

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

HOUSE BILL NO. 1289
(Representative Keiser)

AN ACT to amend and reenact subsection 1 of section 23-34-04 and section 43-17-31 of the North Dakota Century Code, relating to grounds for disciplinary action by the medical board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-34-04 of the North Dakota Century Code is amended and reenacted as follows:

1. A peer review organization shall report to an investigative panel of the North Dakota board of medicine any information that indicates a probable violation of ~~subsection 4, 5, 16, or 17~~subdivision d, e, p, or q of subsection 1 of section 43-17-31.

SECTION 2. AMENDMENT. Section 43-17-31 of the North Dakota Century Code is amended and reenacted as follows:

43-17-31. Grounds for disciplinary action.

1. Disciplinary action may be imposed against a physician upon any of the following grounds:
 4. a. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
 2. b. The making of false or misleading statements about the physician's skill or the efficacy of any medicine, treatment, or remedy.
 3. c. The conviction of any misdemeanor determined by the board to have a direct bearing upon a person's ability to serve the public as a practitioner of medicine or any felony. A license may not be withheld contrary to the provisions of chapter 12.1-33.
 4. d. Habitual use of alcohol or drugs.
 5. e. Physical or mental disability materially affecting the ability to perform the duties of a physician in a competent manner.
 6. f. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
 7. g. Obtaining any fee by fraud, deceit, or misrepresentation.
 8. h. Aiding or abetting the practice of medicine by an unlicensed, incompetent, or impaired person.
 9. i. The violation of any provision of a medical practice act or the rules and regulations of the board, or any action, stipulation, condition, or agreement imposed by the board or its investigative panels.
 10. j. The practice of medicine under a false or assumed name.
 11. k. The advertising for the practice of medicine in an untrue or deceptive manner.

42. l. The representation to a patient that a manifestly incurable condition, sickness, disease, or injury can be cured.
43. m. The willful or negligent violation of the confidentiality between physician and patient, except as required by law.
44. n. The failure of a doctor of osteopathy to designate that person's school of practice in the professional use of that person's name by such terms as "osteopathic physician and surgeon", "doctor of osteopathy", "D.O.", or similar terms.
45. o. Gross negligence in the practice of medicine.
46. p. Sexual abuse, misconduct, or exploitation related to the licensee's practice of medicine.
47. q. The prescription, sale, administration, distribution, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes.
48. r. The payment or receipt, directly or indirectly, of any fee, commission, rebate, or other compensation for medical services not actually or personally rendered, or for patient referrals; this prohibition does not affect the lawful distributions of professional partnerships, corporations, limited liability companies, or associations.
49. s. The failure to comply with the reporting requirements of section 43-17.1-05.1.
20. t. The failure to transfer medical records to another physician or to supply copies of those records to the patient or to the patient's representative when requested to do so by the patient or the patient's designated representative, except if the disclosure is otherwise limited or prohibited by law. A reasonable charge for record copies may be assessed.
21. u. A continued pattern of inappropriate care as a physician, including unnecessary surgery.
22. v. The use of any false, fraudulent, or deceptive statement in any document connected with the practice of medicine.
23. w. The prescribing, selling, administering, distributing, or giving to oneself or to one's spouse or child any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.
24. x. The violation of any state or federal statute or regulation relating to controlled substances.
25. y. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice medicine based upon acts or conduct by the physician that would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.
26. z. The lack of appropriate documentation in medical records for diagnosis, testing, and treatment of patients.
27. aa. The failure to properly monitor a physician assistant, a fluoroscopy technologist, or an emergency medical technician.
28. bb. The failure to furnish the board or the investigative panel, their investigators, or representatives information legally requested by the board or the investigative panel.

29. cc. The performance of an abortion on a pregnant woman prior to determining if the unborn child the pregnant woman is carrying has a detectable heartbeat, as provided in subsection 1 of section 14-02.1-05.1.
- dd. Noncompliance with the physician health program established under chapter 43-17.3.
2. The board shall keep a record of all of its proceedings in the matter of suspending, revoking, or refusing licenses together with the evidence offered.

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-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1289.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 46 Nays 0 Absent 1

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