

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1091

Introduced by

Human Services Committee

(At the request of the State Board of Nursing)

1 A BILL for an Act to amend and reenact sections 43-12.1-02, 43-12.1-03, 43-12.1-05,  
2 43-12.1-06, 43-12.1-08, 43-12.1-09, 43-12.1-09.1, 43-12.1-11, ~~and~~ 43-12.1-13, and 43-12.1-14  
3 and subsection 1 of section 43-12.1-17 of the North Dakota Century Code, relating to definitions  
4 concerning advanced practice registered nurses, licensed practical nurses, registered nurses,  
5 and specialty practice registered nurses, license and registration requirements, composition of  
6 the state board of nursing, qualifications of state board of nursing members, duties of the state  
7 board of nursing, initial licensure and registration, criminal history record checks, duties of  
8 licensees and registrants, disciplinary proceedings, and nursing education programs; and to  
9 repeal sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century Code, relating to  
10 nursing practice standards and continuing education requirements.

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

12 **SECTION 1. AMENDMENT.** Section 43-12.1-02 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **43-12.1-02. Definitions.**

15 In this chapter, unless the context otherwise requires:

- 16 1. "Advanced practice registered nurse" means an individual who holds a current license  
17 to practice in this state as an advanced practice registered nurse within one of the  
18 roles of certified nurse practitioner, certified registered nurse anesthetist, certified  
19 nurse midwife, or certified clinical nurse specialist, and who functions in one of the  
20 population foci as approved by the board.
- 21 2. "Board" means the North Dakota board of nursing.
- 22 3. "Licensed practical nurse" means an individual who holds a current license to practice  
23 in this state as a licensed practical nurse and who practices dependently under the

1 supervision of a registered nurse, specialty practice registered nurse, advanced  
2 practice registered nurse, or licensed practitioner.

3 4. "Nurse" means an individual who is currently licensed as an advanced practice  
4 registered nurse, specialty practice registered nurse, registered nurse, or licensed  
5 practical nurse.

6 5. "Nursing" means the performance of acts utilizing specialized knowledge, skills, and  
7 abilities for people in a variety of settings. The term includes the following acts, which  
8 may not be deemed to include acts of medical diagnosis or treatment or the practice of  
9 medicine as defined in chapter 43-17:

10 a. The maintenance of health and prevention of illness.

11 b. ~~Diagnosing~~Assessing and diagnosing human responses to actual or potential  
12 health problems.

13 c. Providing supportive and restorative care and nursing treatment, medication  
14 administration, health counseling and teaching, case finding and referral of  
15 individuals who are ill, injured, or experiencing changes in the normal health  
16 processes.

17 d. Administration, teaching, supervision, delegation, and evaluation of health and  
18 nursing practices.

19 e. Collaboration with other health care professionals in the implementation of the  
20 total health care regimen and execution of the health care regimen prescribed by  
21 a health care practitioner licensed under the laws of this state.

22 6. "Prescriptive practices" means assessing the need for drugs, immunizing agents, or  
23 devices and writing a prescription to be filled by a licensed pharmacist.

24 7. "Registered nurse" means an individual who holds a current license to practice in this  
25 state as a registered nurse and who practices nursing independently and  
26 interdependently through the application of the nursing process.

27 8. "Specialty practice registered nurse" means an individual who holds a current license  
28 to practice in this state as a specialty practice registered nurse and who has current  
29 certification from a national certifying body in a specific area of nursing practice.

30 9. "Unlicensed assistive person" means an assistant to the nurse, ~~other than an~~  
31 ~~individual who is registered on the state department of health nurse aide registry, who~~

1           regardless of title is authorized by the board to perform nursing interventions  
2           delegated and supervised by a nurse.

3           **SECTION 2. AMENDMENT.** Section 43-12.1-03 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **43-12.1-03. License or registration required - Title - Abbreviation.**

6           Any person who provides nursing care to a resident of this state must hold a current license  
7 or registration issued by the board. It is unlawful for a person to practice nursing, offer to  
8 practice nursing, assist in the practice of nursing, or use any title, abbreviation, or designation to  
9 indicate that the person is practicing nursing or assisting in the practice of nursing in this state  
10 unless that person is currently licensed or registered under this chapter. ~~A currently licensed-~~  
11 ~~advanced practice registered nurse or specialty practice registered nurse may use titles-~~  
12 ~~approved by the board.~~ An advanced practice registered nurse shall use the abbreviation  
13 "APRN" and may use the applicable role designation of certified nurse practitioner, certified  
14 registered nurse anesthetist, certified nurse midwife, or certified clinical nurse specialist  
15 inclusive of population foci. A currently licensed specialty practice registered nurse shall use the  
16 abbreviation "SPRN"; a currently licensed registered nurse may shall use the abbreviation  
17 "R.N."; a currently licensed practical nurse may shall use the abbreviation "L.P.N."; and an  
18 unlicensed assistive person with current registration may use the title identified by the employer.  
19 A person may not use the title "nurse" or be referred to as a "nurse" unless the person is  
20 currently licensed by the board or exempt under section 43-12.1-04.

21           **SECTION 3. AMENDMENT.** Section 43-12.1-05 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **43-12.1-05. Board of nursing - Composition - Term of office.**

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

1       **SECTION 4. AMENDMENT.** Section 43-12.1-06 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **43-12.1-06. Qualifications of board members.**

- 4       1. Each registered nurse must be an eligible voting resident of this state, possess an  
5 unencumbered registered nurse license under this chapter, and be currently engaged  
6 in practice as a registered nurse. A majority of the members under this subsection  
7 must be actively engaged in practice in a nurse-patient setting.
- 8       2. Each licensed practical nurse must be an eligible voting resident of this state, possess  
9 an unencumbered practical nurse license under this chapter, and be currently  
10 engaged in practice as a licensed practical nurse. A majority of the members under  
11 this subsection must be actively engaged in practice in a nurse-patient setting.
- 12       3. Each advanced practice registered nurse must be an eligible voting resident of this  
13 state, possess an unencumbered advanced practice registered nurse license under  
14 this chapter, and be currently engaged in practice as an advanced practice registered  
15 nurse.
- 16       ~~3.4.~~ Each public member must be an eligible voting resident of this state and have no  
17 employment, professional license, or financial interest with any health care entity.
- 18       ~~4.5.~~ Each member appointed to the board shall maintain the qualifications for appointment  
19 for the duration of the appointment. The governor may remove any member of the  
20 board for cause upon recommendation of two-thirds of the members of the board.

21       **SECTION 5. AMENDMENT.** Section 43-12.1-08 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23       **43-12.1-08. Duties of the board.**

- 24       1. The board shall regulate the practice of nursing. ~~Regulation of the practice of nursing~~  
25 ~~must ensure that a person may not practice or offer to practice nursing or use titles of~~  
26 ~~advanced practice registered nurse, specialty practice registered nurse, registered~~  
27 ~~nurse, licensed practical nurse, or unlicensed assistive person, or titles of a similar~~  
28 ~~nature which denote the practice of nursing to the general public unless licensed or~~  
29 ~~registered as provided in this chapter.~~
- 30       2. The board shall:
- 31       a. Enforce this chapter.

- 1           b. Adopt and enforce administrative rules necessary to administer this chapter after
- 2                     collaborating and consulting with North Dakota nursing ~~assœiations~~organizations
- 3                     and other affected parties.
- 4           c. Appoint and employ a registered nurse to serve as executive director and
- 5                     approve any additional staff positions necessary to administer this chapter.
- 6           d. Establish fees and receive all moneys collected under this chapter and authorize
- 7                     all expenditures necessary to conduct the business of the board. Any balance of
- 8                     fees after payment of expenditures must be used to administer this chapter.
- 9           e. Collect and analyze data regarding nursing education, nursing practice, and
- 10                    nursing resources.
- 11           f. Issue and renew limited licenses or registrations to individuals requiring
- 12                    accommodation to practice nursing or assist in the practice of nursing.
- 13           g. ~~Establish confidential programs for the rehabilitation of nurses with workplace-~~
- 14                    ~~impairments.~~
- 15           h. Establish a nursing student loan program funded by license fees to encourage
- 16                    individuals to enter and advance in the nursing profession.
- 17           i. ~~h.~~ Establish a registry of individuals licensed or registered by the board.
- 18           j. ~~i.~~ Report annually to the governor and nursing profession regarding the regulation
- 19                    of nursing in the state.
- 20           k. ~~j.~~ Conduct and support projects pertaining to nursing education and practice.
- 21                    l. ~~Notify the board of pharmacy on an annual basis, or more frequent basis if~~
- 22                    ~~necessary, of advanced practice registered nurses authorized to write-~~
- 23                    ~~prescriptions.~~
- 24           m. ~~k.~~ Adopt and enforce administrative rules to allow nurses licensed by another state
- 25                    to receive short-term clinical education in North Dakota health care facilities.
- 26                    l. License qualified applicants for nurse licensure.
- 27                    m. Register qualified applicants for the unlicensed assistive person registry.
- 28                    n. Adopt and enforce rules for continuing competence of licensees and registrants.
- 29                    o. Adopt and enforce rules for nursing practices.
- 30                    p. Issue practice statements regarding the interpretation and application of this
- 31                    chapter.

1       **SECTION 6. AMENDMENT.** Section 43-12.1-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **43-12.1-09. Initial licensure and registration.**

4       1. The board shall license nurses and register ~~nursing~~ and unlicensed assistive person  
5 applicants. The board shall adopt and enforce administrative rules establishing  
6 qualifications for initial nursing licensure and unlicensed assistive person registration  
7 and for issuing limited licenses and registrations pursuant to subsection 3.

8       2. Each applicant who successfully meets the requirements of this section is entitled to  
9 initial licensure or registration as follows:

10      a. An applicant for licensure by examination to practice as a registered nurse or  
11 licensed practical nurse shall:

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

14          (2) Submit an official transcript ~~showing that verifies~~ completion of ~~an a~~  
15 board-approved in-state nursing education program that prepares the  
16 graduate for the level of licensure sought; or ~~a board-approved~~ submit an  
17 official transcript that verifies completion of an out-of-state nursing education  
18 program ~~preparing that is approved by the state board of nursing of the~~  
19 jurisdiction in which the program is headquartered and that prepares the  
20 graduate for the level of licensure sought. The board shall adopt rules  
21 establishing standards for the approval of out-of-state nursing education  
22 programs. ~~These standards for out-of-state programs must include~~  
23 ~~consideration of whether the program is accredited by the national league~~  
24 ~~for nursing accrediting commission, incorporated, or the commission on~~  
25 ~~collegiate nursing education and whether the program meets the~~  
26 ~~requirements of the state in which the program is provided.~~

27          (3) Pass an examination approved by the board.

28      b. An applicant for licensure by endorsement to practice as a registered nurse or  
29 licensed practical nurse shall:

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

- 1                   (2) Submit an official transcript ~~showing~~that verifies completion of a nursing  
2                   education program approved by the state board of nursing of the jurisdiction  
3                   in which the program is headquartered and preparing the graduate for the  
4                   level of licensure sought.
- 5                   (3) Submit proof of initial licensure by examination with the examination  
6                   meeting North Dakota requirements for licensure examinations in effect at  
7                   the time the applicant qualified for initial licensure.
- 8                   (4) Submit evidence of current unencumbered licensure in another state or  
9                   jurisdiction or meet continued competency requirements as established by  
10                  the board.
- 11                  (5) Notwithstanding the foregoing requirements of this subdivision, if an  
12                  applicant for licensure as a licensed practical nurse is not required to meet  
13                  any additional academic educational requirements for licensure as a  
14                  licensed practical nurse if the applicant has been licensed in another state  
15                  as a licensed practical nurse based upon completion of a registered nurse  
16                  education program and if the applicant has had at least twenty-four months  
17                  of unencumbered practice as a licensed practical nurse in another state  
18                  within the ~~five-year~~four-year period immediately preceding the application,  
19                  ~~then the applicant is not required to meet any additional educational~~  
20                  ~~requirements for licensure as a licensed practical nurse.~~
- 21                  c. An applicant for licensure as an advanced practice registered nurse shall:
- 22                   (1) Submit a completed application and appropriate fee as established by the  
23                   board.
- 24                   (2) Submit evidence of appropriate education and current certification in an  
25                   advanced nursing role by a national nursing organization meeting criteria as  
26                   established by the board. An advanced practice registered nurse applicant  
27                   must have a graduate degree with a nursing focus or must have completed  
28                   the educational requirements in effect when the applicant was initially  
29                   licensed.
- 30                   (3) Possess or show evidence of application for a current unencumbered  
31                   registered nurse license.

- 1           d. An applicant for licensure as an advanced practice registered nurse who  
2           completed an advanced nursing education program and was licensed or certified  
3           in advanced practice ~~by another state before January 1, 2001, or who completed~~  
4           ~~an advanced nursing education program and was licensed or certified as a~~  
5           ~~women's health care nurse practitioner by another state before January 1,~~  
6           ~~2007~~December 31, 2015, may apply for and receive an advanced practice  
7           license if that applicant meets the requirements that were in place in this  
8           state~~effect~~ at the time the applicant qualified for initial advanced practice  
9           licensure ~~in that state~~.
- 10          e. An applicant for unlicensed assistive person registration shall:
- 11           (1) Submit a completed application and the appropriate fee as established by  
12           the board.
- 13           (2) Provide verification of appropriate training or evidence of certification or  
14           evaluation in the performance of basic nursing interventions.
- 15          f. An applicant for licensure as a specialty practice registered nurse shall:
- 16           (1) Submit a completed application and appropriate fee as established by the  
17           board.
- 18           (2) Submit evidence of appropriate education and current certification in a  
19           specialty nursing role by a national nursing organization meeting criteria as  
20           established by the board. A specialty practice registered nurse applicant  
21           must have the educational preparation and national certification within a  
22           defined area of nursing practice.
- 23           (3) Possess or show evidence of application for a current unencumbered  
24           registered nurse license.
- 25          3. For good cause shown, the board may issue a limited license or registration to an  
26           applicant.

27          **SECTION 7. AMENDMENT.** Section 43-12.1-09.1 of the North Dakota Century Code is  
28          amended and reenacted as follows:

29          **43-12.1-09.1. Nursing licensure or registration - Criminal history record checks.**

30          The board ~~may~~shall require each applicant for initial ~~or renewed nursing licensure and~~  
31          registration to submit to a statewide and nationwide criminal history record check. The board

1 may require any licensee or registrant who is renewing a license or registration and any  
2 licensee or registrant who is the subject of a disciplinary investigation or proceeding to submit to  
3 a statewide and nationwide criminal history record check. The nationwide criminal history record  
4 check must be conducted in the manner provided by section 12-60-24. All costs associated with  
5 obtaining a background check are the responsibility of the applicant, licensee, or registrant. The  
6 board may grant a nonrenewable temporary permit to an applicant for initial or renewed license  
7 or registration who submits to a criminal history record check as required by this chapter if the  
8 applicant has met all other licensure or registration requirements in accordance with  
9 subsection 2 of section 43-12.1-09.

10 **SECTION 8. AMENDMENT.** Section 43-12.1-11 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **43-12.1-11. Duties of licensees and registrants.**

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

24 **SECTION 9. AMENDMENT.** Section 43-12.1-13 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **43-12.1-13. Disciplinary proceedings.**

27 Disciplinary proceedings under this chapter must be conducted in accordance with chapter  
28 28-32. Fees for each separate violation or the assessment of costs and disbursements, or both,  
29 may be imposed against a respondent in addition to any licensure or registration sanctions the  
30 board may impose. An appeal from the final decision of the board may be taken to the district  
31 court of Burleigh County under chapter 28-32. The board shall furnish to ~~the boards of nursing-~~

1 of other states by means including the data bank of the national council of state boards of  
2 nursing, to data banks as required by federal law and to health care agencies of this state, the  
3 required state and federal databanks a list of the names and addresses of licensees or  
4 registrants individuals who have been disciplined by the board.

5 **SECTION 10. AMENDMENT.** Section 43-12.1-14 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **43-12.1-14. Grounds for discipline - Penalties.**

8 The board may deny, limit, revoke, encumber, or suspend any license or registration to  
9 practice nursing issued by the board or applied for in accordance with this chapter; reprimand,  
10 place on probation, or otherwise discipline a licensee, registrant, or applicant; deny admission  
11 to licensure or registration examination; ~~provide an alternative to discipline in situations~~  
12 ~~involving impairments of chemical dependency or psychiatric or physical disorders~~; require  
13 evidence of evaluation and treatment; or issue a nondisciplinary letter of concern to a licensee,  
14 registrant, or applicant, upon proof that the person:

- 15 1. Has been arrested, charged, or convicted by a court, or has entered a plea of  
16 nolo contendere to a crime in any jurisdiction that relates adversely to the practice of  
17 nursing and the licensee or registrant has not demonstrated sufficient rehabilitation  
18 under section 12.1-33-02.1;
- 19 2. Has been disciplined by a board of nursing in another jurisdiction, or has had a license  
20 or registration to practice nursing or to assist in the practice of nursing or to practice in  
21 another health care occupation or profession denied, revoked, suspended, or  
22 otherwise sanctioned;
- 23 3. Has engaged in any practice inconsistent with the standards of nursing practice;
- 24 4. Has obtained or attempted to obtain by fraud or deceit a license or registration to  
25 practice nursing, or has submitted to the board any information that is fraudulent,  
26 deceitful, or false;
- 27 5. Has engaged in a pattern of practice or other behavior that demonstrates professional  
28 misconduct;
- 29 6. Has diverted or attempted to divert supplies, equipment, drugs, or controlled  
30 substances for personal use or unauthorized use;

- 1       7. Has practiced nursing or assisted in the practice of nursing in this state without a
- 2           current license or registration or as otherwise prohibited by this chapter;
- 3       8. Has failed to report any violation of this chapter or rules adopted under this chapter; or
- 4       9. Has failed to observe and follow the duly adopted standards, policies, directives, and
- 5           orders of the board, or has violated any other provision of this chapter.

6       **SECTION 11. AMENDMENT.** Subsection 1 of section 43-12.1-17 of the North Dakota  
7 Century Code is amended and reenacted as follows:

- 8       1. The board shall adopt and enforce administrative rules establishing standards for
- 9           ~~in-state~~ nursing education programs leading to initial or advanced licensure. ~~A nursing~~
- 10          ~~education program may not be provided in this state unless the board has approved~~
- 11          ~~the program~~In-state programs must be approved by the board. Out-of-state programs
- 12          must be approved by the state board of nursing of the jurisdiction in which the program
- 13          is headquartered. The board shall approve, review, and reapprove nursing education
- 14          programs in this state. The board may not require a statement of intent as part of the
- 15          approval process under this section.

16       **SECTION 12. REPEAL.** Sections 43-12.1-18 and 43-12.1-20 of the North Dakota Century  
17 Code are repealed.