met training and competency requirements;
 - e. Reporting and investigation of complaints regarding individuals on the registry; and
 - f. A disciplinary process for a validated finding of abuse, neglect, or misappropriation of resident or client property and for other misconduct that has the potential to be harmful to a resident or client by an individual on the nurse aide registry.
4. The department shall collect registration fees of twenty-five dollars per individual under this chapter from the individual or the individual's employer.
5. Registration fees collected by the department must be deposited in the department's operating account.

SECTION 2. AMENDMENT. Subsection 9 of section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

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 3. Subsection 13 to section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

13. An individual who is registered on the state department of health nurse aide registry, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

SECTION 4. AMENDMENT. Section 43-12.1-16 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-16. Delegation of medication administration.

A licensed nurse may delegate medication administration to a person exempt under ~~subsections~~subsections 9 and 13 of section 43-12.1-04.

SECTION 5. Section 43-12.1-16.1 of the North Dakota Century Code is created and enacted as follows:

43-12.1-16.1. Supervision and delegation of nursing interventions.

A nurse may supervise and delegate nursing interventions to an individual exempt under subsection 13 of section 43-12.1-04.

SECTION 6. AMENDMENT. Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:
 - a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
 - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
 - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
 - d. Operation and maintenance of the nurse aide registry.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section.

SECTION 7. APPROPRIATION. There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$130,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry.

SECTION 8. APPROPRIATION. There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013.

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-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1041.

House Vote: Yeas 92 Nays 1 Absent 1

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,

at _____ o'clock _____ M.

Secretary of State