

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

SENATE BILL NO. 2198
(Senators J. Lee, Dever)
(Representatives Beadle, Weisz)

AN ACT to amend and reenact sections 43-62-01, 43-62-02, 43-62-03, 43-62-04, 43-62-08, 43-62-09, 43-62-11, 43-62-14, 43-62-15, and 43-62-18, and subsections 7 and 13 of section 43-62-19 of the North Dakota Century Code, relating to the regulation of medical imaging and radiation therapy; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

43-62-01. Definitions.

As used in this chapter:

1. "Board" means the North Dakota medical imaging and radiation therapy board of examiners.
2. "Certification organization" means a national certification organization that specializes in the certification and registration of ~~certification of~~ medical imaging and radiation therapy technical personnel and which has programs accredited by the national commission for certifying agencies, American national standards institute or the international organization for standardization, or other accreditation organization recognized by the board.
3. "Licensed practitioner" means a licensed physician, advanced practice registered nurse, ~~surgeon~~, chiropractor, dentist, or podiatrist.
4. "Licensee" means an individual licensed by the board to perform medical imaging or radiation therapy procedures and operate medical imaging or radiation therapy equipment, including a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, ~~or sonographer, or magnetic resonance imaging technologist.~~
5. "Medical imaging" means the performance of any diagnostic or interventional procedure or operation of medical imaging equipment intended for use in the diagnosis or visualization of disease or other medical conditions in human beings, including magnetic resonance imaging, fluoroscopy, nuclear medicine, sonography, or x-rays.
6. "Medical physicist" means an individual who is certified by the American board of radiology, American board of medical physics, American board of science in nuclear medicine, or Canadian college of physics in medicine in radiological physics or one of the subspecialties of radiological physics.
7. "Primary modality" means an individual practicing as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist.
8. "Protected health information" has the same meaning as provided under section 23-01.3-01.
9. "Radiation therapy" means the performance of any procedure or operation of radiation therapy equipment intended for use in the treatment of disease or other medical conditions in human beings.

~~8-10. "Radiation therapist" means a nonphysician licensed by the board to perform radiation therapy an individual, other than a licensed practitioner or authorized user, who performs procedures and operate applies ionizing radiation therapy equipment emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes.~~

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

43-62-02. License required.

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

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

43-62-03. Exemptions.

This chapter does not apply to the following:

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

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

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

1. The governor shall appoint a ~~state board of~~ North Dakota medical imaging and radiation therapy medical examiners board consisting of nine members including:

- a. Five medical imaging or radiation therapy professionals, ~~one each from~~ chosen to represent the areas of radiography, radiation therapy, nuclear medicine technology, sonography, magnetic resonance imaging, and medical imaging or radiation therapy education;
 - b. One radiologist;
 - c. One medical physicist;
 - d. One physician from a rural area; and
 - e. One public member.
2. Each medical imaging or radiation therapy member of the board must:
- a. Be a practicing medical imaging or radiation therapy licensee of integrity and ability.
 - b. Be a resident of and currently licensed pursuant to subsection 2 of section 43-62-14 in the member's ~~medical imaging or radiation therapy~~ primary modality in this state.
 - c. Be currently certified by a ~~nationally recognized~~ certification organization in the member's ~~medical imaging or radiation therapy~~ primary modality.
 - d. Have been engaged in the active practice of the medical imaging or radiation therapy profession within this state for a period of at least five years.
3. Each public member of the board must:
- a. Be a resident of this state.
 - b. Be at least twenty-one years of age.
 - c. Not be affiliated with any group or profession that provides or regulates health care.
4. The radiologist, medical physicist, and physician members of the board must:
- a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
 - b. Be a resident of and be licensed to practice as a physician or registered as a medical physicist in this state.
5. An individual appointed to the board shall qualify by taking the oath required of civil officers.

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

43-62-08. Meetings of the board.

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

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

43-62-09. Powers of the board.

In addition to any other powers, the board may:

1. Administer this chapter.

2. Issue interpretations of this chapter.
3. Adopt rules as may be necessary to carry out this chapter.
4. Employ and fix the compensation of personnel the board determines necessary to carry into effect this chapter and incur other expenses necessary to effectuate this chapter.
5. Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions authorized by this chapter.
6. Set fees for licensure, license renewal, and other services deemed necessary to carry out the purposes of this chapter.
7. Conduct investigations for the purpose of determining whether violations of this chapter or grounds for disciplining licensees exist. The board may establish an investigative panel to conduct an investigation under this subsection and may subpoena records.
8. Develop standards and adopt rules for the improvement of the administration of medical imaging or radiation therapy ~~procedures~~ in this state.
9. Employ or contract with one or more certification organizations known to provide acceptable examinations leading to certification of technical personnel performing medical imaging or radiation therapy ~~procedures~~.
10. Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal penalties against anyone who violates or attempts to violate examination security, anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone who knowingly assists in that type of activity.
11. Require information on an applicant's or licensee's fitness, qualifications, and previous professional record and performance from recognized data sources, licensing and disciplinary authorities of other jurisdictions, certification organizations, professional education and training institutions, liability insurers, health care institutions, or other employers, and law enforcement agencies be reported to the board. The board or its investigative panels may require an applicant for licensure or a licensee who is the subject of a disciplinary investigation to submit to a statewide and nationwide criminal history record check. The nationwide criminal history record check must be conducted in the manner provided by section 12-60-24. All costs associated with the criminal history record check are the responsibility of the licensee or applicant.
12. Require the self-reporting by an applicant or a licensee of any information the board determines may indicate possible deficiencies in practice, performance, fitness, or qualifications.
13. Establish a mechanism for dealing with a licensee who abuses or is dependent upon or addicted to alcohol or other addictive chemical substances, and enter an agreement with a professional organization possessing relevant procedures and techniques the board has evaluated and approved for the organization's cooperation or participation.
14. Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed practice, a violation of this chapter, or a violation of the rules of the board.
15. Issue a conditional, restricted, or otherwise circumscribed license as the board determines necessary.

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

43-62-11. Records of the board.

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

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

43-62-14. License requirements.

1. The board may~~shall~~ issue a license to any~~any~~ qualified applicant ~~who has submitted~~. To qualify for licensure, an applicant shall comply with the modality licensure requirements under subsection 2, 3, 4, or 7, comply with board requirements adopted by rules, and submit satisfactory evidence, verified by oath or affirmation, that the applicant:
 - a. At the time of the application is at least eighteen years of age.
 - b. Has successfully completed a four-year course of study in a secondary~~high~~ school ~~approved by the state board of higher education~~ or passed an approved equivalency test.
2. ~~In addition to the requirements of subsection 1~~To qualify for licensure to practice one or more of the primary modalities as a nuclear medicine technologist, radiation therapist, radiographer, radiologist assistant, sonographer, or magnetic resonance imaging technologist, an individual seeking to obtain a license~~applicant shall meet the requirements for at the applicable specific modality of medical imaging or radiation therapy shall comply with the following requirements, including:~~
 - a. ~~Provide satisfactory completion of a course of study in radiography, radiation therapy, nuclear medicine technology, radiologist assistant, or sonography, or its equivalent to be determined by the board~~appropriate for the specified modality. The curriculum for each course of study may not be less stringent than the standards approved by the joint review committee on education in radiologic technology, joint review committee on nuclear medicine technology, commission on accreditation of allied health education programs, or any other appropriate accreditation agency approved by the board, provided the standards are not in conflict with board policy.
 - b. Pass a certification examination established or approved by the board given by a certification organization recognized by the board.
 - c. Show evidence of compliance with continuing education or recertification requirements required for registration of certification by a certification organization recognized by the board.
3. A licensee under subsection 2 may not practice a primary modality without meeting the requirements for each specific primary modality being practiced. However, a licensee under subsection 2 may practice other modalities recognized by rule upon meeting the continuing education requirements for each modality practiced by the licensee.
4. An applicant who is not licensed for a primary modality under subsection 2 may qualify for licensure to practice a modality recognized by the board, other than the primary modalities, by complying with certification or registration requirements established by the board by rule. The scope of a license issued under this subsection limits the licensee to the practice of the specific modality for which the applicant meets the requirement. However, a license issued under this subsection may be issued in conjunction with a license for additional modalities issued under subsection 7.

5. The board may establish by rule specific changes or exceptions for those modalities in which the accreditation agency or certification organization differs in certification or registration requirements from this chapter.
- ~~3-6.~~ The board, ~~upon application and payment of proper fees,~~ may grant a license to an ~~individual applicant who submits the necessary application and fees who has been licensed, certified, or registered to perform or administer medical imaging or radiation therapy procedures in another jurisdiction if that jurisdiction's standards of licensure are substantially equivalent to those provided in this chapter in accordance with rules adopted by the board.~~
7. The board may establish unique individualized licensing and practice standards and requirements for an applicant who does not meet the licensure requirements to receive a license in at least one primary modality of medical imaging or radiation therapy under subsection 2, or who meets the licensure requirements for one primary modality but not for another primary modality the applicant desires to practice.
 - a. The board may grant a license limited to one or more modalities practiced by an applicant for three or more of the five years preceding January 1, 2017. The board may establish standards and requirements for the licensee designed to maintain reasonable access to public services and to promote public safety, including continuing education. A license granted for a specified modality under this subdivision expires and may not be renewed if the licensee attains a license in that modality under subsection 2 or 4.
 - b. The board may grant a license to an applicant who began practice after December 31, 2016, for a specified modality or modalities if the applicant passes a board-approved examination and maintains specified continuing education requirements for each modality. The board may grant a conditional license allowing an applicant under this subdivision to practice before passing the examination.

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

43-62-15. Scope of practice.

1. A license issued by the board under this chapter must specify each medical imaging or radiation therapy modality for which the licensee is qualified to practice under section 43-62-14.
2. The board shall establish licensure ~~adopt by rule~~ standards concerning scope of practice for the following medical imaging and radiation therapy modalities, including:

 - a. Nuclear medicine technologist;:
 - b. Radiation therapist;:
 - c. Radiographer;:
 - d. Radiologist assistant;:
 - e. Sonographer; and
 - f. Magnetic resonance imaging technologist.

- ~~2-3.~~ An individual holding a license under this chapter may perform~~A licensee's performance of medical imaging or radiation therapy procedures on humans for diagnostic or therapeutic purposes only~~must be by written, facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe medical imaging or radiation therapy ~~procedures~~ and must be under the supervision of a licensed practitioner.

- ~~3.4.~~ ~~An individual holding a license under this chapter may perform~~A licensee's performance of medical imaging and radiation therapy procedures on humans for diagnostic or therapeutic purposes only within is limited to the scope of the medical imaging and radiation therapy modality of that license as specified under the rules adopted by the board.

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

43-62-18. Disciplinary action.

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

1. Revocation of license.
2. Suspension of license.
3. Probation.
4. Imposition of stipulations, limitations, or conditions relating to the performance of medical imaging or radiation therapy ~~procedures~~.
5. Letter of censure.
6. Imposition of a penalty, not to exceed one thousand dollars for any single disciplinary action-

~~Any fines collected by the board, which~~ must be deposited in the state general fund.

7. Payment of the board's expenses, including legal fees, which may be deposited in the board's operating fund.

SECTION 11. AMENDMENT. Subsections 7 and 13 of section 43-62-19 of the North Dakota Century Code are amended and reenacted as follows:

7. The violation of any provision of this chapter ~~or~~, any rule of the board, or any federal or state law applicable to the practice of medical imaging or radiation therapy, or any action, stipulation, limitation, condition, or agreement imposed by the board or its investigative panels.
13. The failure to maintain in good standing, including completion of continuing education or recertification requirements, a certification from a ~~nationally-recognized~~ certification organization recognized by the board for the medical imaging or radiation therapy modality for which a license has been issued by the board.

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2198 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 8

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State