CHAPTER 43-12.1
NURSE PRACTICES ACT

43-12.1-01. Scope.

The practice of nursing is continually evolving and responding to changes within health care patterns and systems. There are overlapping functions within the practice of nursing and other providers of health care.

43-12.1-02. Definitions.

In this chapter, unless the context otherwise requires:

1. "Advanced practice registered nurse" means an individual who holds a current license to practice in this state as an advanced practice registered nurse within one of the roles of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist, and who functions in one of the population foci as approved by the board.
2. "Board" means the North Dakota board of nursing.
3. "Licensed practical nurse" means an individual who holds a current license to practice in this state as a licensed practical nurse and who practices dependently under the supervision of a registered nurse, specialty practice registered nurse, advanced practice registered nurse, or licensed practitioner.
4. "Nurse" means an individual who is currently licensed as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse.
5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and abilities for people in a variety of settings. The term includes the following acts, which may not be deemed to include acts of medical diagnosis or treatment or the practice of medicine as defined in chapter 43-17:
   a. The maintenance of health and prevention of illness.
   b. Assessing and diagnosing human responses to actual or potential health problems.
   c. Providing supportive and restorative care and nursing treatment, medication administration, health counseling and teaching, case finding and referral of individuals who are ill, injured, or experiencing changes in the normal health processes.
   d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
   e. Collaboration with other health care professionals in the implementation of the total health care regimen and execution of the health care regimen prescribed by a health care practitioner licensed under the laws of this state.
6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or devices and writing a prescription to be filled by a licensed pharmacist.
7. "Registered nurse" means an individual who holds a current license to practice in this state as a registered nurse and who practices nursing independently and interdependently through the application of the nursing process.
8. "Specialty practice registered nurse" means an individual who holds a current license to practice in this state as a specialty practice registered nurse and who has current certification from a national certifying body in a specific area of nursing practice.
9. "Unlicensed assistive person" means an assistant to the nurse, who regardless of title is authorized to perform nursing interventions delegated and supervised by a nurse.

43-12.1-03. License or registration required - Title - Abbreviation.

Any person who provides nursing care to a resident of this state must hold a current license or registration issued by the board. It is unlawful for a person to practice nursing, offer to practice nursing, assist in the practice of nursing, or use any title, abbreviation, or designation to indicate that the person is practicing nursing or assisting in the practice of nursing in this state

unless that person is currently licensed or registered under this chapter. An advanced practice registered nurse shall use the abbreviation "APRN" and may use the applicable role designation of certified nurse practitioner, certified registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist inclusive of population foci. A currently licensed specialty practice registered nurse shall use the abbreviation "SPRN"; a currently licensed registered nurse shall use the abbreviation "R.N."; a currently licensed practical nurse shall use the abbreviation "L.P.N."; and an unlicensed assistive person with current registration may use the title identified by the employer. A person may not use the title "nurse" or be referred to as a "nurse" unless the person is currently licensed by the board or exempt under section 43-12.1-04.

43-12.1-04. Persons exempt from provisions of chapter.

This chapter does not apply to a person that is not licensed or registered under this chapter and is:

1. A person that performs nursing interventions in cases of emergency or disaster.
2. A student practicing nursing as a part of an in-state board-approved nursing education program.
3. A licensed nurse of another state who is in good standing and who is employed in this state by the United States government or any of its bureaus, divisions, or agencies.
4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.
5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.
6. An individual who performs nursing tasks for a family member.
7. A person that renders assistance pursuant to chapter 23-27.
8. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.
9. A person that provides medications, other than by the parenteral route:
   a. Within a correctional facility, in compliance with section 12-44.1-29;
   b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
   c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;
   d. Within a group home, a residential child care facility, or an adult foster care facility licensed under section 50-11-01 or North Dakota Administrative Code chapter 75-03-16;
   e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of human services;
   f. Within a human service center licensed under chapter 50-06; or
   g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian.
10. A nurse currently licensed to practice nursing by another jurisdiction:
    a. Whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota;
    b. Who serves as a guest lecturer or short-term consultant; or
    c. Who provides evaluation undertaken on behalf of an accrediting organization.
11. An individual, including a feeding assistant, performing nonhands-on tasks while employed in a medicare-funded organization.
12. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability.

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.

43-12.1-05. Board of nursing - Composition - Term of office.

There is a state board of nursing whose members must be appointed by the governor which must consist of five registered nurses, one advanced practice registered nurse, two licensed practical nurses, and one public member. Each board member must be appointed for a term of four years. No appointee may be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. Terms of nurse board members must be evenly distributed to allow two licensed nurse board members to be appointed or reappointed each year.

43-12.1-06. Qualifications of board members.

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each advanced practice registered nurse must be an eligible voting resident of this state, possess an unencumbered advanced practice registered nurse license under this chapter, and be currently engaged in practice as an advanced practice registered nurse.
4. Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
5. Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. The governor may remove any member of the board for cause upon recommendation of two-thirds of the members of the board.

43-12.1-07. Compensation of board members.

A member of the board is entitled to receive compensation in an amount fixed by the board for each day or portion of a day the member is actually engaged in the performance of official duties and such mileage reimbursement as is provided for in section 54-06-09. In addition, the member is entitled to reimbursement for actual and necessary expenses in the amounts provided by law for state officers in section 44-08-04. All funds collected or received by the board must be deposited and disbursed in accordance with section 54-44-12.

43-12.1-08. Duties of the board.

1. The board shall regulate the practice of nursing as provided in this chapter.
2. The board shall:
   a. Enforce this chapter.
   b. Adopt and enforce administrative rules necessary to administer this chapter after collaborating and consulting with North Dakota nursing organizations and other affected parties.
   c. Appoint and employ a registered nurse to serve as executive director and approve any additional staff positions necessary to administer this chapter.
   d. Establish fees and receive all moneys collected under this chapter and authorize all expenditures necessary to conduct the business of the board. Any balance of fees after payment of expenditures must be used to administer this chapter.
   e. Collect and analyze data regarding nursing education, nursing practice, and nursing resources.

f. Issue and renew limited licenses or registrations to individuals requiring accommodation to practice nursing or assist in the practice of nursing.
g. Establish a nursing student loan program funded by license fees to encourage individuals to enter and advance in the nursing profession.
h. Establish a registry of individuals licensed or registered by the board.
i. Report annually to the governor and nursing profession regarding the regulation of nursing in the state.
j. Conduct and support projects pertaining to nursing education and practice.
k. Adopt and enforce administrative rules to allow nurses licensed by another state to receive short-term clinical education in North Dakota health care facilities.
l. License qualified applicants for nurse licensure.
m. Register qualified applicants for the unlicensed assistive person registry.
n. Adopt and enforce rules for continuing competence of licensees and registrants.
o. Adopt and enforce rules for nursing practices.
p. Issue practice statements regarding the interpretation and application of this chapter.

43-12.1-08.1. Prescriptive practices for registered nurses with advanced licenses.
Repealed by S.L. 1995, ch. 403, § 17.

43-12.1-08.2. Nursing needs study.
Expired under S.L. 2001, ch. 373, § 2.

43-12.1-09. Initial licensure and registration.
1. The board shall license nurses and register unlicensed assistive person applicants. The board shall adopt and enforce administrative rules establishing qualifications for initial nursing licensure and unlicensed assistive person registration and for issuing limited licenses and registrations pursuant to subsection 3.
2. Each applicant who successfully meets the requirements of this section is entitled to initial licensure or registration as follows:
   a. An applicant for licensure by examination to practice as a registered nurse or licensed practical nurse shall:
      (1) Submit a completed application and appropriate fee as established by the board.
      (2) Submit an official transcript that verifies completion of a board-approved in-state nursing education program that prepares the graduate for the level of licensure sought; or submit an official transcript that verifies completion of an out-of-state nursing education program that is approved by the state board of nursing of the jurisdiction in which the program is headquartered and that prepares the graduate for the level of licensure sought. The board shall adopt rules establishing standards for the approval of out-of-state nursing education programs.
      (3) Pass an examination approved by the board.
   b. An applicant for licensure by endorsement to practice as a registered nurse or licensed practical nurse shall:
      (1) Submit a completed application and appropriate fee as established by the board.
      (2) Submit an official transcript that verifies completion of a nursing education program approved by the state board of nursing of the jurisdiction in which the program is headquartered and preparing the graduate for the level of licensure sought.
      (3) Submit proof of initial licensure by examination with the examination meeting North Dakota requirements for licensure examinations in effect at the time the applicant qualified for initial licensure.

(4) Submit evidence of current unencumbered licensure in another state or jurisdiction or meet continued competency requirements as established by the board.

(5) Notwithstanding the foregoing requirements of this subdivision, an applicant for licensure as a licensed practical nurse is not required to meet any additional academic educational requirements for licensure as a licensed practical nurse if the applicant has been licensed in another state as a licensed practical nurse based upon completion of a registered nurse education program and if the applicant has had at least twenty-four months of unencumbered practice as a licensed practical nurse in another state within the four-year period immediately preceding the application.

c. An applicant for licensure as an advanced practice registered nurse shall:

(1) Submit a completed application and appropriate fee as established by the board.

(2) Submit evidence of appropriate education and current certification in an advanced nursing role by a national nursing organization meeting criteria as established by the board. An advanced practice registered nurse applicant must have a graduate degree with a nursing focus or must have completed the educational requirements in effect when the applicant was initially licensed.

(3) Possess or show evidence of application for a current unencumbered registered nurse license.

d. An applicant for licensure as an advanced practice registered nurse who completed an advanced nursing education program and was licensed or certified in advanced practice before December 31, 2015, may apply for and receive an advanced practice license if that applicant meets the requirements that were in effect at the time the applicant qualified for initial advanced practice licensure.

e. An applicant for unlicensed assistive person registration shall:

(1) Submit a completed application and the appropriate fee as established by the board.

(2) Provide verification of appropriate training or evidence of certification or evaluation in the performance of basic nursing interventions.

f. An applicant for licensure as a specialty practice registered nurse shall:

(1) Submit a completed application and appropriate fee as established by the board.

(2) Submit evidence of appropriate education and current certification in a specialty nursing role by a national nursing organization meeting criteria as established by the board. A specialty practice registered nurse applicant must have the educational preparation and national certification within a defined area of nursing practice.

(3) Possess or show evidence of application for a current unencumbered registered nurse license.

3. For good cause shown, the board may issue a limited license or registration to an applicant.

43-12.1-09.1. Nursing licensure or registration - Criminal history record checks.

The board shall require each applicant for initial licensure and registration to submit to a statewide and nationwide criminal history record check. The board may require any licensee or registrant who is renewing a license or registration and any licensee or registrant who is the subject of a disciplinary investigation or proceeding 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 obtaining a background check are the responsibility of the applicant, licensee, or registrant. The board may grant a nonrenewable temporary permit to an applicant for initial or renewed license or registration who submits to a criminal history record check as required by this chapter if the applicant has met all

other licensure or registration requirements in accordance with subsection 2 of section 43-12.1-09.

43-12.1-10. Renewal of license or registration - Reactivation.

1. The board shall renew a current license to practice as an advanced practice registered nurse, specialty practice registered nurse, registered nurse, or licensed practical nurse if the licensee submits a renewal application, submits the appropriate fee established by the board, and meets all requirements for licensure. If a licensee does not renew a license before the license expires, the board shall reactivate that license if that licensee meets the reactivation requirements set by the board.
2. The board shall renew the registration of an unlicensed assistive person if the registrant submits a renewal application, the appropriate fee established by the board, and documentation of competency by the employer or evidence of certification or evaluation. A lapsed unlicensed assistive person registration may be reactivated upon submission of the application, payment of the appropriate fee established by the board, and documentation of competency or evidence of certification or evaluation.
3. For good cause shown, the board may issue a limited license or registration to a licensee or registrant. The board shall adopt rules establishing qualifications for issuing limited licenses and registrations pursuant to this subsection.

43-12.1-11. Duties of licensees and registrants.

Each individual licensed or registered by the board shall provide information requested by the board at the time of renewal or reactivation. Each individual licensed or registered by the board shall report to the board any knowledge of the performance of those acts or omissions that are violations of this chapter or grounds for disciplinary action as set forth in section 43-12.1-14. Each licensee or registrant shall report to the board any judgment or settlement in a professional or occupational malpractice action to which the licensee or registrant is a party. Any person, other than a licensee or registrant alleged to have violated this chapter, participating in good faith in making a report, assisting in an investigation, or furnishing information to an investigator, is immune from any civil or criminal liability that otherwise may result from reporting required by this section. For the purpose of any civil or criminal proceeding the good faith of any person required to report under this section is presumed.

43-12.1-12. Emergency treatment by nurses.

A nurse licensed under this chapter, who, in good faith, provides nursing care at the scene of an emergency, may provide only that nursing care as in the nurse's judgment is at the time indicated. In the event of a disaster, a licensed nurse may initiate any therapeutic measure that is indicated according to that nurse's judgment.

43-12.1-13. Disciplinary proceedings.

Disciplinary proceedings under this chapter must be conducted in accordance with chapter 28-32. Fees for each separate violation or the assessment of costs and disbursements, or both, may be imposed against a respondent in addition to any licensure or registration sanctions the board may impose. An appeal from the final decision of the board may be taken to the district court of Burleigh County under chapter 28-32. The board shall furnish to the required state and federal databanks a list of individuals who have been disciplined by the board.

43-12.1-13.1. Emergency treatment by nurses.

Repealed by S.L. 1995, ch. 403, § 17.

43-12.1-13.2. Emergency treatment by licensed nurses during disaster.

Repealed by S.L. 1995, ch. 403, § 17.

43-12.1-14. Grounds for discipline - Penalties.

The board may deny, limit, revoke, encumber, or suspend any license or registration to practice nursing issued by the board or applied for in accordance with this chapter; reprimand, place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission to licensure or registration examination; require evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee, registrant, or applicant, upon proof that the person:

1. Has been arrested, charged, or convicted by a court, or has entered a plea of nolo contendere to a crime in any jurisdiction that relates adversely to the practice of nursing and the licensee or registrant has not demonstrated sufficient rehabilitation under section 12.1-33-02.1;
2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license or registration to practice nursing or to assist in the practice of nursing or to practice in another health care occupation or profession denied, revoked, suspended, or otherwise sanctioned;
3. Has engaged in any practice inconsistent with the standards of nursing practice;
4. Has obtained or attempted to obtain by fraud or deceit a license or registration to practice nursing, or has submitted to the board any information that is fraudulent, deceitful, or false;
5. Has engaged in a pattern of practice or other behavior that demonstrates professional misconduct;
6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled substances for personal use or unauthorized use;
7. Has practiced nursing or assisted in the practice of nursing in this state without a current license or registration or as otherwise prohibited by this chapter;
8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
9. Has failed to observe and follow the duly adopted standards, policies, directives, and orders of the board, or has violated any other provision of this chapter.

43-12.1-14.1. Grounds for discipline - Assistant to the nurse.

Repealed by S.L. 1995, ch. 403, § 17.

43-12.1-14.2. Unlicensed assistive person - Practice without a registration.

If the board determines an unlicensed assistive person, whose registration has expired, violated subsection 7 of section 43-12.1-14 by practicing without a current registration for a period of up to four months from the initial date of employment, the action of the board in the case of a first violation is limited to the issuance of a letter of concern.

43-12.1-15. Violation - Penalties.

It is a class B misdemeanor for a person to willfully:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record that might enable an individual to obtain a license in this state or assist others in the performance of these acts.
3. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, a licensed practical nurse, or an unlicensed assistive person through use of a transcript from a school of nursing, diploma, certificate of registration, license, or record that was fraudulently created or obtained.
4. Practice as an advanced practice registered nurse, a specialty practice registered nurse, a registered nurse, a licensed practical nurse, or an unlicensed assistive person as defined by this chapter unless licensed to do so.
5. Conduct any education program preparing an individual for nursing licensure or registration unless the program has been approved by the board.
6. Employ a person to practice nursing or perform nursing interventions unless the person is licensed or registered by the board.

43-12.1-16. Delegation of medication administration.

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

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.

43-12.1-17. Nursing education programs.

1. The board shall adopt and enforce administrative rules establishing standards for nursing education programs leading to initial or advanced licensure. In-state programs must be approved by the board. Out-of-state programs must be approved by the state board of nursing of the jurisdiction in which the program is headquartered. The board shall approve, review, and reapprove nursing education programs in this state. The board may not require a statement of intent as part of the approval process under this section.
2. The standards established under this section for a program leading to licensure as a licensed practical nurse:
   a. Must allow for a program that offers two or more academic years of course study or the equivalent;
   b. Must allow for a program that offers less than two academic years of course study or the equivalent; and
   c. May not allow for a program that offers less than one academic year of course study or the equivalent.
3. The standards established under this section for a program leading to licensure as a registered nurse:
   a. Must allow for a program that offers four or more academic years of course study or the equivalent;
   b. Must allow for a program that offers less than four academic years of course study or the equivalent; and
   c. May not allow for a program that offers less than two academic years of course study or the equivalent.

43-12.1-18. Nursing practice standards.

Repealed by S.L. 2013, ch. 321, § 12.

43-12.1-19. Transition from transitional nurse licenses.

Expired under S.L. 2003, ch. 361, § 10.

43-12.1-20. Continuing education requirements.

Repealed by S.L. 2013, ch. 321, § 12.