

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 345

July 2012

**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

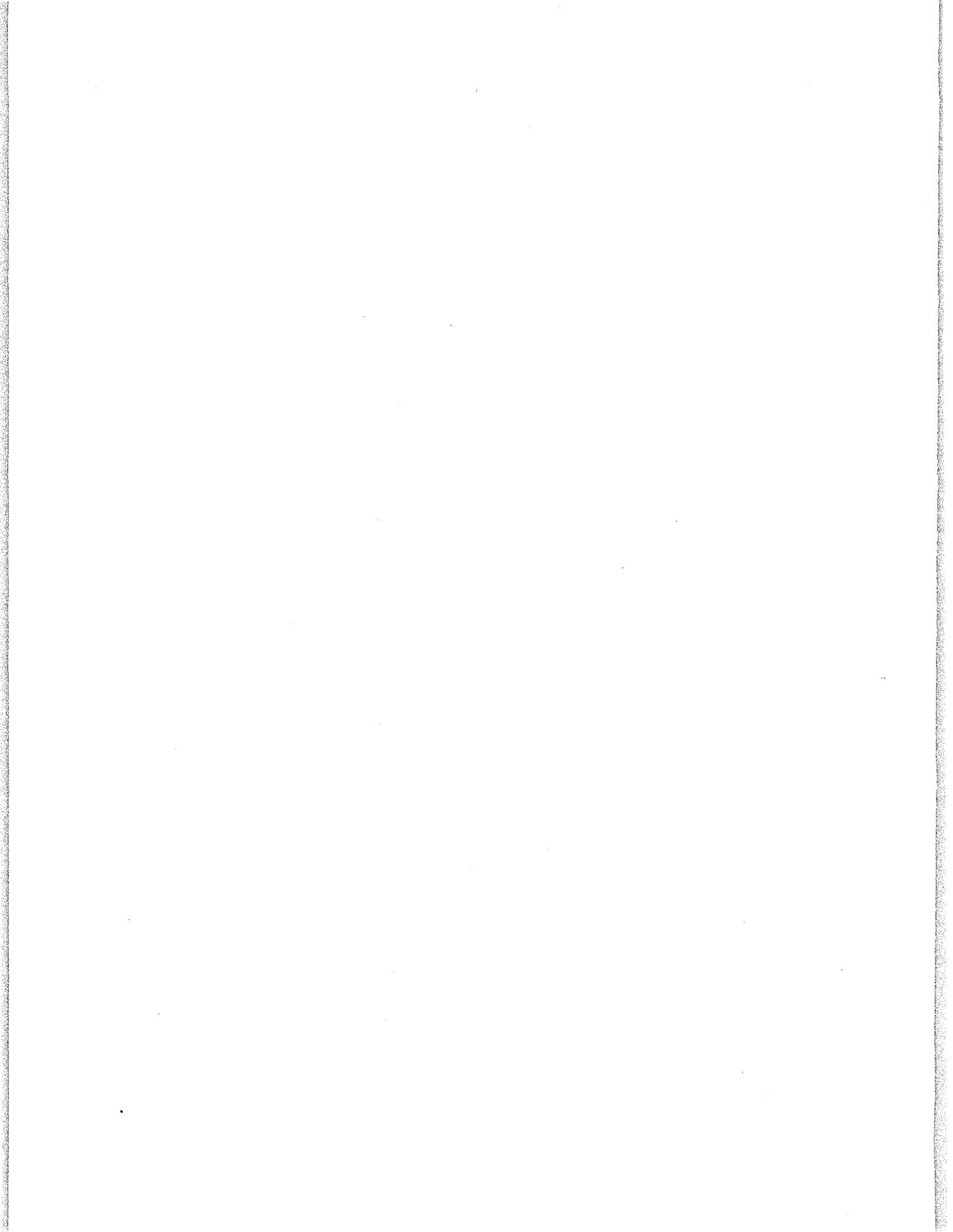
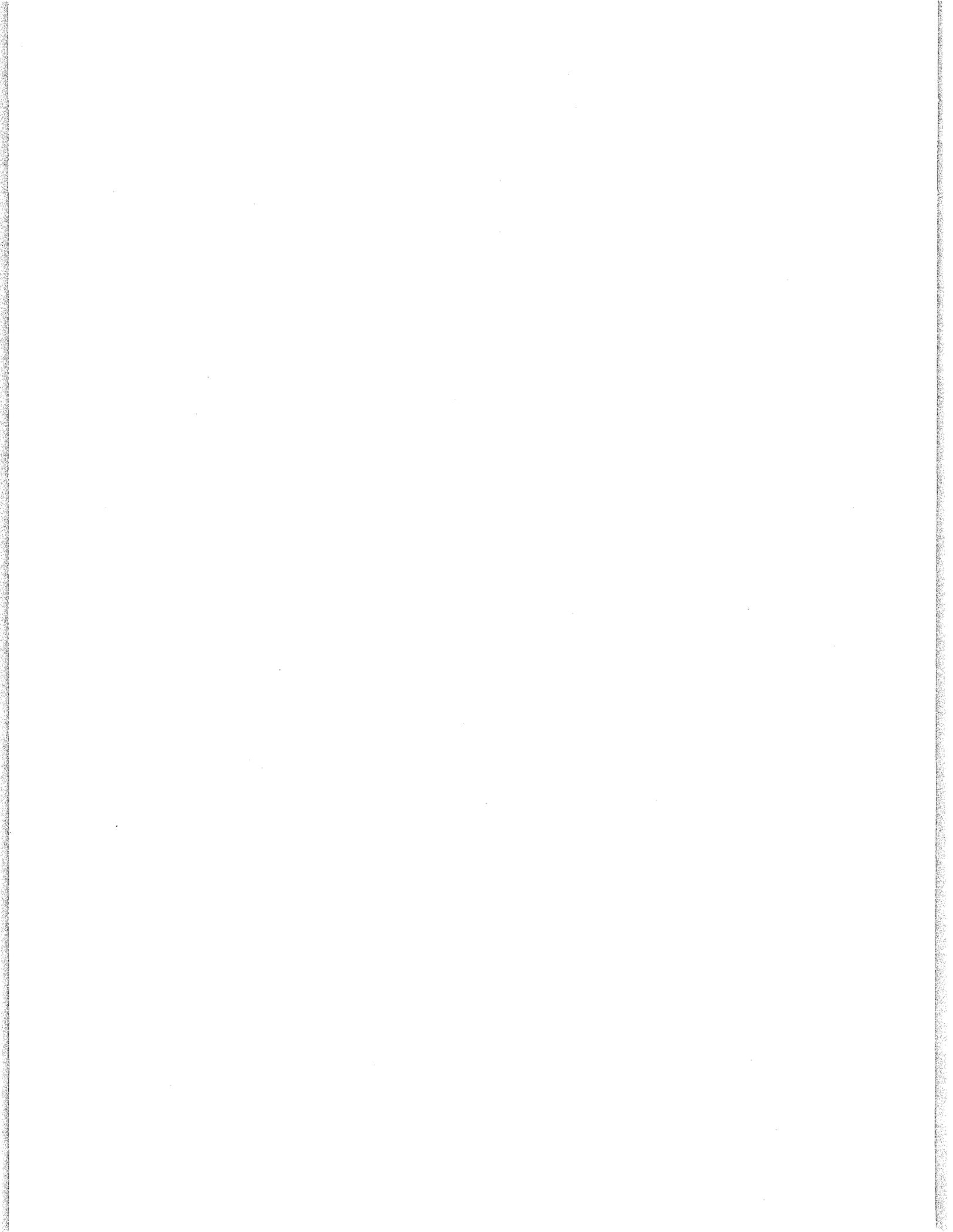


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TITLE 45
INSURANCE COMMISSIONER

JULY 2012

CHAPTER 45-02-03
LICENSING OF ADMINISTRATORS

Section	
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45-02-03-02	Application for License - Fee
45-02-03-03	Signature on Application
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45-02-03-04. Application of corporation, association, benefit society.
~~An application by a corporation, association, or benefit society must be accompanied by a certified copy of the articles of incorporation or association. Repealed effective July 1, 2012.~~

History: ~~Effective September 1, 1983.~~
General Authority: ~~NDCC 26.1-01-08~~
Law Implemented: ~~NDCC 26.1-27~~

45-02-03-06. Renewal procedure. The administrator is required to remit the renewal fee on or before each ~~annual anniversary date~~ April thirtieth of each year in order to maintain the certificate of authority. If such fee is not received in the prescribed time, the certificate of authority may be administratively terminated. The department will provide notice of the renewal of the certificate of authority or the termination of that certificate of authority. Certificates of authority issued after January first will not be required to renew until April thirtieth of the following calendar year.

History: Effective September 1, 1983; amended effective January 1, 2006; July 1, 2012.
General Authority: NDCC 26.1-01-08
Law Implemented: NDCC 26.1-27

**CHAPTER 45-02-04
INSURANCE CONTINUING EDUCATION**

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45-02-04-03. General rules.

1. **Course requirements.** The insurance continuing education course requirements include an educational presentation involving insurance fundamentals, policies, laws, risk management, or other courses which are offered in a process of instruction approved by the commissioner as expanding skills and developing knowledge to better serve the insurance buying public.
2. **Nonapproved courses.** The following course content will not qualify for insurance continuing education credit:
 - a. Prelicensure training.
 - b. Prospecting.
 - c. Recruiting.
 - d. Sales skills and promotions.
 - e. Motivation.
 - f. Psychology.
 - g. Communication skills.

- h. Supportive office and machine skills.
- i. Personnel management.

The above listing does not limit the commissioner's authority to disapprove any application which fails to meet the standards for course approval.

3. **Licensee responsibility.** Each licensee shall be responsible for maintaining original records of the licensee's insurance continuing education certificates of attendance for a period of one year from the last reporting deadline. Such records shall be made available to the commissioner upon request.
4. **Correspondence course credit.** Credit received by an insurance producer for a correspondence course must be based on successful completion of the course as prescribed by the provider and approved by the commissioner.
5. **Reciprocity.** The commissioner may approve credit for insurance-related courses approved by the North Dakota real estate commission and the North Dakota state bar association for insurance continuing education purposes.
6. **Credit hour.** A credit hour means sixty minutes of time, of which at least fifty minutes must be instruction, with a maximum of ten minutes break.
 - a. Credit hours for insurance continuing education will not be approved in increments of less than one-half hour.
 - b. Neither students nor instructors may earn credit for attending or instructing at any subsequent offering of an insurance continuing education course more than once during a reporting period.
7. **Course audit.** The commissioner or an authorized representative reserves the right to audit insurance continuing education offerings with or without notice to the provider.
8. **Class attendance.** No certificate of attendance will be issued to an insurance continuing education participant who is absent for more than ten percent of the classroom hours.
9. **Examinations.** Course examinations will not be required for insurance continuing education courses, unless required by the provider.
10. **Textbooks.** Textbooks are not required for insurance continuing education courses. All course materials must contain accurate and current information relating to the subject matter being taught.

11. **Approval of course offerings.** The commissioner requires providers of insurance continuing education courses to provide the following:
 - a. To the commissioner on a commissioner-approved form prior to course offerings:
 - (1) An application for course approval of an insurance continuing education course fifteen business days prior to course offering;
 - (2) A complete course outline designating individual topics and the amount of time devoted to each area being taught;
 - (3) An application for coordinator approval; and
 - (4) A fifty dollar per course filing fee;
 - b. A class roster to the commissioner using a method prescribed by the commissioner fifteen days subsequent to completion of all insurance continuing education courses; and
 - c. To course participants subsequent to course offerings provide a course attendance certificate (form SFN 10923) to all students successfully completing an approved insurance continuing education course.

Upon review by the commissioner, providers will receive a copy of the course application indicating approval or denial, credit hours assigned, and a course certification number. Course certification numbers must be used on all insurance continuing education certificates, correspondence, and advertisements.

12. **Provider management responsibility.** Providers of insurance continuing education courses are responsible for the actions of their respective instructors and coordinators.
13. **Course approval after the fact.** Credit may be granted for a course after the fact provided such courses are properly submitted and approved by the commissioner. Subsequent approval depends on course content and is not automatic or guaranteed.
14. **Advertising.** Courses may not be advertised in any manner unless approval has been granted, in writing, by the commissioner.
 - a. All advertising relating to approved course offerings shall contain the following statement: "This course has been approved by the insurance commissioner for (insert hours) of insurance continuing education credit."

b. Advertising must be truthful, clear, and not deceptive or misleading.

~~15. **Approval of subsequent offerings.** After approval has been granted for the initial offering of a course, approval for subsequent offerings will be granted without the necessity of a new application if a notice of subsequent offering is filed with the commissioner at least fifteen days before the date the course is to be held.~~

46. 15. **Fees.** Fees for courses must be reasonable and clearly identifiable to students. If a course is canceled for any reason, all fees must be returned within thirty days of cancellation.

47. 16. **Adequate facility.** Each course of study must be conducted in a classroom or other facility which will adequately and comfortably accommodate the faculty and the number of students enrolled. The provider may limit the number of students enrolled in a course.

History: Effective July 1, 1986; amended effective January 1, 2000; December 1, 2001; January 1, 2006; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-26-49

Law Implemented: NDCC 26.1-26-49

45-02-04-09.3. Exemptions from continuing education for limited lines.

An insurance producer licensed exclusively for the sale of title insurance, travel or baggage insurance, surety, bail bonds, legal expense insurance, or credit insurance is exempt from continuing education requirements.

History: Effective July 1, 2012.

General Authority: NDCC 26.1-26-49

Law Implemented: NDCC 26.1-26-31.1(1)

CHAPTER 45-03-15

45-03-15-01. Accounting practices and procedures. Every insurance company doing business in this state shall file with the commissioner, pursuant to North Dakota Century Code section 26.1-03-07, the appropriate national association of insurance commissioners annual statement blank, prepared in accordance with the national association of insurance commissioners instructions handbook and following the accounting procedures and practices prescribed by the March ~~2009~~ 2011 version of the national association of insurance commissioners accounting practices and procedures manual for property and casualty and life and health insurance.

History: Effective January 1, 1992; amended effective January 1, 2000; December 1, 2001; March 1, 2004; January 1, 2006; January 1, 2008; April 1, 2010; July 1, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-03-07, 26.1-03-11.1

45-03-15-02. Reporting of financial information. Every insurance company licensed to do business in this state shall transmit to the commissioner and to the national association of insurance commissioners its most recent financial statements compiled on a quarterly basis, within forty-five days following the calendar quarters ending March thirty-first, June thirtieth, and September thirtieth. The financial statements must be prepared and filed in the form prescribed by the commissioner and in accordance with the national association of insurance commissioners instructions handbook and following the accounting procedures and practices prescribed by the March ~~2009~~ 2011 version of the national association of insurance commissioners accounting practices and procedures manual for property and casualty and life and health insurance. The commissioner may exempt any company or category or class of companies from the filing requirement.

History: Effective January 1, 1992; amended effective January 1, 2000; December 1, 2001; March 1, 2004; January 1, 2006; January 1, 2008; April 1, 2010; July 1, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-02-03, 26.1-03-07, 26.1-03-11.1

CHAPTER 45-03-23

45-03-23-02. Custody of agreement - Requirements.

1. An insurance company may provide, by written agreement with a custodian, for the custody of its securities with a custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.
2. The agreement must be in writing and must be authorized by the resolution of the board of directors of the insurance company or of an authorized committee of the board. The terms of the agreement must comply with the following:
 - a. Securities certificates held by the custodian must be held separate from the securities of the custodian and of all of its other customers.
 - b. Securities held indirectly by the custodian and securities in a clearing corporation must be separately identified on the custodian's official records as being owned by the insurance company. The records must identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records must also identify where the securities are and, if in a clearing corporation, the name of the clearing corporation and, if through an agent, the name of the agent.
 - c. All custodied securities that are registered must be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.
 - d. Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit requirements set forth in North Dakota Century Code section 26.1-05-23 must, to the extent required by that section, be under the control of the insurance commissioner and must not be withdrawn by the insurance company without the commissioner's approval.
 - e. The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at such times and containing information as may be reasonably requested by the insurance company. The custodian's trust committee's annual reports of its review of the

insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.

- f. During the course of the custodian's regular business hours, any officer or employee of the insurance company, any independent accountant selected by the insurance company, and any representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.
- g. The custodian and its agents shall be required to send to the insurance company:
 - (1) All reports which they receive from a clearing corporation on their respective systems of internal accounting control; and
 - (2) Any reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities that the insurance company may reasonably request.
- h. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's annual statement and supporting schedules and information required in any audit of the financial statements of the insurance company.
- i. The custodian shall provide, upon written request from an appropriate officer of the insurance company, the appropriate affidavits, substantially in the form described in the appendices to this chapter, with respect to custodied securities.
- j. A national bank, state bank, or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker-dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the securities investor protection corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.

- k. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities, except that the custodian shall not be so obligated to the extent that the loss was caused by other than the negligence or dishonesty of the custodian.
- l. The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft, or mysterious disappearance, including loss by damage or destruction.
- m. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company, the custodian shall promptly replace the securities or their value thereof and the value of any loss of rights or privileges resulting from the loss of securities.
- n. The agreement may provide that the custodian will not be liable for any failure to take any action required to be taken under the agreement in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, rules, orders, or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.
- o. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian; provided, however, that if the agent shall be subject to regulation under the laws of a jurisdiction which is different from the jurisdiction the laws of which regulate the custodian, the insurance commissioner of the state of domicile of the insurance company may accept a standard of liability applicable to the agent which is different from the standard of liability applicable to the custodian.
- p. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if one hundred percent of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three business days of the receipt by the custodian of the insurer's written notice of termination or within three business days of the withdrawal of one hundred percent of the account assets.

3. An insurer having direct written and assumed premiums of less than three million dollars in any calendar year may request an exemption from the requirements of this section. The insurer must file with the commissioner a written statement explaining the reasons why the insurer should be exempt. The commissioner may grant an exemption if the commissioner finds that compliance with this section would constitute a financial or organizational hardship upon the insurer.

History: Effective March 1, 2004; amended effective April 1, 2010; July 1, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-05-35

CHAPTER 45-09-01 SURPLUS LINES INSURANCE

Section	
45-09-01-01	Definitions
45-09-01-02	Surplus Lines Insurance Producer Application
45-09-01-03	Surplus Lines Insurance Producer Must Conduct Search
45-09-01-04	Presumption - Diligent Search
45-09-01-05	Other Acceptable Lines of Coverage
45-09-01-06	Surplus Lines Affidavit - Time for Filing [Repealed]
45-09-01-07	Surplus Lines Affidavit - Limits on Availability [Repealed]
45-09-01-08	Additional Policy Endorsement Requirement [Repealed]
45-09-01-09	Statement of Taxable Premiums [Repealed]

45-09-01-02. Surplus lines insurance producer application. The insurance commissioner will not issue a resident surplus lines insurance producer's license until the applicant has met the requirements of North Dakota Century Code section 26.1-26-17 and has completed and filed with the commissioner a completed application for a surplus lines insurance producer license, and paid the license fee. An applicant for a nonresident surplus lines insurance producer license must hold an active resident surplus lines insurance producer license in the applicant's home state and must complete and file with the commissioner an application for a nonresident surplus lines insurance producer license and pay the license fee.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-26-49, 26.1-44-09

Law Implemented: NDCC 26.1-26-17, ~~26.1-26-18~~ 26.1-26-20

45-09-01-03. Surplus lines insurance producer may must conduct search. ~~An insured is permitted to designate the~~ The licensed surplus lines insurance producer as the insured's agent for purposes of conducting seeking the placement of nonadmitted insurance must conduct a diligent search to ascertain whether the insured is unable to procure the insurance, indemnity contract, or surety bond desired can be procured from a company authorized to do business in this state. The surplus lines insurance producer may rely on a diligent search done by a licensed insurance producer or the insured if the surplus lines insurance producer deems it sufficient. Within sixty days after placing of any surplus lines insurance, the surplus lines insurance producer must complete and file with the commissioner a surplus lines affidavit confirming such a search has been done. The affidavit is not required if the insured is an exempt commercial purchaser as defined in North Dakota Century Code section 26.1-44-02.

History: Effective January 1, 1982; amended effective December 1, 2001; July 1, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-04. Presumption - Diligent search. A presumption that a diligent search has been made ~~by the insured~~ and that the ~~insured~~ insurance producer was unable to procure the insurance, indemnity contract, or surety bond desired from a company authorized to do business in this state is created when the insurance, contract, or bond is written in one of the categories set out in Appendix I.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-05. Other acceptable lines of coverage. The categories designated in Appendix I are not to be considered as the only lines of coverage in which unauthorized insurers may be used. Other categories of coverage not listed may be acceptable because of special underwriting considerations, i.e., losses, high exposure, etc. Any exceptions must be fully explained on the surplus lines affidavit ~~and approved by the insurance commissioner~~ report of placement.

The securing of advantage as to lower premium rates or as to the terms of the insurance contract do not constitute justification nor are they special underwriting considerations sufficient to allow the surplus lines broker to use an unauthorized company nor lines of coverage other than those designated in Appendix I.

History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

45-09-01-06. Surplus lines affidavit - Time for filing. ~~Before a surplus lines insurance producer procures, affects, or issues any insurance policy, indemnity contract, or surety bond, the surplus lines insurance producer shall execute, personally sign, and file an affidavit in acceptable form with the office of the commissioner. An affidavit will be deemed filed with the commissioner if it is mailed to the commissioner's office within sixty days of the effective date of the policy. Repealed effective July 1, 2012.~~

~~**History:** Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008.~~

~~**General Authority:** NDCC 26.1-44-09~~

~~**Law Implemented:** NDCC 26.1-44-02~~

45-09-01-07. Surplus lines affidavit - Limits on availability. ~~The surplus lines affidavits filed with the insurance commissioner will be made available only to the insured named in the affidavit upon a written request by that insured; to the surplus lines insurance producer who executed the affidavit upon written request of that surplus lines insurance producer; to duly authorized department personnel;~~

~~and to any other individual who obtains and files with the commissioner a written waiver and consent form signed by the insured. Repealed effective July 1, 2012.~~

~~History: Effective January 1, 1982; amended effective December 1, 2001.~~

~~General Authority: NDCC 26.1-44-09~~

~~Law Implemented: NDCC 26.1-44-02~~

~~**45-09-01-08. Additional policy endorsement requirement.** In addition to the endorsement required by North Dakota Century Code section 26.1-44-05, every policy issued under North Dakota Century Code chapter 26.1-44 shall be endorsed as follows: THIS POLICY IS ISSUED PURSUANT TO THE NORTH DAKOTA SURPLUS LINES INSURANCE STATUTE UNDER THE SURPLUS LINES INSURANCE PRODUCER LICENSE OF _____. THE INSURER IS A QUALIFIED SURPLUS LINES INSURER, BUT IS NOT OTHERWISE LICENSED BY THE STATE OF NORTH DAKOTA AND DOES NOT PARTICIPATE IN THE NORTH DAKOTA INSURANCE GUARANTY ASSOCIATION. Repealed effective July 1, 2012.~~

~~History: Effective January 1, 1982; amended effective December 1, 2001.~~

~~General Authority: NDCC 26.1-44-09~~

~~Law Implemented: NDCC 26.1-44-05~~

~~**45-09-01-09. Statement of taxable premiums.** Surplus lines insurance producers are required by North Dakota Century Code section 26.1-44-06 to file annually a statement of taxable premiums received by that surplus lines insurance producer. Repealed effective July 1, 2012.~~

~~History: Effective January 1, 1982; amended effective December 1, 2001; January 1, 2008.~~

~~General Authority: NDCC 26.1-44-09~~

~~Law Implemented: NDCC 26.1-44-06~~

APPENDIX I

Categories of Acceptable Surplus Lines Coverage

The following categories of surplus lines coverage are not the only lines which may be written in North Dakota. Other lines of coverage not on this list may be acceptable because of special underwriting considerations. Any exceptions must be fully explained on the surplus lines ~~affidavit and approved by the insurance commissioner~~ report of placement.

~~There~~ If the coverage written is in an approved category, there is a presumption that ~~the insured is unable, after diligent search, to procure the insurance, indemnity contract, or surety bond desired~~ cannot be procured from a company authorized to do business in this state ~~if the coverage written is in an approved category.~~

These categories may be changed from time to time at the discretion of the insurance commissioner subject to provisions of North Dakota Century Code chapter 28-32, the Administrative Agencies Practice Act.

1. Fiduciary liability.
2. Professional liability (E & O) except for hospitals.
3. Directors and officers.
4. Ocean marine cargo, liability and hull.
5. Hazardous cargo and short-term trip transit.
6. Bridges (large).
7. Heavy woodworking property (unprotected, high-value sawmills).
8. Product liability (hazardous).
9. Ski lifts and tows' liability.
10. Fireworks, ammunition, fuse, cartridges, power, nitroglycerine, explosive gases.
11. Environmental impairment - pollution.
12. Kidnap ransom.
13. Oil and gas liability and marine.
14. Livestock mortality (high values and unusual).

15. Short tail (hole-in-one, 300 bowling score, etc.).
16. Large utilities (generation, transmission).
17. Building demolition and moving.
18. Mono line liquor legal liability.
19. Surcharged fire and allied lines excluding uncontrolled marine.
20. High-value substandard private passenger automobile.
21. Commercial automobile physical damage coverage in excess of rating organizations' filed rates.
22. Any excess liability coverages.
23. Day care liability insurance coverages.

History: Amended effective February 1, 1983; November 1, 1987; December 1, 2001; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

CHAPTER 45-11-01

45-11-01-01. Required notice to policy owners. A document that describes the general purposes and current limitations of the North Dakota life and health insurance guaranty association as required by subsections 2 and 3 of section 26.1-38.1-16 of the North Dakota Century Code must be in the form and contain the language printed in the notice shown in exhibit A.

History: Effective September 1, 1990; amended effective January 1, 2000.

General Authority: NDCC 26.1-38.1-16

Law Implemented: NDCC 26.1-38.1-16

**NOTICE CONCERNING COVERAGE,
LIMITATIONS AND EXCLUSIONS UNDER THE
NORTH DAKOTA LIFE AND HEALTH INSURANCE GUARANTY
ASSOCIATION ACT**

A resident of North Dakota who purchases life insurance, annuities, or accident and health insurance should know that an insurance company licensed in this state to write these types of insurance is a member of the North Dakota Life and Health Insurance Guaranty Association. The purpose of this association is to assure that a policy owner will be protected, within statutory limits, if a member insurer becomes financially unable to meet its obligations. If this should happen, the guaranty association will assess its other member insurance companies for the money to pay the claims of insured persons who live in this state and, in some cases, to keep coverage in force. The valuable extra protection provided by these insurers through the guaranty association is not unlimited, however. And, as noted in the box below, this protection is not a substitute for your care in selecting a company that is well-managed and financially stable.

The North Dakota Life and Health Insurance Guaranty Association may not provide coverage for this policy. If coverage is provided, it may be subject to substantial limitations or exclusions, and require continued residency in North Dakota. You should not rely on coverage by the North Dakota Life and Health Insurance Guaranty Association in selecting an insurance company or in selecting an insurance policy.

Coverage is NOT provided for your policy or any portion of it that is not guaranteed by the insurer or for which you have assumed the risk, such as a variable contract sold by prospectus or self-funded plans.

Your insurance company or its agent is required by law to give or send you this notice. However, your insurance company and its agent are prohibited by law from using the existence of the guaranty association to induce you to purchase any kind of insurance policy.

[Insurer's Name]
[Address]
[Telephone Number]

**The North Dakota Life and Health Insurance Guaranty Association
P.O. Box 2422
Fargo, North Dakota 58108**

**State of North Dakota Department of Insurance
600 East Boulevard Avenue, Dept. 401
Bismarck, North Dakota 58505**

The state law that provides for this safety-net coverage is called the North Dakota Life and Health Insurance Guaranty Association Act. On the back of this page is a brief summary of this law's coverages, exclusions, and limits. This summary does not cover all provisions of the law; nor does it in any way change your rights or obligations under the act or the rights or obligations of the guaranty association.

(please turn to back of page)

COVERAGE

Generally, an individual will be protected by the life and health insurance guaranty association if the individual lives in North Dakota and holds a life or health insurance contract or annuity contract, or if the insured is insured under a group insurance contract issued by a member insurer. A beneficiary, payee, or assignee of an insured person is protected as well, even if a nonresident of North Dakota.

EXCLUSIONS FROM COVERAGE

However, a person holding a policy is not protected by this association if:

- the individual is eligible for protection under the laws of another state (this may occur when the insolvent insurer was incorporated in another state whose guaranty association protects insureds who live outside that state);
- the insurer was not authorized to do business in this state;
- the policy is issued by an organization which is not a member of the North Dakota Life and Health Insurance Guaranty Association. Health maintenance organizations, fraternal benefit societies, and the Comprehensive Health Association of North Dakota are not members of the guaranty association.

The association does not provide coverage for:

- a policy or portion of a policy which is not guaranteed by the insurer or for which the individual has assumed the risk, such as a variable contract sold by prospectus;
- a policy of reinsurance (unless an assumption certificate was issued);
- an interest rate yield that exceeds an average rate;
- a dividend;
- a credit given in connection with the administration of a policy by a group contractholder;
- an employer's plan to the extent that it is self-funded (that is, not insured by an insurance company, even if an insurance company administers the plan).

LIMITS ON AMOUNT OF COVERAGE

The act also limits the amount the association is obligated to pay. The association cannot pay more than what the insurance company would owe under a policy or contract. Also, for any one insured life, the association will pay a maximum of \$300,000 - no matter how many policies and contracts were in force with the same company, even if the policies provided different types of coverages. Within this overall \$300,000 limit, the association will not pay more than \$100,000 in cash surrender values, \$100,000 in health insurance benefits, \$100,000 in present value of annuities, or \$300,000 in life insurance death benefits - again, no matter how many policies and contracts there were with the same company, and no matter how many different types of coverages.

Note to benefit plan trustees or other holders of unallocated annuities (GICs, DACs, etc.) covered by the act: for unallocated annuities that fund governmental retirement plans under §§ 401(k), 403(b), or 457 of the Internal Revenue Code, the limit is \$100,000 in present value of annuity benefits including net cash surrender and net cash withdrawal per participating individual. In no event shall the association be liable to spend more than \$300,000 in the aggregate per individual. For covered unallocated annuities that fund other plans, a special limit of \$5,000,000 applies to each contractholder, regardless of the number of contracts held with the same company or number of persons covered. In all cases the contract limits also apply.

COMPLAINTS AND COMPANY FINANCIAL INFORMATION

A written complaint to allege a violation of any provision of the Life and Health Insurance Guaranty Association Act must be filed with the North Dakota Insurance Department, 600 East Boulevard Avenue, Dept. 401, Bismarck, North Dakota 58505; telephone - (701) 328-2440. Financial information for an insurance company, if the information is not proprietary, is available at the same address and telephone number.

(Exhibit A cannot be accurately reproduced for publication. Users should contact the Insurance Commissioner to obtain a correct copy)

EXHIBIT A

NOTICE OF PROTECTION PROVIDED BY THE
NORTH DAKOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

This notice provides a brief summary of the North Dakota Life and Health Insurance Guaranty Association ("the Association") and the protection it provides for policyholders. This safety net was created under North Dakota law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that your life, annuity or health insurance company becomes financially unable to meet its obligations and is taken over by its Insurance Department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with North Dakota law, with funding from assessments paid by other insurance companies.

The protections provided by the Association are based on contract obligations up to the following amounts:

1. Life Insurance
 - a. \$300,000 in death benefits
 - b. \$100,000 in cash surrender or withdrawal values
2. Health Insurance
 - a. \$500,000 in hospital, medical and surgical insurance benefits
 - b. \$300,000 in disability income insurance benefits
 - c. \$300,000 in long-term care insurance benefits
 - d. \$100,000 in other types of health insurance benefits
3. Annuities
 - a. \$250,000 in withdrawal and cash values

The maximum amount of protection for each individual, regardless of type of coverage is \$300,000; however, may be up to \$500,000 with regard to hospital, medical, and surgical insurance benefits.

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. If coverage is available, it will be subject to substantial limitations. There are also various

residency requirements and other limitations under North Dakota law. To learn more about the above protections, as well as protections relating to group contracts or retirement plans, please visit the Association's website at www.ndlifega.org or contact:

North Dakota Life and Health Insurance Guaranty Association North Dakota Insurance Department

P.O. Box 2422

600 East Boulevard Avenue, Dept. 401

Fargo, ND 58108

Bismarck, ND 58505

COMPLAINTS AND COMPANY FINANCIAL INFORMATION

A written complaint to allege a violation of any provision of the Life and Health Insurance Guaranty Association Act must be filed with the North Dakota Insurance Department, 600 East Boulevard Avenue, Dept. 401, Bismarck, North Dakota 58505; telephone (701) 328-2440. Financial information for an insurance company, if the information is not proprietary, is available at the same address and telephone number and on the Insurance Department website at www.nd.gov/ndins.

Insurance companies and agents are not allowed by North Dakota law to use the existence of the Association or its coverage to sell, solicit or induce you to purchase any form of insurance. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and North Dakota law, then North Dakota law will control.

CHAPTER 45-12-01

45-12-01-01. Definitions. As used in this article:

1. "Alteration" means a ~~structural modification of or a departure from an original or existing construction~~ change in an item described on an original manufacturer's data report which affects the pressure retaining capability of the pressure retaining item. An alteration includes nonphysical changes such as an increase in the maximum allowable internal or external working pressure, an increase in design temperature, or a reduction in minimum temperature. For boilers used in the power generation industry exceeding one hundred thousand pounds of steam per hour output, increases in steaming capacity shall not be considered an alteration if a new baseline steaming capacity is established based on either an engineering evaluation or a review of the operating history and a conditional assessment of the boiler and its components. An engineering evaluation or conditional assessment must be made by the boiler owner with review and comment by the authorized inspection agency responsible for the in-service inspection of the boiler. Engineering evaluations and conditional assessments are subject to the review and approval of the chief boiler inspector.
2. "Apartments" means all multiple dwellings, including condominiums.
3. "Approved" means approved by the commissioner.
4. "A.S.M.E. code" means the boiler and pressure vessel construction code of the American society of mechanical engineers of which sections I, II, IV, V, VIII (divisions 1 and 3), IX, and X, ~~2007~~ 2010 edition and section VIII, (division 2), 2004 edition, are hereby adopted by the commissioner and incorporated by reference as a part of this article. A copy of the American society of mechanical engineers code is on file at the office of the boiler inspection program. The American society of mechanical engineers code may be obtained from the American society of mechanical engineers headquarters at 3 park avenue, New York, New York 10016-5990.
5. "Boiler" means a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use externally to itself by the direct application of heat from the combustion of fuels or from electricity or nuclear energy. The term boiler includes fired units for ~~heating or~~ vaporizing liquids other than water when these units are separate from processing systems and are complete within themselves, as provided under North Dakota Century Code section 26.1-22.1-01.
6. "Certificate inspection" means an inspection, the report of which is used by the chief boiler inspector to decide whether a certificate may be issued under North Dakota Century Code section 26.1-22.1-10.

7. "Certificate of competency" means a certificate issued by a jurisdiction indicating that a person has passed an examination prescribed by the national board of boiler and pressure vessel inspectors.
8. "Chief inspector" means the chief boiler inspector appointed by the commissioner to serve in the capacity as stated by law.
9. "Commissioner" means the insurance commissioner of North Dakota.
10. "Condemned boiler" means a boiler that has been inspected and declared unsafe or disqualified by legal requirements by an inspector qualified to take such action who has applied a stamping or marking designating its rejection.
11. "Deputy inspector" means a boiler inspector or inspectors employed by the commissioner to assist the chief inspector in making inspections of boilers.
12. "Existing installations" includes any boiler constructed, installed, or placed in operation before July 1, 1973.
13. "External inspection" means an inspection made when a boiler is in operation.
14. "Fusion welding" means a process of welding metals in a molten or molten and vaporous state, without the application of mechanical pressure or blows. Such welding may be accomplished by the oxyacetylene or oxyhydrogen flame or by the electric arc. Thermic welding is also classed as fusion.
15. "High pressure, high temperature water boiler" means a water boiler operating at pressures exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] or temperatures exceeding two hundred fifty degrees Fahrenheit [121.16 degrees Celsius]. For practical purposes it must be deemed the same as a power boiler.
16. "Hot water supply boiler" means a fired boiler used exclusively to supply hot water for purposes other than space heating and includes all service-type and domestic-type water heaters not otherwise exempt by North Dakota Century Code section 26.1-22.1-06.
17. "Inspector" means the chief boiler inspector or any deputy inspector or special inspector.
18. "Internal inspection" means an inspection made when a boiler is shut down and handholes and manholes are opened for inspection of the interior.

19. "Low pressure and heating boiler" means a boiler operated at pressures not exceeding fifteen pounds per square inch gauge [103 kilopascals] for steam or at pressures not exceeding one hundred sixty pounds per square inch gauge [1103.17 kilopascals] and temperatures not exceeding two hundred fifty degrees Fahrenheit [121.1 degrees Celsius] for water.
20. "Major repair" means a repair upon which the strength of a boiler would depend. Major repairs are those that are not of a routine nature as described in the national board inspection code.
21. "Miniature boiler" means any boiler that does not exceed any of the following limits:
 - a. Sixteen-inch [40.64-centimeter] inside diameter of shell.
 - b. Twenty square feet [1.86 square meter] heating surface.
 - c. Five cubic feet [.142 cubic meter] gross volume, exclusive of casing and insulation.
 - d. One hundred pounds per square inch gauge [689.48 kilopascals] maximum allowable working pressure.
22. "National board" means the national board of boiler and pressure vessel inspectors, 1055 crupper avenue, Columbus, Ohio 43229, whose membership is composed of the chief inspectors of government jurisdictions who are charged with the enforcement of the provisions of the American society of mechanical engineers code.
23. "National board inspection code" means the manual for boiler and pressure vessel inspectors supplied by the national board. The national board inspection code, ~~2007~~ 2011 edition, is hereby adopted by the commissioner and incorporated by reference as a part of this article. Copies of this code may be obtained from the national board at 1055 crupper avenue, Columbus, Ohio 43229.
24. "New boiler installations" includes all boilers constructed, installed, or placed in operation after July 1, 1973.
25. "Nonstandard boiler" means a boiler that does not bear the state stamp, the national board stamping, the American society of mechanical engineers stamp, or the stamp of any state or political subdivision which has adopted a standard of construction equivalent to that required by this article.
26. "Owner or user" means any person, firm, corporation, state, or political subdivision owning or operating any boiler which is not specifically

exempt under North Dakota Century Code section 26.1-22.1-06 within North Dakota.

27. "Power boiler" means a closed vessel in which steam or other vapor (to be used externally to itself) is generated at a pressure of more than fifteen pounds per square inch gauge [103 kilopascals] by the direct application of heat.
28. "Reciprocal commission" means a commission issued by the commissioner to persons who have passed a written examination prescribed by the national board and who hold a national board commission issued by the national board, or to persons who have passed the written examination prescribed by the national board and are employed by an accredited national board owner/user inspection organization.
29. "Reinstalled boiler" means a boiler removed from its original setting and reerected at the same location or erected at a new location without change of ownership.
30. "Reinstalled pressure vessel" means a pressure vessel removed from its original setting and reerected at the same location or erected at a new location without change of ownership.
31. "Repair" is a restoration of any damaged or impaired part to an effective and safe condition.
32. "Secondhand boiler" means a boiler of which both the location and ownership have been changed after primary use.
33. "Secondhand pressure vessel" means a pressure vessel of which both the location and ownership have been changed after primary use.
34. "Service-type or domestic-type water heater" means a fired water heater of either instantaneous or storage type, used for heating or combined heating and storage of hot water to be used exclusively for domestic or sanitary purposes, with temperatures not exceeding two hundred ten degrees Fahrenheit [98.68 degrees Celsius], and a heat input not in excess of two hundred thousand British thermal units [2.11×10^5 joules] per hour, and pressure not to exceed one hundred sixty pounds per square inch [1103.17 kilopascals].
35. "Special inspector" means an inspector regularly employed by an accredited national board authorized inspection agency or an inspector who has passed the national board examination and is employed by an accredited national board owner/user inspection organization.
36. "Standard boiler" means a boiler that bears the stamp of North Dakota or of another state that has adopted a standard of construction equivalent

to that required by this article or a boiler that bears the national board stamping or American society of mechanical engineers stamp.

37. "State of North Dakota boiler construction code" is used to designate the accepted reference for construction, installation, operation, and inspection of boilers and will be referred to as this article. Anything not amended or specifically covered in this article must be considered the same as the American society of mechanical engineers code.
38. "Steam traction engines" means boilers on wheels which are used solely for show at state fairs and other exhibitions in which the public is invited to attend.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; January 1, 2008; April 1, 2010; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-03

45-12-03-01.1. Boiler inspection fees. The following will be charged for boiler inspections:

1. High pressure boilers.
 - a. Internal inspections.

	Fee
- 50 square feet [4.65 square meters] or less of heating surface	\$60.00 <u>\$80.00</u>
- Over 50 square feet [4.65 square meters] and not over 500 square feet [46.45 square meters]	\$70.00 <u>\$100.00</u>
- Over 500 square feet [46.45 square meters] and not over 4,000 square feet [371.61 square meters]	\$80.00 <u>\$120.00</u>
- Over 4,000 square feet [371.61 square meters] of heating surface	\$90.00 <u>\$150.00</u>
 - b. External inspections.

- 50 square feet [4.65 square meters] of heating surface or less; 100 KW or less	\$40.00 <u>\$60.00</u>
- Over 50 square feet [4.65 square meters] of heating surface; over 100 KW	\$50.00 <u>\$80.00</u>
 - c. Portable oilfield boilers. Internal and external inspections of portable oilfield boilers must be charged inspection fees of seventy-five dollars per hour, including travel time, plus expenses for meals, mileage, and lodging at current state rates.
2. Low pressure boilers.
 - a. Internal inspections.

- Without manway	\$60.00 <u>\$75.00</u>
- With manway	\$70.00 <u>\$85.00</u>
 - b. External inspections.

- Hot water heat and low pressure steam	\$40.00 <u>\$50.00</u>
- Hot water supply	\$25.00 <u>\$35.00</u>
- Additional boilers at same account for same day inspection (account = same owner, management firm, user, etc.)	\$35.00
3. Steam traction engines.

- Internal	\$50.00 <u>\$60.00</u>
- External	\$45.00 <u>\$55.00</u>

- Hydrostatic test \$~~55.00~~ \$70.00
 - Ultrasonic survey, per hour \$~~40.00~~ \$60.00
4. ~~Multiple boiler fee cap. Inspection fees for the same account, per day, must be as stated in this fee schedule, or at the flat rate of four hundred dollars, whichever is less. This is in addition to the certificate fee noted in subsection 5.~~
5. Certificate fee, per certificate as required by North \$20.00,
 4. Dakota Century Code section 26.1-22.1-10 per year of
certificate
issued

History: Effective June 1, 1994; amended effective January 1, 2000; October 1, 2002; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-03-16. Boiler logs. A log must be kept as to all repairs made, unusual incidents, accidents, water tests, amounts, types, and dates of water treatment. Logs for hobby boilers must also include operating hours, operators, fusible plug installation dates, safety valve tests, and apprentice operator training data.

History: Effective June 1, 1994; amended effective July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

**CHAPTER 45-12-04
POWER BOILERS - NEW INSTALLATIONS**

Section	
45-12-04-01	Requirements
45-12-04-02	Appurtenances - Piping and Tests
45-12-04-03	Exits From Boiler Rooms
45-12-04-04	Boiler Clearances
45-12-04-05	Safety Valve Capacity

45-12-04-01. Requirements.

1. All new boilers, except those exempt by law, to be installed in North Dakota must be reported to the chief boiler inspector by the owner or user and by the installer.
2. After July 1, 1973, power boilers that are not exempt by law may not be installed in this state unless they have been constructed, inspected, and stamped in conformity with the applicable edition of the American Society of Mechanical Engineers Code for power boilers and are approved, registered, and inspected in accordance with the requirements of this article.
3. A boiler having the standard stamping of another state or province of Canada that has adopted a standard of construction equivalent to the standard of North Dakota may be accepted by the chief boiler inspector if the person desiring to install the boiler makes application for the installation and files with the application the manufacturer's data report covering the construction of the boiler.

History: Effective June 1, 1994; amended effective July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-02. Appurtenances - Piping and tests.

1. The inspector shall inspect all boilers and connected appurtenances for their safe operation and all pressure piping connecting them to the appurtenances and all piping up to and including the first stop valve, or the second stop valve when two are required.
2. Any pressure piping to the boiler, such as water column, blowoff valve, feedwater regulator, superheater, economizer, stop valves, etc., which are shipped connected to the boiler as a unit, must be hydrostatically tested with the boiler and witnessed by an inspector.
3. All economizers ~~and super-heaters~~, whether separately fired or not, and ~~whether~~ when located within the scope of boiler external piping ~~or not~~, must be constructed to section I of the American Society of Mechanical

Engineers Code. All superheaters must be constructed to section I of the American Society of Mechanical Engineers Code.

4. The chief boiler inspector may waive American society of mechanical engineers section I boiler external piping requirements for new and secondhand boilers of less than forty horsepower output if the boiler external piping is mechanically installed (i.e., no welding), the piping does not exceed two-inch [5.08 centimeters] national pipe standard in size, the piping is schedule eighty minimum, and the boiler maximum allowable working pressure does not exceed one hundred fifty pounds per square inch [1034.22 kilopascals] gauge.

History: Effective June 1, 1994; amended effective October 1, 2002; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-03. Exits from boiler rooms.

1. To lessen the hazard of being trapped within the boiler room, ash pit aisles, or other locations, there must be at least two means of exit as may be considered necessary by the inspector. Each elevation must be provided with at least two means of egress, each to be remotely located from the other.
2. All inspectors shall notify the chief inspector of the owners or users who must provide for these requirements. The chief inspector shall then give written notice to the owner or user that the necessary work must be completed within six months from the date of notification.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-04-04. Boiler clearances.

1. All new boiler installations must be designed to allow for normal operation, cleaning, and inspections, and must have at least three feet [.91 meters] of clearance on each side of the boiler with no obstructions and boilers operated in battery may not be installed closer than four feet [1.22 meters] from each other.
2. All boilers must be installed to allow for removal of tubes without removing walls or other structures. The front or rear of any boiler may not be located any nearer than three feet [.91 meters] from any wall or structure.
3. On all boilers equipped with a manhole, at least seven feet [2.1336 meters] of clearance must be maintained from the top of the boiler manhole to the ceiling of the boiler room.

4. Boilers without manholes must have a minimum of at least three feet [.91 meters] from the top of the boiler to the lowest point of the boiler room ceiling.

History: Effective June 1, 1994.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-05

45-12-05-02. Maximum allowable working pressure for nonstandard boilers.

1. The maximum allowable working pressure on the shell of a nonstandard boiler must be determined by the strength of the weakest section of the structure, computed from the thickness of the plate, the tensile strength of the plate, the efficiency of the longitudinal joint or tube ligaments, the inside diameter of the weakest course and the factor of safety allowed by this article.

$\frac{TStE}{RFS}$ = Maximum allowable working pressure, per square inch gauge where:

TS = Ultimate tensile strength of shell plates per square inch

t = Minimum thickness of shell plate, in weakest course, inches

E = Efficiency of longitudinal joint:

For tube ligaments and riveted construction, E shall be determined by the rules given in section I, part PR, of the American Society of Mechanical Engineers Code for power boilers. For seamless construction, E shall be considered one hundred percent.

R = Inside radius of the weakest course of the shell, in inches

FS = Factor of safety permitted

2. When the tensile strength of steel or wrought iron shell plate is not known, it must be taken as fifty-five thousand pounds per square inch [386.11 megapascals] for steel and forty-five thousand pounds per square inch [310.26 megapascals] for wrought iron.
3. The resistance to crushing of mild steel must be taken at ninety-five thousand pounds per square inch [655 megapascals] of the cross-sectional area.
4. When computing the ultimate strength of rivets in shear, the following values, in pounds per square inch [megapascals] of the cross-sectional area of the rivet shank must be used:

	POUNDS PER SQUARE INCH	MEGAPASCALS
Iron rivets in single shear	38,000	262.00
Iron rivets in double shear	76,000	524.00
Steel rivets in single shear	44,000	303.37
Steel rivets in double shear	88,000	606.69

When the diameter of the rivet holes in the longitudinal joints of a boiler is not known, the diameter and cross-sectional area of rivets, after driving, may be selected from the following table, or as ascertained by cutting out one rivet in the body of the joint.

SIZES OF RIVETS BASED ON PLATE THICKNESS

Thickness of plate, inches	1/4	9/32	5/16	11/32	3/8	13/32
Diameter of rivet after driving, inches	11/16	11/16	3/4	3/4	13/16	13/16
Thickness of plate, inches	7/16	15/32	1/2	9/16	5/8	
Diameter of rivet after driving, inches	15/16	15/16	15/16	1-1/16	1-1/16	

- The following factors of safety must be increased by the inspector if the condition and safety of the boiler demand it:

The lowest factor of safety permissible on existing installations is four and five-tenths, except for horizontal-return-tubular boilers having continuous longitudinal lap seams more than twelve feet [3.66 meters] in length, when the factor of safety is eight; when this latter type boiler is removed from its existing setting, it may not be reinstalled for pressures in excess of fifteen pounds per square inch gauge [103 kilopascals].

Reinstalled or secondhand boilers must have a minimum factor of safety of six when the longitudinal seams are of lap-riveted construction, and a minimum factor of safety of five when the longitudinal seams are of butt-and-double-strap construction. ~~Seam~~ Steam traction engines must be considered as secondhand boilers for purposes of determining their factors of safety.

History: Effective June 1, 1994; amended effective July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-05-12. Operation.

- Safety valves must be designed and constructed to operate without chattering and to attain full lift at a pressure no greater than three percent above their set pressure. After blowing down, all valves must close at a pressure not lower than ninety-six percent of the set pressure of the lowest set valve. The minimum blowdown in any case is two pounds per square inch [13.79 kilopascals]. For spring-loaded pop safety valves for pressures between one hundred pounds per square inch [689.48 kilopascals] and three hundred pounds per square inch

[2068.44 kilopascals], both inclusive, the blowdown is not less than two percent of the set pressure. To ensure the guaranteed capacity and satisfactory operation, the blowdown as marked upon the valve may not be reduced.

Safety valves used on forced-flow steam generators with no fixed steamline and waterline, and safety relief valves, used on high temperature water boilers, may be set and adjusted to close after blowing down not more than ten percent of the set pressure. The valves for these special uses must be so adjusted and marked by the manufacturer.

2. The blowdown adjustment must be made and sealed by the manufacturer or approved testing facility.
3. The popping-point tolerance plus or minus may not exceed the following: two pounds per square inch [13.79 kilopascals] for pressures up to and including seventy pounds per square inch [482.63 kilopascals], three percent for pressures from seventy-one pounds per square inch [483.0 kilopascals] to three hundred pounds per square inch [2068.44 kilopascals], ten pounds per square inch [68.95 kilopascals] for pressures from three hundred one pounds per square inch [2069.0 kilopascals] to one thousand pounds per square inch [6894.80 kilopascals], and one percent for pressures over one thousand pounds per square inch [6894.80 kilopascals].
4. To ensure the valve being free, each safety valve or safety relief valve must have a substantial lifting device by which the valve disk may be positively lifted from its seat when there is at least seventy-five percent of full working pressure on the boiler. The lifting device must be such that it cannot lock or hold the valve disk in lifted position when the exterior lifting force is released.

Safety relief valve disks used on high temperature water boilers may not be lifted while the temperature of the water exceeds two hundred degrees Fahrenheit [93.3 Celsius]. If it is desired to lift the valve disk to assure that it is free, this shall be done when there is at least seventy-five percent of full working pressure on the boiler. For high temperature water boilers, the lifting mechanism must be sealed against leakage.

5. The seats and disks of safety valves or safety relief valves must be of suitable material to resist corrosion. The seat of a safety valve must be fastened to the body of the valve so that there is no possibility of the seat lifting.
6. Springs used in safety valves may not show a permanent set exceeding one percent of their free length ten minutes after being released from a cold compression test closing the spring solid.

7. The spring in a safety valve or safety relief valve in service for pressures up to and including two hundred fifty pounds per square inch [1683.7 kilopascals] may not be used for any pressure more than ten percent above or ten percent below that for which the safety valve or safety relief valve is marked. For higher pressures the spring may not be reset for any pressure more than five percent above or five percent below that for which the safety valve or safety relief valve is marked.
8. If the operating conditions of a valve are changed so as to require a new spring under subsection 1 for a different pressure, the valve must be adjusted by the manufacturer or, the manufacturer's authorized representative, or by a holder of a valid national board "VR" certificate who shall furnish and install a new nameplate.

History: Effective June 1, 1994; amended effective July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-09

45-12-09-11. Feedwater connections.

1. Feedwater connections must be independent of any water gauge connections and be made to the condensate return pipe or reservoir of the condensate return tank.
2. Alternatively, makeup water or water treatment may be introduced through an independent connection. The water flow from the independent connection may not discharge directly against parts of the boiler exposed to direct radiant heat from the fire. Makeup water or water treatment may not be introduced through openings or connections provided for inspection or cleaning, safety valve, safety relief valve, blowoff, water column, water gauge glass, pressure gauge, or temperature gauge.
3. When there is more than one boiler connected to a system, each boiler must have an independent feedwater line.
4. There must be a stop valve and a check valve in the feedwater line at the boiler. For hot water heating boilers, the check valve must be a backflow preventer approved by the State Plumbing Code, ~~2000~~ 2009 edition.
5. Hot water heating boilers, not equipped with an approved low-water fuel cutoff, must be equipped with an automatic feeding device or pressure reducing valve method of feeding, in addition to a manual bypass capable of feeding the boiler at a pressure of six percent above safety relief valve setting.

History: Effective June 1, 1994; amended effective January 1, 2000; October 1, 2002; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

CHAPTER 45-12-10

45-12-10-01. Construction and installation standards - Exceptions.

Unfired pressure vessels may not be installed in North Dakota unless such vessels have been constructed in accordance with the American society of mechanical engineers boiler and pressure vessel code, section VIII, division 1 or 3, 2007 2010 edition or section VIII, division 2, 2004 edition, and bear the "U" stamp as proof of such construction.

Manufacturers shall register unfired pressure vessels with the national board of boiler and pressure vessel inspectors. Unfired pressure vessels must bear the required stamping of the national board.

The requirements of this section apply to all pressure vessels within the scope of the American society of mechanical engineers boiler and pressure vessel code, section VIII, division 1 or 3, 2007 2010 edition or section VIII, division 2, 2004 edition, with these exceptions:

1. Pressure vessels under federal control.
2. Pressure vessels that do not exceed four cubic feet [30 United States gallons] in volume and two hundred fifty pounds per square inch gauge [1723.70 kilopascals] in pressure.
3. Pressure vessels that do not exceed one and one-half cubic feet [11.22 United States gallons] in volume and six hundred pounds per square inch gauge [4136.88 kilopascals] in pressure.
4. Unfired pressure vessels installed or ordered prior to November 1, 1987. However, these unfired pressure vessels must be maintained in a safe operating condition using ANSI/NB-23 and ANSI/API-510 as guidelines. Unfired pressure vessels referenced by this section must be protected with the American society of mechanical engineers stamped pressure relief devices as defined in section VIII of the American society of mechanical engineers boiler and pressure vessel code, 2007 2010 edition. Existing pressure relief devices installed on unfired pressure vessels referenced by this section will be considered acceptable if the pressure relief device is set for the correct pressure, if the usage is correct, and if the device is in a satisfactory operating condition.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; April 1, 2010; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

45-12-10-02. Application of standards - Repairs. These rules apply only to new construction, except as noted below:

1. Reinstalled pressure vessels must meet the rules for new construction. Exception: National board registration is required only for those vessels ordered and constructed after November 1, 1987.
2. Repairs to unfired pressure vessels and to safety and safety relief valves for those vessels:
 - a. Repairs to safety valves and safety relief valves must be such that valve function is not impaired and the repaired valve will perform to the standards for which it was originally constructed. It is recommended that these repairs be made by a firm in possession of a valid "VR" certificate of authorization from the national board of boiler and pressure vessel inspectors.
 - b. Repairs to unfired pressure vessels must be such that vessels repaired will be returned to a safe and satisfactory operating condition, provided there is not deviation from the original design. It is recommended that these repairs be made by a firm in possession of a valid "R" certificate of authorization from the national board of boiler and pressure vessel inspectors.
 - c. The national board inspection code and the American petroleum institute code (ANSI/API-510, ~~2004~~ 2006 edition) cover repair and alteration procedures. ANSI/API-510 may be used to cover the maintenance inspection, repair, alteration, and rerating procedure for pressure vessels used by the petroleum and chemical process industries. It is intended that ANSI/NB-23 cover installations other than those covered by ANSI/API-510.
3. Alterations to unfired pressure vessels:
 - a. Alterations, as defined in ANSI/NB-23, must be made by a national board "R" certificate holder.
 - b. Alterations may also be made by an organization operating under the provisions of ANSI/API-510, provided the alteration is within the scope of ANSI/API-510.

History: Effective June 1, 1994; amended effective April 1, 1996; January 1, 2000; October 1, 2002; January 1, 2006; January 1, 2008; July 1, 2012.

General Authority: NDCC 26.1-22.1-14

Law Implemented: NDCC 26.1-22.1-14

TITLE 66

STATE BOARD OF PSYCHOLOGIST EXAMINERS

JULY 2012

CHAPTER 66-01-01

66-01-01-01. Organization of board of psychologist examiners.

1. **History.** The 1967 legislative assembly passed legislation establishing the state board of psychologist examiners, codified as North Dakota Century Code chapter 43-32. The board of ~~psychologist examiners~~ licenses psychologists who practice psychology in this state, industrial-organizational psychologists, and applied behavior analysts, and registers applied behavior analysts.
2. **Board membership.** The board consists of five members appointed by the governor. Each member must be a licensed psychologist and at least one member must be currently engaged primarily in providing service in psychology and at least one member must be engaged primarily in teaching, training, or research in psychology. Members of the board serve three-year terms, with at least one but not more than two terms expiring each year.
3. **Board officers.** The board annually elects from its membership a president and vice president.
4. **Inquiries.** Inquiries regarding the board may be addressed to the executive secretary:

Executive Secretary
State Board of Psychologist Examiners
P.O. Box 7042
Bismarck, ND 58507-7042
www.ndsbpe.org

History: Amended effective September 1, 1983; March 1, 1985; April 1, 1988; September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-02

**CHAPTER 66-02-01
LICENSURE AND EXAMINING APPLICATIONS**

Section	
66-02-01-01	Application Form
66-02-01-01.1	Regional Accrediting Association
66-02-01-02	Licensure Without Examination [Repealed]
66-02-01-03	Licensing of Psychologists, Industrial-Organizational Psychologists, and Applied Behavior Analysts From Other Jurisdictions
66-02-01-04	Licensure by Equivalency [Repealed]
66-02-01-05	Licensure of Master's Level Psychologists [Repealed]
66-02-01-06	Licensure of Other Applicants
66-02-01-07	Application of Code of Ethics
66-02-01-07.1	Procedural Exception for Processing Multiple Complaints From the Same Complainant
66-02-01-08	Fees
66-02-01-09	Number of Examinations
66-02-01-09.1	Written Examination
66-02-01-10	Guidelines for Oral Examinations
66-02-01-11	Additional Documentation for Clinical Work or Counseling or Therapy [Repealed]
66-02-01-11.1	Supervised Professional Experience
66-02-01-12	Identifying Psychology and Industrial-Organizational Psychology Doctoral Programs as Substantially Psychological in Nature [Repealed]
66-02-01-12.1	Approved Industrial-Organizational Psychology Program Accrediting Bodies
66-02-01-13	Psychology Resident and Industrial-Organizational Psychology Resident
66-02-01-14	Nonpayment of Annual License Fee or Failure to Complete Continuing Education
66-02-01-15	Requirements for Licensing and Registering Applied Behavior Analysts
66-02-01-16	Limited Practice Without a License

66-02-01-01. Application form. All psychologists individuals who wish to apply for licensing ~~either with or without examination or registration~~ shall fill out the application form provided by the board.

History: Amended effective April 1, 1988; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-12, 43-32-20, 43-32-34

66-02-01-03. Licensing of psychologists and, industrial-organizational psychologists, and applied behavior analysts from other jurisdictions. Licensing of psychologists and, industrial-organizational psychologists, and applied behavior analysts of other jurisdictions will follow the procedures described in North Dakota Century Code sections 43-32-19.1 and 43-51-06. A psychologist

or, industrial-organizational psychologist, or applied behavior analyst licensed pursuant to North Dakota Century Code sections 43-32-19.1 and 43-51-06 must pass the North Dakota oral examination.

History: Amended effective September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-19.1, 43-51-06

66-02-01-06. Licensure of other applicants. All other applicants for licensing will follow the procedure set forth in North Dakota Century Code section sections 43-32-20 and 43-32-34.

History: Amended effective July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-20, 43-32-34

66-02-01-07. Application of code of ethics. The American psychological association ethical principles of psychologists and code of conduct ~~(2010), amended 2010,~~ shall apply to licensed psychologists ~~and licensed, industrial-organizational psychologists, applied behavior analysts, and registered applied behavior analysts.~~ The behavior analysts certification board guidelines for responsible conduct, revised 2010, shall apply to applied behavior analysts and registered applied behavior analysts.

History: Amended effective September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-27, 43-32-34

66-02-01-08. Fees. The license or registration application fee is ~~three~~ four hundred ~~fifty~~ dollars plus the actual cost of the written examination for the professional practice of psychology when it is required. An annual license fee of one hundred fifty dollars will be charged all ~~licensed psychologists and, industrial-organizational psychologists, applied behavior analysts, and registered applied behavior analysts.~~ licensed psychologists and, industrial-organizational psychologists, applied behavior analysts, and registered applied behavior analysts.

History: Amended effective March 1, 1985; April 1, 1988; September 1, 2000; April 1, 2007; October 1, 2011; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-12, 43-32-13

66-02-01-09.1. Written examination. The written examination for psychologists and industrial-organizational psychologists is the examination for the professional practice of psychology. The passing score is a scaled score of 500. Prior to April 18, 1994, seventy percent correct is considered a passing

score. A passing score is required for applicants for licensure as a psychologist or as an industrial-organizational psychologist.

History: Effective September 1, 2000; amended effective February 1, 2002; April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-20, 43-32-23

66-02-01-10. Guidelines for oral examinations. The oral examination will be administered by at least three board members in addition to any other licensed psychologist whom the board sees fit to add to the examining committee. However, only the board members present may vote. Oral examinations will be scheduled as appropriate but not less than twice a year. The examination committee will use a structured oral examination, will record the applicants' answers, will discuss the results, and the board members will vote with the majority opinion being necessary for the candidate to pass. The examination shall assess the applicant's knowledge of North Dakota law regulating the practice of psychology or, industrial-organizational psychology, or applied behavior analysis as well as the applicant's understanding of ethics and standards of practice. Specific questions to be used will be selected at the time of the examination from a pool of questions available for that purpose.

History: Effective March 1, 1985; amended effective April 1, 1988; April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-20, 43-32-22, 43-32-23, 43-32-34

66-02-01-11.1. Supervised professional experience.

1. Applicants for licensure as a psychologist must complete one thousand five hundred hours of supervised predoctoral internship in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one. Successful completion of an American psychological association or Canadian psychological association accredited internship will be accepted as fulfilling this requirement. Any other supervised predoctoral internship experience must be described in detail by the applicant, including nature of service setting or settings, nature of consumers served, nature and amount of supervision, and specific skills in which the applicant demonstrated proficiency on forms provided by the board. The supervisor or supervisors must corroborate the areas of competence claimed by the applicant. In addition, an applicant for licensure as a psychologist must complete one of the following:
 - a. One thousand five hundred hours of supervised postdoctoral experience in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one. Successful completion of an American psychological association or Canadian psychological association accredited

postdoctoral program will be accepted as fulfilling this requirement. Any other supervised postdoctoral experience must be described in detail by the applicant, including nature of service setting or settings, nature of consumers served, nature and amount of supervision, and specific skills in which the applicant demonstrated proficiency on forms provided by the board. The supervisor or supervisors must corroborate the areas of competence claimed by the applicant.

- b. One thousand five hundred hours of additional supervised predoctoral training experience in the practice of psychology. At least one hundred hours of supervision is required, at least fifty of which must be one to one. In addition, this training experience must meet all of the following requirements:
- (1) Be part of a doctoral program that meets requirements of subdivision b of subsection 1 of North Dakota Century Code section 43-32-20.
 - (2) Be completed within six years of the award of the terminal doctoral degree.
 - (3) Be completed within ten years of first application for licensure.
 - (4) Be completed following any introductory practicum experience in applied professional psychology or psychotherapy of a minimum duration of six hundred hours.
 - (5) Be part of an individualized written plan for an organized, sequential series of supervised experiences of increasing complexity.
 - (6) Occur outside of the classroom setting and involve the trainee's direct delivery of supervised psychological services in a practice, agency, institution, counseling center, graduate training clinic, or other setting approved by the director of training or designee.
 - (7) Consist of activities defined as the practice of psychology by subsection 6 of North Dakota Century Code section 43-32-01.
 - (8) Occur in placements that are made or approved in advance by the doctoral program director of training or designee.
 - (9) Occur in placements in which a licensed psychologist is directly responsible for the integrity and quality of the training experience and specifies training objectives in terms of the competencies expected of the trainee.

- (10) Have an identifiable licensed psychologist who serves as the primary supervisor of the trainee, is clearly available to and professionally responsible for the trainee's clients or patients, has been licensed for at least three years, and is licensed in the jurisdiction in which the training occurs.
- (11) Be part of a sequential training plan that consists of no less than thirty weeks with a weekly onsite presence of no less than fifteen hours.
- (12) Provide, on average, weekly individual face-to-face supervision, which may include remote face-to-face audio and video interactions, devoted to the trainee's cases at a ratio of no less than one hour per fifteen hours onsite and no less than one hour per week. No less than fifty percent of the supervision required in this paragraph shall be provided by the primary supervisor. The remaining face-to-face supervision required in this paragraph may be individual or group supervision provided by a licensed psychologist who has been licensed for at ~~least~~ least three years. Supplemental individual or group supervision in excess of the minimum ratio required is encouraged, and may be provided by a psychologist, school psychologist, other licensed mental health professional, or a psychology trainee under an umbrella supervision arrangement, but it may not replace the weekly individual face-to-face supervision requirements.
- (13) May include the use of secure remote technologies, such as telephone, internet, or online communications as a supplemental training and consultation aid and for supervision in excess of the minimum ratio required, although it may not replace the minimum weekly face-to-face individual supervision requirement.
- (14) Must include on average at least one additional hour per week in learning activities, such as additional face-to-face individual supervision, group supervision, case conference or grand rounds, didactic consultations with psychologists or other appropriate licensed mental health professionals, guided professional readings, seminars, or cotherapy with a licensed psychologist or other appropriate professional.
- (15) Must include regularly scheduled and documented interaction concerning the trainee's progress between the primary supervisor and the director of training at the graduate program or designee, and copies of such documentation will be provided to the board for review upon request.

2. Applicants for licensure as an industrial-organizational psychologist must complete three thousand hours of supervised experience in the practice of industrial-organizational psychology. At least one thousand five hundred hours must be completed after the granting of the doctoral degree. Applicants must submit an individualized supervision plan which is subject to approval by the board. Supervisors of industrial-organizational psychologist applicants must be licensed in their jurisdiction of practice. The supervised experience of applicants for licensure as an industrial-organizational psychologist must be consistent with the applicant's intended area of practice.

History: Effective September 1, 2000; amended effective April 1, 2007; October 1, 2011; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-20, 43-32-20.1

66-02-01-13. Psychology resident and industrial-organizational psychology resident.

1. A person intending to perform services as a psychology resident or an industrial-organizational psychology resident shall inform the board on a form prepared by the board prior to performing services. Within six months of registering with the board, the psychology resident or industrial-organizational psychology resident must apply file with the board a complete application for licensure and be determined by the board to be eligible for licensure. A psychology resident or industrial-organizational psychology resident may sit for the required written examination if the required application and fee have been filed with the board and the board determines the applicant to be eligible for licensure upon completion of examination and postdoctoral requirements. A psychology resident or an industrial-organizational psychology resident who has passed the written examination may sit for the oral examination after completion of six months of residency if the required application and fee have been filed with the board. The psychology resident or an industrial-organizational psychology resident and supervising psychologist or psychologists must complete a report of completed supervised postdoctoral experience for approval of the board prior to licensure. A person may have psychology resident or industrial-organizational psychology resident status for up to five years.
2. A psychology resident or industrial-organizational psychology resident must specify that person's professional title as such in reports, letters, business cards, and public presentations.
3. Supervising psychologists of psychology residents must have at least three years of postlicensure experience, ~~except for supervisory relationships existing on April 1, 2007.~~ Supervising psychologists of psychology residents must have adequate training, knowledge, and skill to render competently, or have available consultation for, any

psychological service which their supervisee undertakes. Supervising psychologists must meet the continuing education requirements in section 66-03-01-04.

4. To verify completion of the residency, the supervising psychologist of the psychology resident or the industrial-organizational resident shall submit documentation to the board of the number and nature of supervised hours of experience.

History: Effective September 1, 2000; amended effective April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-20, 43-32-20.1, 43-32-30

66-02-01-14. Nonpayment of annual license fee or failure to complete continuing education. If a licensee or registrant fails to pay the annual fee or complete the required continuing education by January first, the ~~board shall send a certified letter to that licensee with notice of the invalid status of the license and notice that the~~ license or registration expires. The licensee or registrant may not practice psychology or industrial-organizational psychology, or applied behavior analysis in the state of North Dakota unless an extension of time is granted or the license is renewed by payment of the annual renewal fee and late fee and completion of the required continuing education.

History: Effective September 1, 2000; amended effective April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1, 43-32-08.2, 43-32-13, 43-32-14

66-02-01-15. Requirements for licensing and registering applied behavior analysts.

1. The board may grant an applied behavior analyst license to an applicant, not employed on August 1, 2011, in the practice of applied behavior analysis, who meets all of the following requirements:
 - a. The applicant has a degree from a school or college that meets one of the following requirements:
 - (1) A degree meeting the requirements of subdivision b of subsection 1 of North Dakota Century Code section 43-32-20.
 - (2) A doctorate or master's degree from a program accredited by the association for behavior analysis international or approved by the behavior analyst certification board.
 - b. The applicant has passed the board-certified behavior analyst examination offered by the behavior analyst certification board.

- c. The applicant provides written verification from the applicant's employer that the applicant is employed as a behavior analyst.
- 5. The board may grant an applied behavior analyst registration to an applicant, employed on August 1, 2011, in the practice of applied behavior analysis, who meets all of the following requirements:
 - a. The applicant applies before January 1, 2013.
 - b. The applicant has a bachelor's degree.
 - c. The applicant provides a written statement from the applicant's employer that applicant's employment remains satisfactory.
 - d. The applicant provides written verification from the applicant's employer that the applicant is employed as a behavior analyst.
 - e. The applicant provides a written plan for supervision by a psychologist or applied behavior analyst. The plan must be approved by the board.

History: Effective July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-34

66-02-01-16. Limited practice without a license. Upon prior written application to and approval by the board, a psychologist, industrial-organizational psychologist, or applied behavior analyst licensed in good standing in another jurisdiction may practice psychology, industrial-organizational psychology, or applied behavior analysis in North Dakota for no more than thirty full or partial days per calendar year. The application must include all of the following:

1. A verification from the licensing authority in the other jurisdiction that the applicant is licensed in good standing.
2. A description of the nature of the services to be provided.
3. An explanation of when the services are to be provided.
4. A fee of twenty-five dollars.

History: Effective July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-30, 43-51-05

CHAPTER 66-02-03

66-02-03-01. Application of chapter. This chapter pertains to all federal, state, county, or municipal agencies, political subdivisions, nonprofit corporations, and educational institutions chartered by North Dakota which employ psychologists. ~~North Dakota Century Code chapter 43-32 provides for the licensing of psychologists who hold a doctoral degree in psychology or have training deemed equivalent by the board. Exemptions to any employee of the above agencies for hardship or other good cause or when the employee holds a master's degree in psychology and the employee's activities and services are performed under the supervision of a licensed psychologist may be requested from the board of psychologist examiners~~ individuals currently exempt under subsection 7 of North Dakota Century Code section 43-32-30.

History: Amended effective September 1, 2000; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-30

66-02-03-02. Application for exemption. An employer seeking an exemption extension under subsection ~~4~~ 7 of North Dakota Century Code section 43-32-30 must file an application for exemption extension, a copy of which is an appendix to this chapter. The institution or agency completing the application will be billed one hundred fifty dollars.

History: Amended effective March 1, 1985; September 1, 2000; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-30

66-02-03-03. Issuance of certificate of exemption. A certificate of exemption will be issued to the agency or institution on an annual basis. The certificate will include the names of exempted employees. If the employee transfers agencies or institutions during the year ~~of licensure~~, the certificate of exemption expires. An agency or institution may not transfer a certificate of exemption to ~~a new~~ another employee ~~without going through the board with the appropriate application and supporting documents.~~

History: Amended effective September 1, 2000; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-30

STATE BOARD OF PSYCHOLOGIST EXAMINERS

Application for Exemption

(Fill out one form for each employee)

1. Name of Agency: _____
2. Address: _____
3. Type of Agency: State _____ Political subdivision _____
 Federal _____ Nonprofit corporation _____
 County _____ Education institution _____
 Municipal _____ Other - specify _____
4. Name of employee: _____
5. Description of applicant's duties: _____
6. State the good cause or the hardship which occasions your need for exemption:
7. Training of employee (Please have copies of all undergraduate and graduate transcripts sent directly from the schools to the board):

EDUCATION

(List all institutions attended beyond the secondary level)

Institution	Years Attended	Major	Degree (Year of Award)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

8 Years of relevant experiences: _____

Name of supervising licensed psychologist: _____

Please describe the supervision process which will be followed:

Number of hours of supervision each week: _____

Signature of supervisor: _____

Date: _____ Address: _____

If any of the above questions require additional space, please use this page or attach pages as needed.

History: Amended effective March 1, 1985; September 1, 2000.

(The form below cannot be accurately reproduced for publication. Users should contact the State Board of Psychologist Examiners to obtain a correct copy.)

STATE BOARD OF PSYCHOLOGIST EXAMINERS

Application for Exemption Extension

(Fill out one form for each employee)

1. Name of Agency:

2. Address:

3. Type of Agency:

State	Political subdivision
Federal	Nonprofit corporation
County	Education institution
Municipal	Other - specify

4. Name of employee:

5. Description of applicant's duties:

6. ~~State the good cause of the hardship which occasions your need for exemption:~~

7. ~~Training of employee (Please have copies of all undergraduate and graduate transcripts sent directly from the schools to the board:~~

EDUCATION

~~(List all institutions attended beyond the secondary level)~~

Institution
Years Attended

Major

Degree (Year of Award)

8. ~~Years of relevant experiences:~~

Name of supervising licensed psychologist:

7. Please describe the supervision process which will be followed:

8. Number of hours of supervision each week:

Signature of supervisor:

Date: Address:

If any of the above questions required additional space, please use this page or attach pages as needed.

History: Amended effective March 1, 1985; September 1, 2000; July 1, 2012.

CHAPTER 66-03-01

66-03-01-01. Continuing education. Every psychologist and industrial-organizational psychologist licensed to practice in this state under ~~North Dakota Century Code chapter 43-32, applied behavior analyst, and registered applied behavior analyst~~ shall complete continuing education credits relevant to the practice of psychology or industrial-organizational psychology, or applied behavior analysis. Reporting cycles are two years, commencing with November first of the year in which the licensee or registrant obtained a North Dakota license or registration, except that individuals licensed prior to January 1, 1992, have reporting cycles which began on November 1, 1992.

History: Effective February 1, 1995; amended effective April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1, 43-32-08.2

66-03-01-03. Board approval. Any continuing education program relevant to psychology or industrial-organizational psychology, or applied behavior analysis and to be applied as continuing education credits is subject to board approval, except continuing education programs sponsored or approved by the American psychological association, the Canadian psychological association, the North Dakota psychological association, other state or provincial psychological associations, or any other scientific or professional organization whose continuing education program is clearly relevant to the practice of psychology. Other programs may be approved at any time by the board by submission of an application by the sponsoring organization or an individual and payment of a twenty-five dollar fee.

History: Effective February 1, 1995; amended effective September 1, 2000; April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1

66-03-01-04. Categories of continuing education programs and credits. A minimum of three continuing education credits per reporting cycle must be in the area of professional ethics, law, or jurisprudence. Effective for the reporting cycle beginning November 1, 2012, and subsequent reporting cycles, a minimum of three continuing education credits per reporting cycle must be in the area of supervision for licensees supervising psychology residents or registered applied behavior analysts. The board recognizes the following categories of continuing education programs or activities and established credit hours:

1. Formal continuing education programs that may consist of courses, workshops, professional psychology conventions or conferences, or institutes. The number of continuing education credits assigned by an association recognized by the board will be accepted. Otherwise the credits will be one credit per clock-hour.
2. Regularly scheduled postgraduate courses offered by an accredited college or university which are relevant to the practice of psychology

of industrial-organizational psychology by the applicant, or applied behavior analysis. One quarter hour of academic credit constitutes ten continuing education credits. One semester hour of academic credit constitutes fifteen continuing education credits.

3. Writing or speaking, including a paper or other presentation at a formal professional meeting, a paper published in a professional journal, or a book or an original chapter in an edited book in the area of psychology or a related field. Credit will be granted for the year of publication or presentation in the case of a paper. Continuing education credits will be granted at the rate of five for each paper or presentation, fifteen for each chapter in a book, fifteen for editing a book, and twenty for the publication of a book. Continuing education credits will be granted only once for any given paper or presentation.
4. Correspondence or online courses, tapes, or independent readings approved by the board or by one of the associations recognized by the board which include an examination component successfully completed by the licensee or registrant. A maximum of twenty continuing education credits per reporting cycle will be granted for continuing education programs in this category.

History: Effective February 1, 1995; amended effective September 1, 2000; April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1

66-03-01-05. Verification of continuing education credits and programs.

1. At the end of the two-year reporting cycle, each licensee or registrant shall submit a signed statement on a form provided by the board attesting to satisfaction of the continuing education requirement. The licensee or registrant shall list the activities submitted for continuing education credit and the amount of credit claimed for each one.
2. The licensee or registrant may not submit the specific verification of each continuing education experience claimed, but must maintain a file of such verification documentation for two years following the submission of the reporting form.
3. At each reporting period, the board will select a random sample of approximately ten percent of the licensees and registrants and require them to provide verification of the continuing education experiences claimed on the reporting form.

History: Effective February 1, 1995; amended effective April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1, 43-32-08.2

66-03-01-06. Failure to comply with the continuing education requirement. If, ~~after the opportunity for a formal hearing,~~ a licensee or registrant does not satisfy the number of credits required for a two-year cycle, the board may exercise the following options:

1. Extension of time to complete the requirement. A licensee or registrant may request an extension of time because of illness or serious extenuating circumstances amounting to good cause. The approval of an extension and the amount of time granted to complete the requirements are at the sole discretion of the board. In such cases the licensee will be required to continue to fulfill the continuing education requirement for the next two-year cycle as well.
2. Refuse to renew a license or registration. A license or registration that is not renewed because of failure to meet the continuing education requirements will be renewed if, within one year from the date of nonrenewal, the ~~licenseholder~~ licensee or registrant demonstrates to the secretary of the board the continuing education requirements have been satisfied and pays the renewal fee and a late fee of twenty dollars.
- ~~3. Place the license on probationary status.~~
- ~~4. Suspension of a license until such time as the licensee meets the requirements of the previous two-year cycle, but not to exceed a second two-year cycle.~~
- ~~5. Revocation of a license. In the event of license suspension for noncompletion of continuing education requirements, if the licensee does not complete the requirements during the period of suspension, the license may be revoked.~~
- ~~6. Reinstatement. A licensee whose license has been revoked for failing to satisfy the continuing education requirements must earn forty credits in continuing education during the immediately preceding two-year period in order to apply to the board for reinstatement.~~

History: Effective February 1, 1995; amended effective September 1, 2000; April 1, 2007; July 1, 2012.

General Authority: NDCC 43-32-08

Law Implemented: NDCC 43-32-08.1, 43-32-08.2, ~~43-32-27~~

TITLE 67

DEPARTMENT OF PUBLIC INSTRUCTION

JULY 2012

CHAPTER 67-23-06
RESPONSE TO INTERVENTION

<u>Section</u>	
<u>67-23-06-01</u>	<u>Definitions</u>
<u>67-23-06-02</u>	<u>Use of Response to Intervention by Local Education Agencies</u>
<u>67-23-06-03</u>	<u>Response to Intervention - Components</u>
<u>67-23-06-04</u>	<u>Parental Notification</u>
<u>67-23-06-05</u>	<u>Eligibility Determination for a Specific Learning Disability</u>
<u>67-23-06-06</u>	<u>When Evaluation Is Required</u>

67-23-06-01. Definitions. As used in this chapter, the following definitions apply:

1. "Evidence-based practices" includes educational practices and instructional strategies that are supported by relevant scientific research studies.
2. "Fidelity of implementation" means:
 - a. In the case of evidence-based practices, consistent and accurate implementation of a program following the program developer's specifications; and
 - b. In the case of the components of the response to intervention framework, that all components are implemented in accordance with nationally approved standards and the North Dakota department of public instruction.
3. "Progress monitoring" and "standard protocol" means scientifically based processes used to monitor implementation of interventions by assessing a child's academic performance and evaluating the effectiveness of the instruction received by the child.

4. "Universal screening" means a screening protocol is provided to all children at a grade level. It is the first stage in identifying or predicting children who may be at risk for poor learning outcomes.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-02. Use of response to intervention by local education agencies.

1. A local education agency may adopt a response to intervention process and may choose to use the process to determine if a child has a specific learning disability consistent with 34 CFR 300.301-311. Prior to implementation of response to intervention during the evaluation of a student suspected of having a specific learning disability, a local education agency must demonstrate the completeness of its response to intervention process through:
 - a. Evidence of training in the components of the response to intervention framework;
 - b. Adoption of evidence-based curriculum, instruction, and interventions; and
 - c. Demonstration that its response to intervention process includes screening, diagnostic and progress monitoring assessments, and other elements of an approved national standard for the components of the framework.
2. The local education agency must provide documentation:
 - a. Of the time and frequency of the interventions;
 - b. That the programs used are evidence-based;
 - c. That the programs are implemented with fidelity; and
 - d. That the procedures are periodically reviewed and updated based on the evidence collected regarding their effectiveness in improving student achievement.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-03. Response to intervention - Components. Response to intervention is a schoolwide system designed to meet the needs of students using a tiered framework. Using response to intervention to evaluate for special

education eligibility is one component of an overall system implementation process that includes leadership, communication with and involvement of parents, professional development, and fidelity of implementation of the process across all tiers. It is consistent with nationally recognized procedures and includes the following components:

1. Screening of all students that will identify students at risk of poor learning outcomes or challenging behaviors;
2. A multilevel prevention and intervention framework that is implemented schoolwide and is designed to prevent school failure;
3. Progress monitoring that is ongoing, occurs frequently, and is used to quantify rates of improvement and inform instructional practice and development of individualized programs; and
4. A data-based decisionmaking process that informs instruction, movement from tier to tier, and identification of children with specific learning disabilities.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-04. Parental notification.

1. At the start of each school year, a local education agency using response to intervention to identify children with specific learning disabilities must provide parents with a description of the school's essential components of response to intervention.
2. Each school or district will have a mechanism for updating parents on the progress of their child who is receiving primary, secondary, or tertiary interventions.
3. Parents must be involved during the decisionmaking regarding participation of their child in the multilevel prevention and intervention framework.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419; 34 CFR 300.311

67-23-06-05. Eligibility determination for a specific learning disability.

A local education agency determination that a child has a specific learning disability includes the results of supplemental instruction as demonstrated by written documentation describing:

1. The nature of the child's achievement concerns and lack of progress;

2. Documentation, including data from interventions;
3. An explanation of the scientifically research-based practices used in the determination;
4. An explanation of the exclusionary factors that are not related to a learning disability but may impinge on the child's performance; and
5. The need for special education.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

67-23-06-06. When evaluation is required. A local education agency must conduct an evaluation:

1. When a preponderance of the evidence indicates the child is not responding to interventions and a disability is suspected; or
2. When a parent requests an evaluation, unless the local education agency determines an evaluation is not warranted and gives the parent written notice of its determination.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-32-09, 28-32-02

Law Implemented: NDCC 15.1-32-09; 20 USC 1400-1419

TITLE 67.1

EDUCATION STANDARDS AND PRACTICES BOARD

JULY 2012

ARTICLE 67.1-02

PROGRAM APPROVAL AND EDUCATOR LICENSURE

Chapter

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67.1-02-02	Educator's Professional License
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**CHAPTER 67.1-02-01
PROGRAM APPROVAL**

Section

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67.1-02-01-03	College Supervisors
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67.1-02-01-01. Student teachers. A student teacher is one who teaches in a regular classroom situation as part of the requirements in professional preparation.

1. All college students in education must have classroom-related preprofessional experience prior to student teaching. This experience must be provided as early as possible. Formal admittance to the teacher education program includes meeting appropriate state program approval requirements. A criminal background investigation including the bureau of criminal investigation and federal bureau of investigation must be completed prior to any student teaching experience.
2. The student teacher should be assigned by a college or university to a cooperating school on a full-time block. A full-time block is construed

as a full day for ten consecutive weeks with exceptions documented through program approval. The student teacher must be placed in a classroom where the cooperating teacher is regularly assigned. Additional student teaching experiences shall be determined by the training institution.

3. In the event of an emergency, the student teacher may once during the student teaching semester be placed as a substitute in the student teacher's regularly assigned classroom for a period of time not to exceed two consecutive days.
4. Student teachers may be placed only in accredited schools.
5. Teaching experience cannot be used for a waiver of student teaching, except as specified in subdivision d of subsection 1 of section 67.1-02-02-02.
6. Student teachers may receive a stipend from the school where they have student taught.
7. A student teacher will be eligible for a forty-day provisional license upon completion of all requirements for the student teacher's bachelor's degree minus the awarding of the degree and the official transcript as documented by the institution of higher education registrar. Once the degree has been awarded and the official transcript has been received, the student teacher will receive the initial two-year license.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10

**CHAPTER 67.1-02-02
EDUCATOR'S PROFESSIONAL LICENSE**

Section	
67.1-02-02-01	Life Certificates
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67.1-02-02-10	Substitute Teachers

67.1-02-02-02. Initial licenses.

1. Initial teacher licensure for in-state graduates or graduates of out-of-state programs requires a minimum of a four-year bachelor's degree from a state agency-approved teacher education program. The approved program must include a general studies component, a North Dakota recognized program area major, and a professional pedagogy core as defined in this section and the North Dakota standards for teacher education program approval:
 - a. The general studies component includes liberal arts preparation in the areas of the humanities, fine arts, mathematics, natural sciences, behavioral sciences, and symbolic systems as prerequisite to entrance into the professional education program.
 - b. North Dakota recognized program area majors are printed on the application form and include content-specific majors at the secondary level, content-specific kindergarten through grade twelve majors as listed below, majors in middle level education, or majors in elementary education. Majors that are transcribed by state-approved teacher education programs using terminology not appearing on the application form must be compared to the North Dakota standards for teacher education program approval to determine whether they meet the same criteria as the listed recognized majors. Majors must include a minimum of thirty-two semester hours of coursework specific to the major beyond the introductory level. All official transcripts from all institutions of higher education must be submitted to the education standards and practices board.
 - (1) The secondary content-specific major must include a minimum of four semester hours in special methods of

teaching at the secondary level and special methods of teaching in the specific content area. Effective July 1, 2008, all initial secondary licensure applicants grades seven through twelve in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II as set by the education standards and practices board. Effective July 1, 2010, all initial secondary licensure applicants grades seven through twelve in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II principles of teaching and learning test as set by the education standards and practices board. For purposes of this section, English, reading and language arts, mathematics, science, foreign languages, music, visual arts, history, civics and government, geography, and economics are considered core academic areas. All other areas are considered non-core academic areas.

- (2) The middle level major must include study of middle level foundations, adolescent development, reading in the content areas at the middle level, and twenty-four semester hours of content coursework in one of the content areas of English and language arts, social studies, science, or mathematics meeting the teacher education program approval standards, and special methods of teaching at the middle level. Study of these areas must total a minimum of thirty-two semester hours, which includes at least two semester hours of special methods of teaching at the middle level and middle level classroom field experience. Effective July 1, 2008, all initial middle level licensure applicants grades five through eight in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II as set by the education standards and practices board. Effective July 1, 2012, all initial middle level licensure applicants grades five through eight in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II principles of teaching and learning test as set by the education standards and practices board.
- (3) The elementary major must include special methods of teaching elementary content areas with a minimum of twelve semester hours specific to teaching elementary school mathematics, science, social studies, reading, and language arts. Effective July 1, 2006, all initial elementary licensure applicants grades one through six or grades one through eight restricted license will need to meet or exceed the cut scores for the praxis II elementary test 10011 and the praxis II principles of learning and teaching test 30522. For the school year 2005-06 and beyond, all elementary teachers new to the profession, but previously licensed, will need to complete

the praxis II elementary test 10011 and praxis II principles of learning and teaching test 30522 during the school year. Classroom teaching experience will be accepted from all other states toward the requirements of this paragraph.

- (4) Prekindergarten through grade twelve preparation programs in special education, foreign language, art, music, physical education, business education, technology education, and computer education must include a minimum of four semester hours of special methods of teaching inclusive of kindergarten through grade twelve, special methods of teaching in the specific content area, and student teaching in elementary and secondary schools, grades prekindergarten through grade twelve. Effective July 1, 2006, all applicants in foreign language, art, and music will need to meet or exceed the cut scores for the praxis II tests as set by the education standards and practices board. Effective July 1, 2012, all initial prekindergarten through grade twelve licensure applicants grades seven through twelve in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II principles of teaching and learning test as set by the education standards and practices board.
 - (5) The early childhood major must include study of child development, birth through age eight, and include special methods of teaching at the early childhood level. Effective July 1, 2012, all initial early childhood licensure applicants birth through grade three will need to meet or exceed the cut scores for the praxis II principles of teaching and learning test and the praxis II early childhood education content specific cut score as set by the education standards and practices board.
 - (6) Effective July 1, 2008, all applicants in special education majors or endorsements must meet or exceed the praxis II test cut scores as set by the education standards and practices board.
- c. The professional education component includes a minimum of twenty-two semester hours of pedagogical study of teaching and learning in addition to the program-specific major. This coursework must be from the areas of educational foundations, educational psychology, child development, teaching and learning theory, educational diagnosis and assessment, inclusive education, educational technology, classroom and behavioral management, and human relations specific to teaching. The professional education component must also include classroom professional experience prior to student teaching and a minimum of ten weeks of full-time successful participation in student teaching at appropriate

grade levels. The professional education component, including student teaching, must be completed under the supervision of a teacher training institution approved by the education standards and practices board in North Dakota or the appropriate state, provincial, or similar jurisdictional authority for out-of-state institutions.

d. **Student teaching exception - Internship.** An applicant who graduated from a state-approved teacher education program prior to January 1, 1988, which did not include a minimum of ten weeks of full-time student teaching may qualify under one of the two options under this subdivision. These options are available only if the applicant has met all other requirements for licensure of the education standards and practices board and North Dakota Century Code sections 15.1-18-02 and 15.1-18-03, except the requirement of ten weeks of student teaching.

(1) The applicant must document a minimum of eight full weeks of student teaching at the appropriate level in the major field of study under the supervision of a state-approved teacher education program and document five years of successful teaching within the last ten years; or

(2) An applicant who can document a minimum of eight weeks of successful student teaching but cannot document a minimum of five years of successful teaching experience must either complete the additional student teaching hours or may choose to complete an internship under the supervision of a state-approved college of teacher education to fulfill the additional hours.

(a) The internship contact hours in the classroom must consist of classroom time blocks not less than one-half day and when added to the applicant's existing student teaching hours total a minimum of ten weeks of full-time equivalent student teaching and supervised internship experience.

(b) The internship must occur in a regular kindergarten through grade twelve classroom setting and allow the intern to experience the full range of curriculum and classroom operations.

(c) The internship must be approved by the education standards and practices board and transcribed through a state-approved teacher education institution.

- e. Teaching minors. A teaching minor may only be earned or added to a teaching major. An individual may not be licensed or change grade levels of licensure with only a teaching minor.

A teaching minor is defined as a minimum of sixteen semester or twenty-four quarter credit hours in a single designated academic area and the methods of teaching the content area. These sixteen semester or twenty-four quarter credit hours must be in courses for which the institution gives credit toward graduation in the major and be included in the teacher education program approval process.

2. Grade point average.

- a. An applicant must have a minimum overall grade point average of 2.50. The education standards and practices board will use the college-figured grade point average if all previous college coursework is on the transcript. If the student has transferred from another institution, and the grade point average calculated by the institution granting the degree is only for those credits at that institution, the education standards and practices board will refigure the grade point average using all previous college coursework.

- b. An applicant must have a minimum grade point average (GPA) of 2.50 for all coursework required for the applicant's degree. Coursework not needed for a degree in teacher education need not be included in GPA calculations. Coursework used in any way for licensure or endorsements must be included in GPA calculations. If the student has coursework from more than one institution, the education standards and practices board will review the grade point average using the program of studies approved by the approved North Dakota teacher education institution.

3. Verification of eligibility for home state licensure may be requested.

4. Acceptable translations for preparations received in foreign institutions will be requested at the applicant's expense.

5. Application form.

- a. An application fee of thirty dollars must accompany a request for an initial application form.

- b. The original completed application form, including the original signature of the applicant and recommendation by the state-approved teacher education program will be considered for licensure by the education standards and practices board.

- c. A fee of seventy dollars must accompany the application for initial licensure for in-state and out-of-state graduates. An additional fee of one hundred seventy-five dollars for transcript review from out-of-state graduates must also accompany the licensure application.
 - d. The application will be kept on file at the education standards and practices board office for six months. Upon expiration of the six-month period, applicable fees will be refunded to the applicant if the license has not been issued.
6. All initial licenses are valid for at least two consecutive years and will expire on the applicant's ~~birthdate~~ birthday.
7. Fingerprinting. In addition to completing the licensure application process outlined in this section, an applicant applying for licensure in North Dakota for the first time after August 1, 1997, must submit to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14.
- a. An applicant graduating from a North Dakota teacher preparation program may obtain the fingerprinting materials from college officials. Previous graduates and out-of-state graduates must contact the education standards and practices board directly for the fingerprinting materials. Fingerprint screening reports from other agencies are not available to the education standards and practices board. Applicants must complete the process with cards and release forms designating the education standards and practices board as the agency to receive the report.
 - b. The applicant must have the fingerprinting done by an authorized law enforcement agency such as a sheriff's office, police department, or campus police. Both cards are to be completed with a ten-finger check. The criminal record inquiry authorization form must also be completed, including an original signature. The fingerprint cards and authorization form must be returned directly to the education standards and practices board office.
 - c. Unofficial, incomplete, altered, or damaged cards and forms will not be accepted.
 - d. The applicant is responsible for all local, state, and federal law enforcement agency fees related to the fingerprint background check.
 - e. The applicant is advised to allow a minimum of eight weeks for the fingerprint screening process. An applicant must hold a valid North Dakota license to be employed or permitted to teach in North Dakota. Individuals who have completed all requirements

for the professional educator's license except final completion of the fingerprint background check may obtain a provisional license under section 67.1-02-04-04.

- f. Fingerprint screening reports must be recent and may only be used for licensure for eighteen months from the date the report is received by the education standards and practices board.
8. **Reeducation for initial licensure.** Applicants who hold nonteaching degrees in content areas taught in public schools may receive initial licensure by completing the professional education requirements at a state-approved program authorized through program approval to recommend applicants for licensure in the approved program area. This reeducation may be completed at the undergraduate or graduate level. The institution with the approved program must document that the applicant's specialty area degree is equivalent to its approved program's specialty area requirements in subdivisions b and c of subsection 1, and recommend the applicant for licensure. Applicants applying under this section must file a completed application form as other initial applicants, comply with the fingerprint background check in subsection 9, complete all tests, and pay all applicable fees.
 9. **Preprofessional skills test.** On July 1, 2002, all initial applicants for licensure will be required to submit their test scores for the PPST in reading, writing, and mathematics. Beginning July 1, 2003, all applicants for initial licensure will need to submit their test scores for the PPST in reading, writing, and mathematics which meet or exceed the state cut score or composite score. Documentation of the ETS PPST scores must be submitted with the application form.

History: Effective July 1, 1995; amended effective October 1, 1998; October 16, 1998; April 14, 1999; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2010; April 1, 2012; July 1, 2012.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12, 15.1-13-14

67.1-02-02-03. Distance learning instruction - Definition - Qualifications - Licensure. Repealed effective April 1, 2012.

67.1-02-02-04. Two-year and five-year renewals.

1. Two-year renewal license.

- a. A two-year renewal license will be issued to applicants with less than eighteen months of successful contracted teaching in North Dakota who have completed all of the requirements on the application form, pay the required fee of fifty dollars. Applications for renewal may only be submitted six months prior to the expiration

of the current license and will expire after a minimum of two years after the applicant's ~~birthdate~~ birthday.

- b. A two-year reentry license will be issued to an applicant reentering the profession after an absence of five years who has completed all of the requirements on the application form. Prior to applying for the reentry license, the applicant must submit to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14. An applicant reentering the profession must complete eight semester hours of reeducation credit during the applicant's first two years of contracted employment as stated in this section and in section 67.1-02-02-09. The fee for the reentry license is seventy dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's ~~birthdate~~ birthday.
- c. A two-year reentry license will be issued to an applicant from out of state who has had an absence from the profession of more than five years, or to an applicant who cannot submit ~~four~~ six semester hours of credit taken during each of the past two five-year periods if employed in education out of state. Such an applicant must meet the requirements of North Dakota initial licensure as stated in section 67.1-02-02-02 and must also complete the requirements for reentry education as stated in this section and in section 67.1-02-02-09. The fee for the reentry license is seventy dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's ~~birthdate~~ birthday.
- d. A two-year renewal license will be issued for substitute teaching to those applicants who have completed all of the requirements on the application form. A substitute teacher must maintain a valid teaching license using the two-year renewal cycle, but is not required to submit reeducation hours unless the person signs a contract. The fee for this two-year renewal is fifty dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's ~~birthdate~~ birthday.
- e. In extraordinary circumstances, the board may waive or extend the time for completion of the reeducation credits.
- f. For the school year 2005-06 and beyond, all elementary teachers new to the profession, but previously licensed, will need to complete the praxis II elementary test 10011 and praxis II principles of learning and teaching test 30522 during the school year meeting North Dakota cut scores. Contracted classroom teaching experience will be accepted from all other states toward

the requirements of this subdivision. A new to the profession teacher is defined as one who has never been contracted as a kindergarten through grade 12 teacher.

2. Five-year renewal license.

- a. The initial five-year renewal will be issued to those applicants who have successfully taught eighteen months in the state on a valid North Dakota license and who have completed all of the requirements on the application form. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of five years on the applicant's ~~birthdate~~ birthday.
- (1) All five-year license applications must be accompanied by a fee of one hundred twenty-five dollars.
 - (2) Succeeding five-year renewals require evidence of thirty teaching days of contracted service and completion of a minimum of four semester hours of reeducation credit to avoid reverting to entry status. As licenses are renewed, after July 1, 2011, six semester hours of reeducation credit will be required for the new five-year period. All reeducation credit must be documented by college transcripts.
 - (3) For the school year 2005-06 and beyond, all elementary teachers new to the profession, but previously licensed, will need to complete the praxis II elementary test ~~40044~~ and praxis II principles of learning and teaching test ~~30522~~ during the school year meeting North Dakota cut scores. Contracted classroom teaching experience will be accepted from all other states toward the requirements of this paragraph. A new to the profession teacher is defined as one who has never been contracted as a kindergarten through grade 12 teacher.
- b. A renewal applicant who has completed the ~~four~~ six semester hours of credit but has not been contracted for at least thirty days under the five-year license will revert to the two-year renewal cycle.
- c. Probationary license. An applicant who has failed to complete the ~~four~~ six semester hours of reeducation credit, whether the application has been contracted or not, will either not be renewed, or may agree to be placed on a two-year probationary license. Eight semester hours of reeducation semester credit must be supplied as a condition of the two-year probationary license. A second probationary license will not be issued.
- d. In extraordinary circumstances, the board may waive or extend the time for completion of the reeducation credits.

- e. Once the requirements have been met for the probationary license, a two-year renewal license will be issued.

History: Effective July 1, 1995; amended effective October 1, 1998; October 16, 1998; April 14, 1999; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2010; April 1, 2012; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10, 15.1-13-11

67.1-02-02-05. Professional development for license renewal.

All professional development relicensure credit must meet the professional development requirements approved by the education standards and practices board.

1. **Licensure renewal course credits.** The following minimum requirements must be approved by the education standards and practices board or through the institutional program review process.
 - a. **Instructor of record.** The instructor of record must hold an advanced degree (master's or above) and provide a vita/resume that includes name; current title; current address; telephone, facsimile, and electronic mail, as appropriate; highest degree earned and field of study; related professional or work experience; topics to be addressed; and any other relevant information.
 - b. **Instructor's role.** The instructor of record's role is to ensure submission of the proposal form to include all identified components as described in the proposal form subdivision below; a copy of the assessment tool and an identified process for keeping attendance using the criteria identified in the evaluation plan criteria subdivision below; and issue final grades.
 - c. **Multispeaker event.** The instructor of record is responsible for upholding quality for a multispeaker event by ensuring that at least seventy-five percent of the total instructional time must be provided by individuals with a master's degree or higher. ~~See about presenters below.~~ The instructor of record is responsible for completing the a matrix of presenters for these events. ~~See proposal form below.~~
 - d. **About presenters.** The presenters are expected to provide quality graduate education experiences for participants. Presenters are encouraged to possess a master's degree or higher. A multispeaker event must have seventy-five percent of instructional time provided by individuals with a master's degree or higher. However, a bachelor's degree may be accepted based on level of experience, accomplishments, and subject matter expertise. Each presenter is required to complete a short biography or resume to

provide the presenter's educational credentials and experience or training in relation to the presenter's presentation topic.

- e. **Proposal form.** The proposal form must include conference or course description; objectives and learner outcomes; conference or course topical outline; semester hours to be offered; all requirements and expectations (e.g., participation, attendance, assignments) for earning the credit; textbooks or other resources to be used; and evaluation plan of learner outcomes. In addition, for multispeaker events an electronic copy of the program is required; a document that includes session descriptions; and completion of the matrix of presenters specifying their educational credentials, topics to be addressed, and the length in hours and minutes of each presenter's presentations.
 - f. **Credit requirements.** The following requirements must be communicated to the participants prior to the start of the event.
 - (1) Participants must hold a minimum of a bachelor's degree to be eligible to receive graduate credit.
 - (2) Participants must attend a minimum of fifteen hours of graduate level activity per credit hour.
 - (3) Participants must complete all credit requirements of the event.
 - (4) Participants must complete a product or an application of learning.
 - g. **Evaluation plan criteria.** One copy of the evaluation plan for determining the participant's grade must be submitted with this proposal. The evaluation plan may be formatted a number of ways but must, at a minimum, include participant verification of attendance, documenting the required fifteen clock-hours per credit (e.g., session sign-in sheet, session summary) and an assignment designed to elicit from the participants their ability to apply concepts and knowledge learned at the conference in their own teaching and work situations (e.g., lesson plan, summary paper, group project/paper). An assessment rubric is required for letter grading but not for satisfactory or unsatisfactory grading. ~~Criteria will need to be developed.~~
2. **Five-year licensure renewal.** As licenses are renewed, after July 1, 2011, six semester hours of reeducation credit will be required for the new five-year period, as documented by college transcripts, earned within the dates of the license, contracted teaching of a minimum of thirty days. Applicants not meeting these requirements will be processed as indicated under that section.

- a. Professional development coursework submitted for renewal may be either undergraduate or graduate credit and must be either in professional education or applicable to the applicant's licensed major, minor, or endorsement areas as indicated above.
- b. Applicants who are working toward an added degree or endorsement may use coursework applicable to that expanded area of study for renewal. In extraordinary circumstances, the board may waive or extend the time for completion of the reeducation credits.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; July 1, 2004; April 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10

67.1-02-02-08. State model for inservice education and professional development. ~~The education standards and practices board shall adopt a model for inservice education and professional development. The model must include the assessment of statewide and professional development needs, a projection of programs responsive to those needs, and the identification of the resources needed to implement those programs.~~ Repealed effective July 1, 2012.

~~**History:** Effective July 1, 1995; amended effective March 1, 2000.~~

~~**General Authority:** NDCC 15.1-13-09~~

~~**Law Implemented:** NDCC 15.1-13-08~~

67.1-02-02-09. Reentry. Prior to applying for the reentry license, the applicant must submit to a fingerprint screening for a statewide and nationwide criminal history record check in accordance with North Dakota Century Code sections 15.1-13-14 and 20-60-24. An applicant who has been out of teaching for a period of more than five years must earn a total of eight semester hours or twelve quarter hours of college or university credit, as documented by college transcripts, in the area in which the teacher wishes to renew licensure during the first two years of reentry contracted service. Substitute teachers are exempt from the eight semester hour requirement until the individual accepts a contracted position. The fee for the two-year reentry license is seventy dollars. Reentry applicants should also refer to information in subsection 1 of section 67.1-02-02-04, regarding two-year and five-year renewals.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10, 15.1-13-11

CHAPTER 67.1-02-03 REEDUCATION

Section	
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67.1-02-03-02	Kindergarten Endorsement
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67.1-02-03-05	Bilingual Education or English Language Learner Endorsement
67.1-02-03-06	Minor Equivalency Endorsement
67.1-02-03-07	Major Equivalency Endorsements
67.1-02-03-08	Career and Technical Educator Endorsements
67.1-02-03-09	Early Childhood Education Endorsement (50037)
67.1-02-03-10	Rural Flexibility Endorsement
67.1-02-03-11	Teaching Alternative Flexibility Endorsement
67.1-02-03-12	Special Education Endorsements

67.1-02-03-01. Elementary endorsement. Reeducation of a licensed teacher for elementary schoolteaching may be accomplished by completing a state-approved elementary teacher education program of thirty-two semester hours, including a regular classroom student teaching experience of six quarter hours or a minimum of five consecutive weeks between kindergarten through grade six, or the clinical practice option described in section 67.1-02-04-07. The coursework must include special methods of teaching elementary content areas with a minimum of twelve semester hours specific to teaching elementary school reading, language arts, mathematics, science, and social studies along with additional appropriate elementary education coursework.

Prior to July 1, 2006, reeducation for the elementary endorsement must be completed prior to ~~or within two years of~~ assignment to teach at the elementary level. Effective July 1, 2006, all elementary endorsement applicants grades one through six will need to meet or exceed the cut scores for the praxis II elementary test 40044 and the praxis II principles of learning and teaching test 30522 as set by the education standards and practices board.

A verified successful college-supervised internship with credit may be substituted for student teaching under this section. The internship option within the elementary endorsement is available only:

1. To an individual who has graduated from a state-approved teacher education program that has as part of its approved preparation a year of college-supervised internship at the elementary level; or
2. To an individual licensed by the North Dakota education standards and practices board to teach kindergarten through grade twelve in accordance with North Dakota Century Code sections 15.1-18-03 and 15.1-18-02 who has already successfully completed a minimum of

five weeks of full-time student teaching at the elementary level in the individual's specialty area. The total internship contact hours in the classroom must be equivalent to a minimum of five weeks of full-time student teaching and consist of classroom time blocks not less than one-half of one day.

The internship must occur in a regular kindergarten through grade six classroom setting and allow the intern to experience the full range of curriculum and classroom operations. Individuals performing elementary endorsement internships work under the supervision of licensed teachers and must not be assigned in lieu of regularly employed teachers. Individuals completing the internship option who are doing so to meet the requirements for elementary principalship must not intern with classroom teachers they would be supervising or evaluating in their role as principal. The internship must be approved by the education standards and practices board and transcribed through a state-approved teacher education institution.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

Specialty area endorsement in art, foreign language, or music for elementary teachers grades one through six. Elementary teachers with a major or major equivalency defined in section 67.1-02-03-01 in elementary education will be considered highly qualified to teach art, foreign language, or music grades one through six. Elementary teachers with a major, minor, or minor equivalency endorsement in art, foreign language, or music will be considered highly qualified in art, foreign language, or music grades one through six.

History: Effective July 1, 1995; amended effective June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-18-02

67.1-02-03-04. Middle school pedagogical endorsement for grades five through eight. The middle school pedagogical endorsement (50517) is mandatory for teachers licensed for grades seven through twelve to qualify for work with grades five and six in the subject fields of their licensure and voluntary for work with students in grades seven and eight. Elementary teachers licensed to teach grades one through six must complete the middle school pedagogical endorsement (50017) to teach in grades seven and eight. Endorsement for teaching in middle school is available on a voluntary basis to teachers licensed to teach elementary grades one through eight or to specialty areas licensed to teach grades one through twelve under paragraph 1, 3, or 4 of subdivision b of subsection 1 of section 67.1-02-02-02. A review of past coursework will be conducted and a program of study needed for completion will be established. The middle school pedagogical endorsement requires a minimum of ten semester hours, including all of the following:

1. Development of young adolescents.
2. Philosophy and curriculum (foundations) of middle school education.
3. Teaching reading and other study or learning skills in the content areas.
4. Methods or strategies of teaching in the middle grades, two semester hours minimum.
5. Reeducation for the middle level endorsement must include a twenty clock-hour field experience in grades five through eight in a school setting where middle level philosophy has been implemented, or successful teaching in grades five through eight in a school setting where middle level philosophy has been implemented.

Reeducation for the middle school endorsement must be completed prior to or within two years of assignment to teach at the middle level, grades five through eight.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 1995; amended effective June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-18-02

67.1-02-03-05. Bilingual education or English language learner endorsement. English language learner endorsement (24000). Reeducation for "English language learner" endorsement for any licensed teacher may be accomplished by presenting at least sixteen semester hours or twenty-four quarter hours of college coursework in all of the areas following in subsections 1 through 5.

Bilingual education endorsement (24500). Reeducation for a bilingual education endorsement for any licensed teacher may be accomplished by completing all the requirements for the English language learner endorsement in subsections 1 through 5 and meeting the additional requirements related to bilingual education in subsections 6 and 7.

1. Foundations. Four semester hours or six quarter hours of college coursework, including the following:
 - a. Multicultural education, which involves a knowledge of ethnic groups in North Dakota and the United States, and different instructional methods to use with different ethnic and language groups.

endorsement enables the applicant to teach bilingual or English as a second language grades prekindergarten through twelve. Applicants teaching other content material must hold licensure appropriate to the teaching of that content at the assigned grade levels in compliance with North Dakota Century Code sections 15.1-18-03 and 15.1-18-02 and this article.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espbf/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; July 1, 2008; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

67.1-02-03-06. Minor equivalency endorsement.

1. Nothing in this section may be interpreted to affect the validity of minor equivalencies issued by the department of public instruction prior to September 1, 1998.
2. The applicant wishing to apply under the minor equivalency endorsement option must be licensed by the education standards and practices board to teach under North Dakota Century Code section 15.1-18-02 or 15.1-18-03. The minor equivalency endorsement will be issued for the same grade levels as the individual's primary licensure, the same as for minors transcribed by colleges of teacher education. Those whose primary licensure is secondary may use the endorsement to teach the new content area in grades seven through twelve. Those whose primary licensure is elementary (grades one through six or one through eight) or middle school (grades five through eight) may use the endorsement for additional content expertise at those levels but may not use it to teach at the high school level without a complete secondary endorsement. The minor equivalency endorsement in core academic areas will no longer be available at the secondary level (grades nine through twelve) effective July 1, 2006.
3. The applicant must request a minor equivalency endorsement form from the education standards and practices board, complete it, and return it to the education standards and practices board with official transcripts and the review fee of seventy-five dollars.
4. Once the transcripts have been reviewed, if all requirements have been met, the minor equivalency endorsement will be added to the teaching license. A new teaching license will be issued.
5. If the requirements have not been met, the education standards and practices board will return the minor equivalency endorsement form

listing the additional requirements to be completed. No additional fee will be charged when the requirements have been met and the minor equivalency endorsement is added to the teaching license.

6. Two levels of content area endorsements are available to be added to the existing North Dakota professional educator's license. A listing of all the minor equivalency endorsement content areas available and specific areas of study required within each equivalency can be obtained by contacting the office of the education standards and practices board.
 - a. The ME16 requires a minimum of sixteen semester hours of content-specific coursework, including the areas of study approved and required by the education standards and practices board. The ME16 will be reviewed when the applicant applies for renewal licensure. The coursework for the ME24 must be completed within five years of the application date for the ME16. If the ME24 coursework is not completed within five years, the ME16 will be removed from the license.
 - b. The ME24 requires a minimum of twenty-four semester hours of content-specific coursework, including the areas of study approved and required by the education standards and practices board. The ME24 also must include the special methods of teaching in the content area. The ME24 is considered equivalent to a full teaching minor.
7. All coursework for the minor equivalency endorsement must be beyond the introductory level general studies courses as defined in section 67.1-02-02-02 and be transcribed by an approved teacher education program.
8. All coursework must be transcribed by a state-approved college of teacher education program.
9. The minor equivalency endorsement must be completed prior to contracted teaching in the content area.
10. Effective July 1, 2006, minor equivalencies will continue to be available in the noncore academic areas. If a teacher chooses to complete a minor equivalency in the core academic areas, the teacher will need to complete the praxis II content-based test in addition to the minor equivalency to be eligible to teach in grades nine through twelve.
11. The following coursework and requirements must be completed for the specific minor equivalency:
 - a. Agriculture (01005) - A total of sixteen semester hours, including three semester hours each in agriculture economics, agriculture

management, animal science, plant science, and elective; six semester hours in agriculture leadership, community development, or philosophy of career and technical education; and special methods of teaching agriculture education.

- b. Art (02005) - A total of sixteen semester hours, including art history, design, drawing, painting, ceramics, and special methods of teaching art.
- c. Biology (13010) - A total of sixteen semester hours, including biology I and II, botany, zoology, genetics, general chemistry I and II, and special methods of teaching biology or science.
- d. Business (03020) - A total of sixteen semester hours, including three semester hours in keyboarding, six semester hours in accounting, three semester hours in computer technology, general business, business communication, and special methods of teaching business.
- e. Chemistry (13020) - A total of sixteen semester hours, including general chemistry I and II with labs, organic chemistry I and II with labs, analytic chemistry, and special methods of teaching chemistry or science.
- f. Composite science (13047) - A total of twenty-four semester hours with eight semester hours with labs in biology, chemistry, physics, and earth science, and special methods of teaching science.
- g. Computer science (23000) - A total of sixteen semester hours, including six semester hours a year-long sequence of structured language, two semester hours in advanced assembler language, eight semester hours in computer-related coursework, microcomputing, data structures and algorithms, operating systems, and special methods of teaching computer science.
- h. CTE health careers (07000) - Available Criteria to meet this endorsement is available through the department of career and technical education.
- i. CTE trade, industry, and technical (17000) - Available Criteria to meet this endorsement is available through the department of career and technical education.
- j. CTE diversified occupations (25000) - Coordinating techniques. Criteria to meet this endorsement is available through the department of career and technical education.
- k. CTE resource educator (26000) - Philosophy and practices of career and technical education, vocational assessment,

career development, competency-based career and technical education, cooperative education, special needs teaching methods, introduction to exceptional children, mental retardation, learning disabilities, or emotional disturbance, working with at-risk students, behavior problems, classroom strategies, and other courses or workshops as approved by the career and technical education supervisor.

- i. CTE information technology (27000) - Available Criteria to meet this endorsement is available through the department of career and technical education.
- m. CTE basic skills educator (28000) - Philosophy and practices of career and technical education, vocational assessment, career development, competency-based career and technical education, cooperative education, special needs teaching methods, introduction to exceptional children, mental retardation, learning disabilities, or emotional disturbance, working with at-risk students, behavior problems, remedial mathematics, remedial reading, and other courses or workshops as approved by the career and technical education supervisor.
- n. CTE teacher student mentor (29000) - Available Criteria to meet this endorsement is available through the department of career and technical education.
- o. CTE career clusters (37000) - Available Criteria to meet this endorsement is available through the department of career and technical education.
- p. Drama or theater (05015) - Sixteen semester hours of drama or theater coursework.
- q. Driver education (21005) - Effective August 1, 2008, requirement: valid operator's license not suspended or revoked. Provide by January first of each year a complete abstract of the applicant's driving record for the past thirty-six months from a state driver's licensing office evidencing a satisfactory driving record free from any conviction that would constitute the basis for suspension or revocation on the instructor's operator's license, and not more than three moving traffic violations. Ten semester hours consisting of at least one course each in classroom driver and traffic education, in-car instruction, beginning driver problems, and organization and administration of safety education. Fourteen semester hours with no more than three semester hours in any one area: first aid; substance abuse education; equipment training, which may include simulator use and educational technology; classroom management; developmental psychology covering adolescent psychology; stress management; curriculum, planning,

and assessment; teaching diverse learners; and educational psychology. Field experience required for elementary or middle school teachers provided by a driver's education mentor with a minimum of three years' experience in driver's education must include three clock-hours of in-car observation and three clock-hours of in-car instruction. This field experience must be documented with a letter from the school principal and driver education mentor. The renewal of the driver's education endorsement requires two semester hours every five years of driver and traffic safety coursework. It is the responsibility of the instructor to notify the education standards and practices board of any driving offense, suspension, revocation, or cancellation of the driving license.

- r. Earth science (13035) - A total of sixteen semester hours, including general chemistry I and II with labs, physical geology, historical geology, astronomy, meteorology, and special methods of teaching science.
- s. Economics (15010) - A total of sixteen semester hours, including principles of macroeconomics I and II, money and banking, computer applications in economics, and methods of teaching economics or social science.
- t. English (05020) - A total of sixteen semester hours, including three semester hours of grammar and usage, six semester hours of composition, three semester hours of speech, three semester hours of developmental reading, literary analysis and criticism, nine semester hours of American and English literature, media, and special methods of teaching English.
- u. Family and consumer science (09040) - A total of sixteen semester hours, including child development and family science, consumer education and resource management, food and nutrition, health and wellness, apparel and textiles, housing issues and interior design, and the special methods of teaching family and consumer science.
- v. Foreign languages (French 06010, German 06015, Greek 06020, Latin 06025, Spanish 06035, Chinese 06260) - Sixteen semester hours specific to the foreign language, including composition and conversational structure of the language, culture, customs, and civilization relative to the language, introduction to literature in the language, and the special methods of teaching foreign language.
- w. Geography (15015) - A total of sixteen semester hours, including physical geography, cultural geography, world geography, North American geography, and the special methods of teaching geography or social science.

- x. **Government and political science (15007) - A total of sixteen semester hours, including American government, political thought, international or global politics, and the special methods of teaching social science.**
- y. **Health (18015) - Twenty-four semester hours in first aid, cardiopulmonary resuscitation, and safety, nutrition, exercise physiology or fitness, personal and community health, current issues in health education, and the special methods and curriculum in school health education.**
- z. **History (15020) - A total of sixteen semester hours, including United States history I and II, western civilization I and II or world history I and II, and the special methods of teaching.**
- aa. **Library science (50065) - Twenty-four semester hours in introduction to the role of the librarian in the school library, reference, selection of materials and collection development, classification and cataloging of library materials, library administration, conducting research following state and national library standards, current issues in school librarianship, a study of children's literature, young adult literature, and reading methods.**
- bb. **Marketing (04006) - A total of sixteen semester hours, including marketing, sales promotion, management, student organizations, methods of teaching marketing or business education, philosophy of career and technical education, coordinating techniques, and nine credits in any of the following: accounting, advertising, business, technology, economics, finance, promotion, and selling.**
- cc. **Mathematics (11010) - A total of sixteen semester hours, including calculus, abstract algebra, geometry (axiomatic), calculus I and II, linear algebra, abstract algebra, probability and statistics, and methods of teaching mathematics.**
- dd. **Music composite (12010) - Twenty-four semester hours in music theory (six semester hours), music history or literature, ear training or sight singing, conducting, keyboard proficiency, and methods of elementary and secondary music teaching.**
- ee. **Instrumental music (12005) - A total of sixteen semester hours, including music theory, ear training or sight singing, conducting, and eight semester hours of coursework in instrumental music, keyboard proficiency, and methods of elementary and secondary music teaching.**
- ff. **Choral or vocal music (12015) - A total of sixteen semester hours, including music theory, ear training or sight singing, conducting,**

and eight semester hours of coursework in vocal music, keyboard proficiency, and methods of elementary and secondary music teaching.

- gg. Physics (13050) - A total of sixteen semester hours, including general physics I and II, modern physics, electronics, mechanics, and methods of teaching science.
- hh. Physical education (08025) - A total of sixteen semester hours, including organization and administration of physical education and health, first aid and cardiopulmonary resuscitation, prevention and care of athletic injuries, health issues, physiology of exercise, foundations or curriculum of physical education, human physiology or anatomy, physical education for exceptional children, band, and methods of teaching sports activities, games, and dance.
- ii. Physical science (13045) - A total of sixteen semester hours, including eight semester hours each in general chemistry I and II with labs, general physics I and II, and methods of teaching science.
- jj. Psychology (15030) - A total of sixteen semester hours, including introduction to psychology, development psychology, abnormal psychology, personality theory, social psychology, and methods of teaching psychology or social science.
- kk. Social studies composite (15035) - Twenty-four semester hours in United States history, world civilization, world history, American government, world geography, physical geography, introduction to sociology, economics, psychology, and methods of teaching social science.
- ll. Sociology (15040) - A total of sixteen semester hours, including introduction to sociology, introduction to anthropology, social psychology, and methods of teaching social science.
- mm. Speech (05045) - Sixteen semester hours of speech or communication coursework.
- nn. Technology education (10007) - Coursework must include sixteen semester hours from the following list: principles or foundations of technology, technology and society, impacts of technology, history of technology, engineering design, design process, troubleshooting, invention and innovation, research and development, technology systems, modeling, i.e., three-dimensional modeling and prototyping, technology resources, and intelligent machines or robotics or automated systems. Coursework must include six semester hours from the following list: medical technology, agriculture and related

biotechnologies, energy and power technologies, information and communication technologies, transportation technology, manufacturing technology, and construction technology. A minimum of three semester hours in study of methods of teaching technology education that must include curriculum and methods in standards-based instruction.

- oo. Native language endorsement (15046) - Coursework must include thirty semester hours in classroom management; theories of second language acquisition; methods of second language acquisition; introduction to the specific native language linguistic analysis I and II; native American studies I; the specific native language I, II, III, and IV; and native language history and culture.
- pp. STEM education (10300) - Coursework must include twelve semester hours in STEM (transdisciplinary coursework in science, technology, engineering, and mathematics) philosophy, STEM curriculum, STEM methods, STEM strategies, and a two-day field experience in a STEM business or industry or school-based setting.
- qq. High school of business I (04007) - Coursework must include two semester hours of transcribed coursework specific to high school of business I training.
- rr. High school of business II (04008) - Coursework must include two semester hours of transcribed coursework specific to high school of business II training.
- ss. Theology (50040) - Requirements needed for the theology endorsement include a letter from the nonpublic school administration and the documentation on official transcripts of the baccalaureate degree.

History: Effective March 1, 2000; amended effective August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2010; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-18-03

67.1-02-03-07. Major equivalency endorsements.

1. **High, objective, uniform state standard of evaluation.** College transcribed majors, the major equivalency licensure options described in this section, and alternative licenses issued in compliance with chapter 67.1-02-04 will be aligned with the North Dakota standards for program approval in section 67.1-02-01-05 as the state of North Dakota criterion-based measure of assurance that all teachers are highly qualified.

2. **Core academic areas.** For purposes of this section, English, reading and language arts, mathematics, science, foreign languages, music, visual arts, history, civics and government, geography, and economics are considered core academic areas. All other areas are considered noncore academic areas.
3. **Major equivalency endorsement.** A major equivalency endorsement is a licensure option in which an individual already licensed to teach in North Dakota may add qualifications to the license by demonstrating the individual has competency equivalent to the North Dakota program approval standards and other licensure requirements in section 67.1-02-02-02 for the new area.
 - a. The minimum number of semester hours or equivalent competency documentation for a major equivalency is thirty-two semester hours, with the exception of composite majors, which require forty-two semester hours. Competency equivalent to a major in early childhood education, elementary education, middle level education, or secondary education academic majors must include evidence of appropriate:
 - (1) Content area preparation;
 - (2) Teaching methods and strategies; and
 - (3) Applied experience at the appropriate grade levels, i.e., field experience, clinical practice, or student teaching.

Endorsements issued by the education standards and practices board may be used toward demonstration of competency.

- b. North Dakota-licensed individuals who wish to add a major equivalency to an existing professional educators' license may demonstrate the new content area competency through the following options approved by the education standards and practices board:
 - (1) Undergraduate or graduate, or both, coursework equivalent to a major and aligned with the North Dakota program approval standards;
 - (2) An advanced degree in the major area which by itself, or in combination with other coursework, meets or exceeds the requirements for preparation in the major at the undergraduate level;
 - (3) Until July 1, 2006, a minor or minor equivalency in the area with successful completion of a portfolio which may include,

but not consist entirely of, evidence of successful teaching experience in the area and a one hundred dollar review fee;

- (4) A minor or minor equivalency in the area with successful completion of a content test meeting or exceeding the minimum scores determined by the education standards and practices board;
- (5) Until July 1, 2006, existing North Dakota licensure in the area with a minimum of three years of successful teaching experience in the area, and successful completion of a portfolio documenting competency;
- (6) Existing North Dakota licensure in the area with a minimum of one year of successful teaching experience in the area, and successful completion of a content-based competency test approved by the education standards and practices board; or
- (7) National board for professional teaching standards certification in the major area.

4. Major equivalency endorsement - Requirements. To be considered for a major equivalency, individuals teaching in the areas of early childhood education, elementary education, middle level education, and secondary education academic areas must be licensed in accordance with the laws and administrative rules of the education standards and practices board and must meet the provisions in North Dakota Century Code chapter 15.1-18, which include holding a major or major equivalency in the core content areas in which they are teaching, and a major, major equivalency, minor, or minor equivalency in noncore areas in which they are teaching.

- a. Major equivalency endorsement for elementary teachers grades one through six. Beginning July 1, 2006, all elementary teachers new to the profession and all early childhood education teachers whose licensure will include grades one through three must pass a content-based test and teaching skills test in elementary education or early childhood education, approved by the education standards and practices board. Elementary teachers already licensed in North Dakota prior to July 1, 2006, are considered highly qualified on the basis of holding a major or endorsement in elementary education or a major in early childhood education which qualifies to teach grades one through three.
- b. Major equivalency endorsement for middle level teachers grades five through eight. Individuals teaching in a middle school must meet the education standards and practices board grade level requirements in section 67.1-02-03-04, and hold a minimum equivalent of sixteen semester hours of content area preparation

and methods in the subject area specializations in which they are teaching. New middle school teachers must, beginning July 1, 2006, hold a minimum equivalent of twenty-four semester hours of content area preparation and methods in the subject area specializations in which they are teaching or may demonstrate major equivalency in subject areas through options allowed in subdivision b of subsection 3.

The twenty-four semester hours of content area preparation and methods of this subdivision for the subject area specialization must include the following specific semester hour preparation as listed in the following subject areas:

- (1) Middle school English and language arts (50117).
 - (a) Three semester hours in speech or debate;
 - (b) Six semester hours in reading;
 - (c) Three semester hours in grammar;
 - (d) Three semester hours in writing and composition;
 - (e) Six semester hours in literature; and
 - (f) Three semester hours in methods of teaching language and communication.
- (2) Middle school mathematics (50317). Required content must be beyond the college algebra level.
 - (a) Coursework in college algebra or precalculus;
 - (b) Three semester hours in calculus;
 - (c) Geometry;
 - (d) Probability and statistics;
 - (e) Computer and instruction technology;
 - (f) Mathematics electives; and
 - (g) Methods of teaching mathematics.
- (3) Middle school science (50417).
 - (a) Six semester hours in life science or biology;

- (b) Six semester hours in earth science or geology;
 - (c) Four semester hours in physics;
 - (d) Three semester hours in chemistry; and
 - (e) Three semester hours in methods of teaching science.
- (4) Middle school social studies (50217).
 - (a) Nine semester hours in North Dakota geography, North American geography, world regional geography;
 - (b) Twelve semester hours in world history, North Dakota studies or history, United States history to 1877; and
 - (c) Three semester hours in teaching social science methods.
- c. Major equivalency endorsement for secondary teachers grades seven through twelve. To be considered highly qualified, secondary teachers must hold a major or major equivalency in the core content areas in which they are teaching, and a major, major equivalency, minor, or minor equivalency in noncore areas in which they are teaching.
- d. Major equivalency endorsement for teachers in science grades seven through twelve. Secondary teachers with majors in biology, chemistry, earth science, or physics (minimum of thirty-two semester hours) or physical science and other composite science degrees (minimum of forty-two semester hours) will be licensed to teach in each specific science discipline in which the individual has the minimum preparation for that specific science discipline aligned with the North Dakota standards for the areas (twelve semester hours).
- e. Major equivalency endorsement for teachers in social studies grades seven through twelve. Secondary teachers with majors in history (thirty-two semester hours), geography (thirty-two semester hours), civics and government (thirty-two semester hours), economics (thirty-two semester hours), or composite social studies (forty-two semester hours) will be licensed to teach in each specific social studies discipline in which the individual has a minimum number of semester hours aligned with the North Dakota standards for the area: history (eighteen semester hours), geography (twelve semester hours), civics and government (twelve semester hours), and economics (twelve semester hours), or a minimum of six semester hours aligned with the North Dakota standards for any other specific social studies disciplines.

- f. Major equivalency endorsement for English and language arts teachers grades seven through twelve. Secondary teachers with majors in English and language arts (thirty-two semester hours) will be licensed to teach in additional areas of speech, journalism, or drama and theater arts if the individual has a minimum preparation of six semester hours aligned with the North Dakota standards for that specialization. Individuals who hold majors, major equivalencies, minors, or minor equivalencies in speech, journalism, or drama and theater arts will also be licensed to teach those specializations.
9. Major equivalency endorsement for music teachers grades seven through twelve. Teachers with majors in the field of music (minimum of thirty-two semester hours) will be licensed to teach at grade levels consistent with their preparation as stated in the rules for initial licensure in section 67.1-02-02-02 and in specializations of instrumental or choral music in which they have a minimum of eight semester hours aligned with the North Dakota program approval standards for that specialization. The eight semester hours may not include hours in private or group lessons or participation in music ensembles.
5. **Special education licensure.** To be considered highly qualified in special education, the teacher will need to hold an early childhood, elementary, middle level, or secondary license at the specific level the teacher is teaching, hold a bachelor's degree, demonstrate knowledge in the subject the teacher is teaching, and hold the special education endorsement, major, or master's degree pursuant to the special education category the teacher is serving. Special education teachers not holding regular licensure at the level they are teaching will only be able to provide consultative services to students in grades kindergarten through grade twelve.
6. **Elementary restricted special education (50915) licensure.** To be considered highly qualified in an elementary special education classroom grades one through six, the teacher will need to hold a restricted special education license and complete the praxis II tests 30522 and 10011. This license would not allow the teacher to qualify for a regular elementary classroom.
7. **Early childhood restricted special education (50937) licensure.** To be considered highly qualified in an early childhood special education classroom birth through grade three, the teacher will need to hold a restricted special education license and complete the praxis II tests ~~30522~~ 0621 and 10022. This license would not allow the teacher to qualify for a regular early childhood classroom.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espbfom, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 2004; amended effective April 1, 2006; July 1, 2008; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-08. Career and technical educator endorsements. The applicant wishing to apply for the career and technical educator endorsements must be licensed by the education standards and practices board to teach under North Dakota Century Code section 15.1-18-02 or 15.1-18-03. Prior to applying for the career and technical educator endorsement, the applicant must be approved by the career and technical educator state supervisor of special needs ~~or~~ and trade, technical, and health, or the state supervisor of information technology, or the state supervisor of diversified occupations through the review of work experience or college transcripts, development of a program of study, and completion of the career and technical educator endorsement form. The form, transcripts, and review fee of seventy-five dollars should be forwarded to the education standards and practices board office. Applicants may apply for the career and technical educator endorsements in career and technical resource educator endorsement, career and technical basic skills educator endorsement, career and technical teacher-student mentor endorsement, ~~or diversified occupations endorsements, trade, technical, and health endorsement, or the information technology endorsement.~~

History: Effective July 1, 2004; amended effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-09. Early childhood education endorsement (50037). The birth to grade three early childhood education endorsement may be completed by an applicant with a nonteaching degree in a related field or holding a valid North Dakota educator's professional license. The applicant must complete all requirements for initial licensure in section 67.1-02-02-02, submit a program of study from a state-approved teacher education program including thirty-two semester hours in early childhood education, twenty-two semester hours of professional education, and field experience or student teaching of ten weeks in grades kindergarten through grade three. If the applicant has completed a previous student teaching experience of ten weeks, the reeducation early childhood student teaching experience may be five weeks.

The early childhood education coursework must include six semester hours in child development and learning; three semester hours in building family and community relations; three semester hours in observation and assessment; eighteen semester hours in methods of mathematics, science, social studies, reading, language arts, early language literacy, and play; three semester hours in administration and leadership; twenty-two semester hours in education foundations, educational psychology, teaching and learning theory, educational

diagnosis and assessment, inclusive education, educational technology, classroom and behavioral management, and multicultural or native American studies specific to teaching; and field experience must include three supervised field experiences and two student teaching experiences for a minimum of ten weeks (five weeks student teaching for applicants with an existing teaching license). One student teaching experience must be in an accredited prekindergarten or kindergarten setting and the other in grade one, two, or three, and include the opportunity to work with children with special needs.

Effective July 1, 2006, all early childhood endorsement applicants will need to meet or exceed the cut scores for the praxis II early childhood education test and the praxis II principles of learning and teaching test.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return it to the board office with the official transcripts, and the review fee of seventy-five dollars.

History: Effective April 1, 2006; amended effective July 1, 2008; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-12. Special education endorsements. The applicant must request the appropriate endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

1. **Early childhood special education endorsement (19037).** The applicant wishing to apply for the early childhood special education endorsement must:
 - a. Hold a valid North Dakota educator's professional regular license in special education, early childhood education, or elementary education.
 - b. Complete a minimum of twenty-two semester hours primarily at the graduate level in the following core coursework: children with exceptional learning needs, assessment of students with disabilities or special needs or assessment of young children, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Early childhood special education coursework, including characteristics and introduction of young children, methods and materials of young children with disabilities, assessment of young children, development of young children, including the domains of social, emotional cognition, language and literacy, and physical and adaptive must also be completed. A two semester hour early childhood special education practicum or internship must be completed.

- c. The early childhood special education endorsement enables the applicant to teach early childhood special education birth through grade three.
 - d. A plan on file (formerly tutor in training) for the early childhood special education endorsement may be requested and must be completed within three years of assignment to teach early childhood special education. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the early childhood special education regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as an early childhood special education teacher, outlining how the endorsement will be completed within the three-year period.
2. **Emotional disturbance special education endorsement.** The applicant wishing to apply for the emotional disturbance special education endorsement must:
- a. Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education;
 - b. Complete a minimum of twenty-four semester hours primarily at the graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to emotional disturbance must also be completed, including characteristics and introduction of emotional disturbance, methods and materials of emotional disturbance, transition, inclusive settings, and assistive technology. A two semester hour practicum or internship in emotional disturbance must also be completed. Secondary prepared teachers must also complete methods in elementary reading and elementary mathematics.
 - c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
 - d. A plan on file (formerly tutor in training) for the emotional disturbance special education endorsement may be requested by the administrator and must be completed within three years of assignment to teach emotional disturbance special education.

The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the emotional disturbance regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as an emotional disturbance special education teacher, outlining how the endorsement will be completed within the three-year period.

- e. As an elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in emotional disturbance, the teacher would be qualified to:
 - (1) Teach in an elementary classroom;
 - (2) Teach or provide direct instruction to all elementary students with emotional disturbance;
 - (3) Teach or provide direct instruction to middle or high school students with emotional disturbance who are alternately assessed; or
 - (4) Consult kindergarten through grade twelve students with emotional disturbance.

- f. As a middle level licensed grades five through eight teacher in English, science, mathematics, or social studies with a special education endorsement in emotional disturbance, the teacher would be qualified to:
 - (1) Teach in a middle level classroom in the specific area of licensure;
 - (2) Teach or provide direct instruction to middle level students with emotional disturbance in the specific area of licensure;
 - (3) Teach or provide direct instruction to elementary, middle, or high school students with emotional disturbance who are alternately assessed; or
 - (4) Consult kindergarten through grade twelve students with emotional disturbance.

9. As a secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English and language arts, mathematics, science, or social studies with a special education endorsement in emotional disturbance, the teacher would be qualified to:
- (1) Teach in a secondary level classroom in the specific area of licensure;
 - (2) Teach or provide direct instruction to secondary level students with emotional disturbance in the specific area of licensure;
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school students with emotional disturbance who are alternately assessed; or
 - (4) Consult kindergarten through grade twelve students with emotional disturbance.
3. **~~Mental retardation~~ Intellectually disabled special education endorsement.** The applicant wishing to apply for the ~~mental retardation~~ intellectually disabled special education endorsement must:
- a. Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.
 - b. Complete a minimum of twenty semester hours at the undergraduate or graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to ~~mental retardation~~ intellectual disabilities must also be completed, including characteristics and introduction of ~~mental retardation~~ intellectual disabilities, methods and materials of ~~mental retardation~~ intellectual disabilities, transition, mental hygiene or psychology of adjustment or personality theory or abnormal psychology, and corrective reading. A two semester hour practicum or internship in ~~mental retardation~~ intellectual disabilities must also be completed. Secondary prepared teachers must also complete methods in elementary reading and elementary mathematics.
 - c. A plan on file (formerly tutor in training) for the ~~mental retardation~~ intellectual disabilities special education endorsement may be requested by the administrator and must be completed within three years of assignment to teach ~~mentally handicapped~~ intellectual disabilities special education. The plan on file request must include a letter requesting the endorsement from the administrator,

identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the ~~mental-retardation~~ intellectual disabilities regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a ~~mental-retardation~~ an intellectual disabilities special education teacher, outlining how the endorsement will be completed within the three-year period.

- d. Elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in ~~mental-retardation~~ intellectual disabilities, the teacher would be qualified to:
- (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all elementary students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities.
 - (3) Teach or provide direct instruction to middle or high school students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities.
- e. Middle level licensed grades five through eight in English, science, mathematics, or social studies with a special education endorsement in ~~mental-retardation~~ intellectual disabilities, the teacher would be qualified to:
- (1) Teach in a middle level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to middle level students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities in the specific area of licensure.
 - (3) Teach or provide direct instruction to middle school or high school students with ~~mental-retardation (developmental~~

~~or cognitive disabilities)~~ intellectual disabilities who are alternately assessed.

(4) Consult kindergarten through grade twelve students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities.

f. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in ~~mental retardation~~ intellectual disabilities, the teacher would be qualified to:

(1) Teach in a secondary level classroom in the specific area of licensure.

(2) Teach or provide direct instruction to secondary level students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities in the specific area of licensure.

(3) Teach or provide direct instruction in the specific area of licensure to middle school or high school students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities who are alternately assessed.

(4) Consult kindergarten through grade twelve students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities.

4. **Specific learning disabilities special education endorsement.** The applicant wishing to apply for the learning disabilities special education endorsement must:

a. Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.

b. Complete a minimum of twenty-four semester hours primarily at the graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to specific learning disabilities must also be completed, including characteristics and introduction of specific learning disabilities, methods and materials of specific learning disabilities, transition, inclusive settings, corrective reading methods, and assistive technology. A two semester hour practicum or internship

in specific learning disabilities must also be completed. Secondary prepared teachers must also complete methods in elementary reading and elementary mathematics.

- c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
- d. A plan on file (formerly tutor in training) for the specific learning disabilities special education endorsement may be requested by a letter from the administrator and must be completed within three years of assignment to teach specific learning disabilities special education. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the specific learning disabilities regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a specific learning disabilities special education teacher, outlining how the endorsement will be completed within the three-year period.
- e. Elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in specific learning disabilities, the teacher would be qualified to:
 - (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all elementary students with specific learning disabilities.
 - (3) Teach or provide direct instruction to middle or high school students with specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with specific learning disabilities.
- f. Middle level licensed grades five through eight teacher in English, science, mathematics, or social studies with a special education endorsement in specific learning disabilities, the teacher would be qualified to:
 - (1) Teach in a middle level classroom in the specific area of licensure.

- (2) Teach or provide direct instruction to middle level students with specific learning disabilities in the specific area of licensure.
 - (3) Teach or provide direct instruction to elementary, middle, or high school students with specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with specific learning disabilities.
9. Secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in specific learning disabilities:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to secondary level students with specific learning disabilities in the specific area of licensure.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school students with specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with specific learning disabilities.
5. **Special education strategist endorsement.** The applicant wishing to apply for the special education strategist endorsement must:
- a. Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.
 - b. Complete a minimum of thirty semester hours primarily at the graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to special education strategist must also be completed, including characteristics and introduction of specific learning disabilities, ~~mental retardation~~ intellectual disabilities, and emotional disturbance; methods and materials of ~~mental retardation~~ intellectual disabilities, specific learning disabilities, and emotional disturbance; transition, inclusive settings, corrective

reading methods, and assistive technology. Separate practicum or internship in each of specific learning disabilities, ~~mental retardation~~ intellectual disabilities, and emotional disturbance must also be completed. Secondary prepared teachers must also complete methods in elementary reading and elementary mathematics.

- c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
- d. A plan on file (formerly tutor in training) for the special education strategist endorsement may be requested by the administrator and must be completed within three years of assignment to teach. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the education strategist regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a special education strategist teacher, outlining how the endorsement will be completed within the three-year period.
- e. Elementary licensed grades one through eight or grades one through six teacher with a special education strategist endorsement in ~~mental retardation~~ intellectual disabilities, specific learning disabilities, and emotional disturbance:
 - (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all elementary students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.
 - (3) Teach or provide direct instruction to middle or high school students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with ~~mental retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.

- f. Middle level licensed grades five through eight teacher with a special education strategist endorsement in ~~mental-retardation~~ intellectual disabilities, specific learning disabilities, and emotional disturbance:
- (1) Teach in an elementary or a middle level classroom.
 - (2) Teach or provide direct instruction to all elementary or middle level students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.
 - (3) Teach or provide direct instruction to elementary, middle, or high school students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.
- g. Secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education strategist endorsement in ~~mental-retardation~~ intellectual disabilities, specific learning disabilities, and emotional disturbance:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to all elementary students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with ~~mental-retardation (developmental or cognitive disabilities)~~ intellectual disabilities, emotional disturbance, or specific learning disabilities.

6. Gifted and talented endorsement.

a. The applicant wishing to apply for the gifted and talented endorsement must:

- (1) Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.
- (2) Document one year of successful teaching in general education with a letter from the employing board.
- (3) Complete a minimum of seventeen semester hours at the graduate level in the following coursework: children with exceptional learning needs, assessment, consultation and collaboration, characteristics and introduction of education of gifted students, methods and materials of gifted education, and two semester hours in gifted education practicum or internship.
- (4) A plan on file (formerly tutor in training) for the gifted and talented endorsement may be requested by the administrator and must be completed within three years of assignment to teach. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the gifted and talented endorsement regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a special education gifted and talented teacher, outlining how the endorsement will be completed within the three-year period.

b. Elementary, middle, or secondary prepared teacher with an endorsement in gifted and talented education:

- (1) Teach in the specific area of licensure.
- (2) Consult in gifted and talented programs kindergarten through grade twelve.

7. Physical disabilities special education endorsement.

- a. The applicant wishing to apply for the physical disabilities special education endorsement must:
 - (1) Hold a valid, North Dakota educator's professional regular special education or physical education license.
 - (2) Complete a minimum of fifteen semester hours at the undergraduate or graduate level in the following coursework: exceptional children and youth, introduction to physical disabilities or orthopedics for teachers, methods and materials in teaching students with physical disabilities, at least one full course in another area of exceptionality, and student teaching in the area of physical disabilities.
- b. Elementary, middle, or secondary prepared teacher with a special education endorsement in physically handicapped:
 - (1) Teach in the specific area of licensure.
 - (2) Consult in physically handicapped kindergarten through grade twelve programs.

8. Visually impaired special education endorsement.

- a. The applicant wishing to apply for the visually impaired special education endorsement must:
 - (1) Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.
 - (2) Complete a minimum of twenty-two semester hours at the undergraduate or graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to visual impairment disabilities must also be completed, including characteristics and introduction of visual impairment disabilities, methods and materials of visual impairment disabilities, assessment of students with visual impairment, orientation and mobility, communication and media with students with visual impairment, and Braille instruction. A two semester hour practicum or internship must also be completed.
 - (3) A plan on file (formerly tutor in training) for the visually impaired endorsement may be requested by the administrator and must be completed within three years

of assignment to teach. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the visual impairment endorsement regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a special education teacher, outlining how the endorsement will be completed within the three-year period.

- b. Elementary licensed with a double major in elementary education and visually impaired or elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in visually impaired:
 - (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all elementary students with visual impairment.
 - (3) Teach or provide direct instruction to middle or high school students with visual impairment who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with visual impairment.

- c. Middle level licensed grades five through eight in English, science, mathematics, or social studies teacher with a special education endorsement in visually impaired:
 - (1) Teach in a middle level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to middle level students with visual impairment in the specific area of licensure.
 - (3) Teach or provide direct instruction to elementary, middle, or high school students with visual impairment who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with visual impairment.

d. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in visually impaired:

- (1) Teach in a secondary level classroom in the specific area of licensure.
- (2) Teach or provide direct instruction to secondary level students with visual impairment in the specific area of licensure.
- (3) Teach or provide direct instruction in the specific area of licensure to middle or high school students with visual impairment who are alternately assessed.
- (4) Consult kindergarten through grade twelve students with visual impairment.

9. Hearing-impaired (including deafness) special education endorsement.

a. The applicant wishing to apply for the hearing-impaired (including deafness) special education endorsement must:

- (1) Hold a valid North Dakota educator's professional regular license in special education or early childhood, elementary, middle, or secondary education.
- (2) Complete a minimum of twenty-eight semester hours at the undergraduate or graduate level in the following core coursework: exceptional children and youth, assessment of students with disabilities, behavior management of students with disabilities, legal aspects of special education, and consultation and collaboration. Coursework specific to deaf or hard of hearing must also be completed, including assessment of students with deaf and hard of hearing, transition, methods of teaching speech to deaf and hard of hearing children, methods of teaching language to deaf and hard of hearing children, methods of teaching reading and academic subject to deaf and hard of hearing children, characteristics of students with deaf and hard of hearing, audiology and oral rehabilitation, sign language. A two semester hour practicum or internship with children from birth to twenty-one must be completed.
- (3) The hearing-impaired (including deafness) special education endorsement may be attached to a regular education license.

- (4) A plan on file (formerly tutor in training) for the deaf or hard of hearing endorsement may be requested by the administrator and must be completed within three years of assignment to teach. The plan on file request must include a letter requesting the endorsement from the administrator, identification of the special education mentor, transcribed documentation of three semester hours of completed coursework in special education, and documentation of enrollment in an institution of higher education in two additional courses specific to the deaf and hard of hearing endorsement regardless of how many hours already transcribed in special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a special education deaf or hard of hearing teacher, outlining how the endorsement will be completed within the three-year period.
- b. Elementary licensed with a double major in elementary education and hearing-impaired or elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in hearing-impaired:
 - (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all elementary students with hearing impairment.
 - (3) Teach or provide direct instruction to middle or high school students with hearing impairment who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with hearing impairment.
 - c. Middle level licensed grades five through eight in English, science, mathematics, or social studies teacher with a special education endorsement in hearing-impaired:
 - (1) Teach in a middle level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to middle level students with hearing impairment in the specific area of licensure.
 - (3) Teach or provide direct instruction to elementary, middle, or high school students with hearing impairment who are alternately assessed.

- (4) Consult kindergarten through grade twelve students with hearing impairment.
- d. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies teacher with a special education endorsement in hearing-impaired:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to secondary level students with hearing impairment in the specific area of licensure.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school students with hearing impairment who are alternately assessed.
 - (4) Consult kindergarten through grade twelve students with hearing impairment.

10. **Resource room endorsement plan on file.**

- a. The applicant wishing to apply for the resource room special education endorsement must:
- (1) Hold a valid North Dakota educator's professional regular license in special education or elementary, middle, or secondary education.
 - (2) Hold a special education endorsement in either specific learning disabilities or ~~mental-retardation~~ intellectual disabilities.
 - (3) Submit a letter from the administrator requesting the resource room endorsement plan on file.
 - (4) Submit a plan to complete the following required coursework within three years of assignment in the resource room:
 - (a) A teacher with the ~~mental-retardation~~ intellectual disabilities endorsement would need to complete three additional courses in education of children with specific learning disabilities: assessment for special education and methods and materials for specific learning disabilities.

(b) A teacher with the specific learning disabilities endorsement would need to complete two additional courses in introduction to ~~mental-retardation~~ intellectual disabilities and methods and materials for ~~mental retardation~~ intellectual disabilities.

b. The resource room teacher should not have more than six students in the special classroom at any one time and must have time for consultation with general education teachers. If a greater number of students from one area of exceptionality than the other are enrolled, the teacher should hold the endorsement in the largest area of exceptionality.

11. Restricted emotional disturbance or restricted specific learning disabilities special education endorsement one-year plan on file.

a. The applicant wishing to apply for the restricted emotional disturbance or restricted specific learning disabilities special education endorsement must:

(1) Hold a valid restricted North Dakota educator's professional regular license in either specific learning disabilities or emotional disturbance.

(2) Submit a request for the restricted emotional disturbance or restricted specific learning disabilities from the local administrator.

(3) Document a plan to complete within one year the two additional graduate level courses in either emotional disturbance or specific learning disabilities, whichever is applicable to the applicant's transcribed undergraduate major. Courses must be a minimum of two graduate semester hours each in one seminar course and one practicum course in the appropriate area of special education (emotional disturbance or specific learning disabilities).

(4) The restricted emotional disturbance or restricted specific learning disabilities will only be issued once.

b. Reeducation for the special education endorsement must be completed prior to assignment to teach in the special education area. An official transcript documenting the coursework must be attached to the endorsement form. Effective July 1, 2009, all applicants for a special education endorsement must complete the

praxis II test in the special education areas meeting or exceeding the cut scores set by the education standards and practices board.

History: Effective July 1, 2008; amended effective July 1, 2010; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

**CHAPTER 67.1-02-04
ALTERNATIVE ACCESS LICENSES**

Section	
67.1-02-04-01	Alternative Access Licenses for Teacher Shortages
67.1-02-04-02	Interim Licenses for Substitute Teachers
67.1-02-04-03	Interim School Counselor
67.1-02-04-04	Forty-Day Provisional Licenses
67.1-02-04-05	Out-of-State Reciprocal Licensure [Repealed]
67.1-02-04-06	Trade, Industry, Technical, and Health Occupations Interim License
67.1-02-04-07	Clinical Practice Option
67.1-02-04-08	Out-of-State Highly Qualified License [Repealed]

~~**67.1-02-04-05. Out-of-state reciprocal licensure.** North Dakota has conditional reciprocity with other states. To receive out-of-state reciprocal licensure, an applicant must first hold a valid, current regular teaching certificate or license from another state, province, or similar jurisdiction or have completed a state-approved teacher education program and submit a completed application packet. Repealed effective July 1, 2012.~~

- ~~1. **Out-of-state reciprocal entrance requirements.** Those who apply to the education standards and practices board, meet the minimum reciprocity requirements, and submit a satisfactory plan for completing the remaining North Dakota requirements will be issued a two-year out-of-state reciprocal license which has a fee of seventy dollars. The minimum reciprocity qualifications are:
 - ~~a. A four-year bachelor's degree that includes a major that meets the issuing jurisdiction's requirements in elementary education, middle level education, or a content area taught in public high school;~~
 - ~~b. Completion of a professional education sequence from a state-approved teacher education program, including supervised student teaching;~~
 - ~~c. Fingerprint background check as required of all initial applicants; and~~
 - ~~d. Submission and education standards and practices board approval of a plan to complete all remaining requirements for full North Dakota licensure as stated in section 67.1-02-02-02. That plan will include the successful completion of the praxis II content test in the transcribed major area of early childhood, elementary, middle level, or the core academic areas. The praxis II test must be completed within the first two-year license period.~~~~

- ~~2. **Remaining North Dakota requirements.** An applicant will be notified of remaining requirements for full North Dakota licensure by the~~

~~education standards and practices board. All out-of-state applicants shall submit transcripts for review by the same criteria as North Dakota applicants. The applicant must provide official copies of transcripts from all the institutions of higher education the applicant has attended. The nonrefundable fee for the transcript review process is one hundred seventy-five dollars.~~

~~a. The transcript review fee may be deferred for the two-year substitute license. The fee is due upon application for the initial license and signing a North Dakota teaching contract.~~

~~b. The school district where the applicant will be a substitute must apply in writing for the deferment.~~

~~3. **Renewals.** The out-of-state reciprocal license is valid for two years and is renewable once, provided adequate progress toward completing the remaining requirements is documented and approved by the education standards and practices board. The interim reciprocal license will expire on the applicant's birthdate.~~

~~**History:** Effective March 1, 2000; amended effective August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2010.~~

~~**General Authority:** NDGG 15.1-13-09, 15.1-13-10~~

~~**Law Implemented:** NDGG 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-20, 15.1-13-21~~

~~**67.1-02-04-08. Out-of-state highly qualified license.** North Dakota educator licensure for out-of-state applicants requires the submission of a completed application pursuant to section 67.1-02-02-02 for the North Dakota professional educator's license, the submission to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14, the completion of a four-year bachelor's degree from a state-approved teacher education program in a North Dakota-recognized program area major, including a student teaching experience, documentation of a valid regular professional educator's license, content tests, submission of all fees for initial licensure pursuant to section 67.1-02-02-02, and documentation of meeting the issuing jurisdiction's requirements for the highly qualified teacher requirements of the No Child Left Behind Act of 2001 as provided by the United States department of education's monitoring process. Repealed effective July 1, 2012.~~

~~If the issuing jurisdiction has the same test code requirements of the praxis II content test, the applicant will be required to meet the North Dakota cut score.~~

~~If the out-of-state applicant has not met the highly qualified teacher requirements of the issuing jurisdiction for the No Child Left Behind Act of 2001 as documented by the United States department of education's monitoring process, that applicant will have to meet the requirements pursuant to this section through a transcript review analysis and all requirements pursuant to subsections 1, 2, and 3 of section 67.1-02-04-05.~~

The out-of-state highly qualified license will be renewed pursuant to section ~~67.1-02-02-04.~~

History: Effective ~~July 1, 2004;~~ amended effective ~~April 1, 2006;~~ ~~July 1, 2008.~~

General Authority: ~~NDCC 15.1-13-09, 15.1-13-10~~

Law Implemented: ~~NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-25, 15.1-13-26~~

CHAPTER 67.1-02-05 LICENSURE POLICIES

Section

67.1-02-05-01	Reciprocity of Suspensions and Revocations
67.1-02-05-02	Experience
67.1-02-05-03	Reserve Officers Training Corps Instructors
67.1-02-05-04	Endorsements, Added Degrees, and Restrictions
67.1-02-05-05	Foreign Transcripts and Special Needs
67.1-02-05-06	Levels of Licensure

67.1-02-05-02. Experience. Teaching experience in approved early childhood, kindergarten, elementary, middle level, secondary, and postsecondary teacher education programs and employment with the education standards and practices board, department of public instruction, or state board for vocational and technical education will be granted as experience for license renewal.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

67.1-02-05-04. Endorsements, added degrees, and restrictions. The North Dakota educator's professional license is issued as described in section 67.1-02-02-02. This license qualifies the holder for regular classroom teaching or for functioning in areas with the proper endorsements and restrictions as assigned. Degrees and endorsements in content areas of elementary, middle level, or secondary schools, educational pedagogy, or educational leadership must be obtained through regional or state-approved teacher education programs and meet North Dakota program approval standards for the content area.

- 1. Endorsements.** An individual holding a valid North Dakota teaching license may request endorsements in early childhood, kindergarten, elementary, middle school, bilingual, secondary, or content area minor equivalency endorsements or any other endorsement issued by the education standards and practices board. Specific requirements appear in chapter 67.1-02-03, regarding reeducation. A one-time, nonrefundable review fee of seventy-five dollars must accompany the request to add an endorsement.
- 2. New degrees.** A newly acquired major, minor, or new degree may be added between renewal periods by submitting official transcripts, a complete application form, including part six, completed by the college or university, and paying the regular renewal fee for those renewing two-year licenses or five-year licenses. An additional two-year or five-year extension, respectively, is added to the license expiration date at the time of the addition of the new major, minor, or degree.

3. **Added qualifications on life certificates.** An individual who holds a life certificate under section 67.1-02-02-01 may add degrees or endorsements to the education standards and practices board licensure records by submitting official transcripts and paying the review fee pursuant to subsection 2. An official duplicate of the life certificate showing the added degree will be issued to the life certificate holder at the time of the addition. Official duplicate copies of lost life certificates or renewable licenses will be provided at a cost to the holder of twenty dollars.

4. **Restricted licenses.** Programs that include a specialized rather than a regular professional education core are issued initial two-year licenses that restrict the holder to teaching in that specialty area. Applicants must submit the completed application form, original transcripts, fees, and fingerprint cards to the education standards and practices board prior to licensure.
 - a. Restricted licenses are issued to applicants with specialist or master's degrees in:
 - (1) School psychology. The prekindergarten through grade twelve school psychology restricted license will be issued to those applicants who have:
 - (a) Obtained a ~~master's~~ specialist degree in school psychology from a national association of school psychology-accredited institution; or
 - (b) Achieved the national certification of school psychologist certification. To qualify for the national certification of school psychologist license, the candidate must have successfully met the standards for training and field placement programs in school psychology, standards for the credentialing of school psychologist, standards for the provision of school psychological services, and principles of professional ethics.
 - (2) Speech-language pathology. The prekindergarten through grade twelve speech-language pathology restricted license will be issued to those applicants who have a master's degree in speech-language pathology or communication disorders, one hundred hours of school-based practicum, and have graduated from a program accredited by the council on academic accreditation of the American speech and hearing association. Applications for renewal of the bachelor level speech-language pathology license will be denied after July 1, 2010.

- (3) School counseling. The prekindergarten through grade twelve professional school counseling restricted license will be issued to those applicants who have professional education coursework in educational psychology; instructional planning, methods, and assessment; classroom management; and school-based field experience or practicum and completed one of the following master's programs from a state-approved counselor education program:
- (a) Master's degree in school counseling;
 - (b) Master's degree in counseling with emphasis in school counseling;
 - (c) Master's degree and graduate coursework equivalent to a master's degree in school counseling; or
 - (d) Master's degree in counseling and a program of study from an approved school counselor education program to complete the coursework requirements for the equivalent of a master's degree in school counseling, educational coursework in educational psychology, instructional planning, methods, and assessment, classroom management, and the school-based field experience or practicum within four years. Two 2-year licenses will be issued to those applicants while the requirements are being completed.
- b. Restricted licenses are issued to applicants with baccalaureate degrees in the following areas who do not also meet qualifications for regular early childhood, elementary, middle level, secondary, or kindergarten through grade twelve licenses as stated in section 67.1-02-02-02 that have completed the application form and submitted fees and transcripts, background investigation, and praxis II tests:
- (1) ~~Mental-retardation~~ Intellectual disabilities education (19006). The ~~mental-retardation intellectual disabilities~~ prekindergarten through grade twelve restricted license will be issued to those people qualifying for a valid North Dakota teaching license in special education who hold a bachelor of science degree major in ~~mental-retardation~~ intellectual disabilities. The applicant will only provide consultative services.
 - (2) Hearing-impaired education (19920). The hearing-impaired prekindergarten through grade twelve restricted license will be issued to those applicants who have a bachelor of science

degree major in education of the deaf with thirty-two hours of hearing-impaired qualifying coursework. The applicant will only provide consultative services.

- (3) Visually impaired education (19945). The visually impaired prekindergarten through grade twelve restricted license will be issued to those applicants who have a bachelor of science degree with a major in visually impaired and twenty-one through twenty-three semester hours in qualifying visually impaired coursework. The applicant will only provide consultative services.
- (4) Early childhood special education (19937). The early childhood special education restricted license birth through grade three will be issued to those applicants who have a baccalaureate degree in early childhood special education. The applicant will only provide consultative services.
- (5) All other special education categories require regular early childhood, elementary, middle, or secondary qualifications.
- (6) Career and technical education. The trade, industry, technical, and health occupations restricted license will be issued to applicants holding a baccalaureate level degree in career and technical education if that degree does not include the general education or regular professional education core as required for regular licensure under section 67.1-02-02-02, and is restricted to teaching in grades seven through grade twelve.
- (7) Reserve officers training corps. The reserve officers training corps license will be issued pursuant to section 67.1-02-05-03.
- (8) Native American language instruction.
 - (a) The native American language restricted kindergarten through grade twelve license will be issued to those applicants holding a baccalaureate level degree in native American language if that degree does not include the general education or regular professional education core as required for regular licensure under section 67.1-02-02-02 and has completed a three semester hour course in classroom instruction at a tribal college or other institution of higher education.
 - b. The native American language restricted kindergarten through grade twelve licensed will be issued to those applicants holding a baccalaureate level degree and

a native American language endorsement, including three semester hours in classroom instruction.

(9) Theological studies instruction (50040). The theological studies kindergarten through grade twelve license will be issued to those applicants holding a baccalaureate degree and is recommended for approval as an instructor of theological studies by the governing board or administration of a nonpublic school offering a theological studies course.

c. Restricted licenses are issued to those nondegreed applicants in:

(1) Career and technical education. Restricted licenses are issued for trade, industry, technical, and health occupations in accordance with section 67.1-02-04-06 and are restricted to teaching in grades nine through twelve.

(2) North Dakota American Indian language instructors as pursuant to North Dakota Century Code section 15.1-13-22 to those applicants who display competence in North Dakota American Indian languages and culture and are recommended for licensure to teach North Dakota native languages kindergarten through grade twelve by an indigenous language board created by a tribal government in this state and have completed a three semester hour course in classroom instruction at a tribal college or other institution of higher education.

d. Teachers with restricted licenses may teach or substitute teach only in the restricted specified area.

5. National board certification:

a. Definitions:

(1) ~~"Board" means the education standards and practices board.~~

(2) ~~"Certification" means national board certification as provided by the national board.~~

(3) ~~"National board" means the national board for professional teaching standards.~~

b. ~~Board duties. Based upon receiving state dollars, the board shall:~~

(1) ~~Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.~~

- ~~(2) Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.~~
- ~~(3) (a) Approve no more than seventeen state-funded applications per year;~~
- ~~(b) During each year of the biennium, reserve three of the available scholarships until October first for individuals teaching at low-performing schools. At that time, the three slots, if not filled, become available to other applicants;~~
- ~~(c) Require the recipient to serve during the school year as a full-time classroom teacher in a public or nonpublic school; and~~
- ~~(d) Require the recipient to participate in mentoring developed and implemented in the employing school or district.~~
- ~~(4) Ensure that all scholarship recipients receive adequate information regarding level of commitment required to acquire certification.~~
- ~~(5) If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.~~
- ~~(6) Recertification process. Collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board and:~~
- ~~(a) Approve no more than three scholarship applications per year under this subsection;~~
- ~~(b) Require each recipient for a scholarship under this subsection serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and~~
- ~~(c) If available, require each recipient to participate for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.~~

- e. ~~The board shall pay to any individual who received national board certification before July 1, 2007, one thousand dollars for each year the individual has maintained and continues to maintain national board certification, provided the individual continues to be employed by a school district in this state. An individual may not receive more than four thousand dollars under this subsection.~~

- d. ~~At the conclusion of each school year after the individual received national board certification, the board shall pay to an individual an additional one thousand state dollars for the life of the national board certificate if:~~
 - (1) ~~The individual was employed during the school year as a full-time classroom teacher by a school district in this state.~~

 - (2) ~~If available, require the participant for a scholarship under this section to participate in any efforts of the employing school district to develop and implement teacher mentoring programs.~~

 - (3) ~~The payment provided for in this subsection is available beginning with the 2007-08 school year.~~

- e. ~~As a prerequisite, the applicant must:~~
 - (1) ~~Have acquired a baccalaureate degree from a state-approved or accredited teacher education program;~~

 - (2) ~~Hold a valid North Dakota educator's professional license;~~

 - (3) ~~Have successfully completed three years of teaching at one or more elementary, middle, or secondary schools in North Dakota; and~~

 - (4) ~~Currently be a North Dakota kindergarten through grade twelve public or nonpublic classroom instructor.~~

- f. ~~The applicant may apply:~~
 - (1) ~~For the guide to national board certification, which includes the application process by contacting the education standards and practices board; and~~

 - (2) ~~For one-half of the application fee by submitting the completed application to the education standards and practices board by December first. Based upon availability of state funds, applications will be accepted and funded on a first-come, first-served basis. One-half of the application fee will be matched with federal dollars.~~

9. ~~Upon documented successful completion:~~

- ~~(1) The national board for professional teaching standards certification may be added between renewal periods for a fee as pursuant to the five-year renewal fee in section 67.1-02-02-04; and~~
- ~~(2) Additional years equivalent to the number of years left of national certification is also added to the license expiration date at the time of the addition of national board for professional teaching standards certification.~~

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008; July 1, 2010; July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03; S.L. 2001, ch. 173, § 16

CHAPTER 67.1-02-06
OTHER STATE LICENSES

Section

<u>67.1-02-06-01</u>	<u>Out-of-State Reciprocal Licensure</u>
<u>67.1-02-06-02</u>	<u>Out-of-State Highly Qualified License</u>
<u>67.1-02-06-03</u>	<u>Other State Educator License (OSEL)</u>

67.1-02-06-01. Out-of-state reciprocal licensure. North Dakota has conditional reciprocity with other states. To receive out-of-state reciprocal licensure, an applicant must first hold a valid, current regular teaching certificate or license from another state, province, or similar jurisdiction or have completed a state-approved teacher education program and submit a completed application packet.

1. **Out-of-state reciprocal entrance requirements.** Those who apply to the education standards and practices board, meet the minimum reciprocity requirements, and submit a satisfactory plan for competing the remaining North Dakota requirements will be issued a two-year out-of-state reciprocal license which has a fee of seventy dollars. The minimum reciprocity qualifications are:
 - a. A four-year bachelor's degree that includes a major that meets the issuing jurisdiction's requirements in elementary education, middle level education, or a content area taught in public high school;
 - b. Completion of a professional education sequence from a state-approved teacher education program, including supervised student teaching;
 - c. Fingerprint background check as required of all initial applicants; and
 - d. Submission and education standards and practices board approval of a plan to complete all remaining requirements for full North Dakota licensure as stated in section 67.1-02-02-02. That plan will include the successful completion of the praxis II content test in the transcribed major area of early childhood, elementary, middle level, or the core academic areas. The praxis II test must be completed within the first two-year license period.

2. **Remaining North Dakota requirements.** An applicant will be notified of remaining requirements for full North Dakota licensure by the education standards and practices board. All out-of-state applicants shall submit transcripts for review by the same criteria as North Dakota applicants. The applicant must provide official copies of transcripts from all the institutions of higher education the applicant has attended. The nonrefundable fee for the transcript review process is one hundred seventy-five dollars.

- a. The transcript review fee may be deferred for the two-year substitute license. The fee is due upon application for the initial license and signing a North Dakota teaching contract.
 - b. The school district where the applicant will be a substitute must apply in writing for the deferment.
3. Renewals. The out-of-state reciprocal license is valid for two years and is renewable once, provided adequate progress toward completing the remaining requirements is documented and approved by the education standards and practices board. The interim reciprocal license will expire on the applicant's birthdate.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-20, 15.1-13-21

67.1-02-06-02. Out-of-state highly qualified license. North Dakota educator licensure for out-of-state applicants requires the submission of a completed application pursuant to section 67.1-02-02-02 for the North Dakota professional educator's license, the submission to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14, the completion of a four-year bachelor's degree from a state-approved teacher education program in a North Dakota-recognized program area major, including a student teaching experience, documentation of a valid regular professional educator's license, content tests, submission of all fees for initial licensure pursuant to section 67.1-02-02-02, and documentation of meeting the issuing jurisdiction's requirements for the highly qualified teacher requirements of the No Child Left Behind Act of 2001 as provided by the United States department of education's monitoring process.

If the issuing jurisdiction has the same test code requirements of the praxis II content test, the applicant will be required to meet the North Dakota cut score.

If the out-of-state applicant has not met the highly qualified teacher requirements of the issuing jurisdiction for the No Child Left Behind Act of 2001 as documented by the United States department of education's monitoring process, that applicant will have to meet the requirements pursuant to this section through a transcript review analysis and all requirements pursuant to subsections 1, 2, and 3 of section 67.1-02-04-05.

The out-of-state highly qualified license will be renewed pursuant to section 67.1-02-02-04.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-25, 15.1-13-26

67.1-02-06-03. Other state educator license (OSEL). North Dakota other state educator licensure will be issued to those applicants who hold a regular teaching license or certificate in early childhood, elementary, middle, or secondary education from another state and requires the submission of a completed application pursuant to section 67.1-02-02-02 for the North Dakota professional educator's license, the submission to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14, the completion and documentation of a four-year bachelor's degree from a state-approved teacher education program in a North Dakota-recognized program area major, including the professional education sequence and a student teaching experience, submission of all fees for initial licensure pursuant to section 67.1-02-02-02, and documentation of a valid regular professional educator's license from the issuing state.

A license granted under this section is valid for two years if the applicant has not been licensed in another state for at least eighteen months. If the applicant received a teaching license or certificate from another state on or after January 1, 2002, and if the issuing state did not require that the individual pass a state test as a condition of licensure or certification, the board shall require that the individual, within two years from the date of the license, pass all state licensure tests normally required of applicants from this state.

In all other cases, a license granted under this section is valid for five years and is renewable if the licenseholder meets the reeducation requirements established for all five-year license renewals.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-25, 15.1-13-26

CHAPTER 67.1-03-02
FINE FOR PRACTICING WITHOUT A LICENSE

Section

67.1-03-02-01

Fine for Practicing Without a License

67.1-03-02-01. Fine for practicing without a license. The education standards and practices board may impose a fine against any individual without a valid license for any position requiring a valid professional educator's license in accordance with section 67.1-02-01-03.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-03-17

Law Implemented: NDCC 15.1-13-17

CHAPTER 67.1-03-03
APPLICATION DENIAL AND APPEAL

Section

67.1-03-03-01 **Application Denial and Appeal**

67.1-03-03-01. Application denial and appeal. The education standards and practices board may deny an application for issuance of a license made by an applicant in accordance with section 67.1-02-02-06.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-06, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

ARTICLE 67.1-04

PROFESSIONAL DEVELOPMENT

Chapter

<u>67.1-04-01</u>	<u>State Model for Inservice Education and Professional Development</u>
<u>67.1-04-02</u>	<u>Professional Development for Licensure Renewal</u>
<u>67.1-04-03</u>	<u>National Board for Professional Teaching Standards Certification</u>
<u>67.1-04-04</u>	<u>Teacher Support Program</u>

CHAPTER 67.1-04-01

STATE MODEL FOR INSERVICE EDUCATION AND PROFESSIONAL DEVELOPMENT

Section

<u>67.1-04-01-01</u>	<u>State Model for Inservice Education and Professional Development</u>
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67.1-04-01-01. State model for inservice education and professional development. The education standards and practices board shall adopt a model for inservice education and professional development. The model must include the assessment of statewide and professional development needs, a projection of programs responsive to those needs, and the identification of the resources needed to implement those programs.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09

Law Implemented: NDCC 15.1-13-08

CHAPTER 67.1-04-02
PROFESSIONAL DEVELOPMENT FOR LICENSURE RENEWAL

Section

67.1-04-02-01 Professional Development for Licensure Renewal

67.1-04-02-01. Professional development for licensure renewal.

All professional development relicensure credits must meet the professional development requirements approved by the education standards and practices board in accordance with section 67.1-02-02-05.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09

Law Implemented: NDCC 15.1-13-08

CHAPTER 67.1-04-03
NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS
CERTIFICATION

Section

67.1-04-03-01

National Board Certification

67.1-04-03-01. National board certification.

1. Definitions.

- a. "Board" means the education standards and practices board.
- b. "Certification" means national board certification as provided by the national board.
- c. "National board" means the national board for professional teaching standards.

2. Board duties. Based upon receiving state dollars, the board shall:

- a. Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.
- b. Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.
- c. Approve no more than seventeen state-funded applications per year.
- d. During each year of the biennium, reserve three of the available scholarships until October first for individuals teaching at low-performing schools. At that time, the three slots, if not filled, become available to other applicants.
- e. Require the recipient to serve during the school year as a full-time classroom teacher in a public or nonpublic school.
- f. Require the recipient to participate in mentoring developed and implemented in the employing school or district.
- g. Ensure that all scholarship recipients receive adequate information regarding level of commitment required to acquire certification.
- h. If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the

board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.

3. Recertification process.

- a. Collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board;
- b. Approve no more than three scholarship applications per year under this subsection;
- c. Require each recipient for a scholarship under this subsection serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
- d. If available, require each recipient of a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.

4. Stipends.

- a. The board shall pay to any individual who received national board certification before July 1, 2007, one thousand dollars for each year the individual has maintained and continues to maintain national board certification, provided the individual continues to be employed by a school district in this state. An individual may not receive more than four thousand dollars under this subsection.
- b. At the conclusion of each school year after the individual received national board certification, the board shall pay to an individual an additional one thousand state dollars for the life of the national board certificate, if:
 - (1) The individual was employed during the school year as a full-time classroom teacher by a school district in this state.
 - (2) If available, require the participant for a scholarship under this section to participate in any efforts of the employing school district to develop and implement teacher mentoring programs.
- c. The payment provided for in this subsection is available beginning with the 2007-08 school year.
- d. As a prerequisite, the applicant must:
 - (1) Have acquired a baccalaureate degree from a state-approved or accredited teacher education program;

- (2) Hold a valid North Dakota educator's professional license;
 - (3) Have successfully completed three years of teaching at one or more elementary, middle, or secondary schools in North Dakota; and
 - (4) Currently be North Dakota kindergarten through grade twelve public or nonpublic classroom instructors.
- e. The applicant may apply for the guide to national board certification, which includes the application process by contacting the education standards and practices board, and for one-half of the application fee by submitting the completed application to the education standards and practices board by December first. Based upon availability of state funds, applications will be accepted and funded on a first-come, first-served basis. One-half of the application fees will be matched with federal dollars.
5. **Successful completion.** Upon documented successful completion, the national board for professional teaching standards certification may be added between renewal periods for a fee as pursuant to the five-year renewal fee in section 67.1-02-02-04, and additional years equivalent to the number of years left of national certification is also added to the license expiration date at the time of the addition of national board for professional teaching standards certification.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03

CHAPTER 67.1-04-04
TEACHER SUPPORT PROGRAM

Section

<u>67.1-04-04-01</u>	<u>Establishment</u>
<u>67.1-04-04-02</u>	<u>Recipients</u>
<u>67.1-04-04-03</u>	<u>Availability of Services</u>

67.1-04-04-01. Establishment.

1. **Duties.** The education standards and practices board shall:
 - a. Establish and administer a teacher support program; and
 - b. Employ an individual to serve as a teacher support program coordinator.
2. **Educator mentor program.** The board shall select and train experienced teachers who will serve as mentors for first-year teachers and assist the first-year teachers with instructional skills development.
3. **Coaching.** The board shall select and train experienced teachers who will work with administrators to identify the needs of nonfirst-year teachers using research-validated interventions and proven instructional methods.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03; S.L. 2001, ch. 173, § 16

67.1-04-04-02. Recipients. The education standards and practices board may provide support services to teachers employed by:

1. School districts;
2. Special education units;
3. Area career and technology centers;
4. Regional education associations; and
5. Schools funded by the bureau of Indian education.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03; S.L. 2001, ch. 173, § 16

67.1-04-04-03. Availability of services. The education standards and practices board will use available moneys it receives for the teacher support system to provide staff compensation, training, evaluation, and stipends for mentors and experienced teachers who assist first-year and nonfirst-year teachers participating in the program, and to pay for any other administrative expenses resulting from the program; provided, however, that the board may not expend more than five percent of the moneys for administrative purposes.

History: Effective July 1, 2012.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03; S.L. 2001, ch. 173, § 16

TITLE 75
DEPARTMENT OF HUMAN SERVICES

JULY 2012

CHAPTER 75-02-05
PROVIDER INTEGRITY

Section	
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75-02-05-01. Purpose. The purpose underlying administrative remedies and sanctions in the medical assistance (medicaid) program is to ~~assure~~ ensure the proper and efficient utilization of medicaid funds by those individuals providing medical, ~~dental~~, and other health services and goods to recipients of public medical assistance and medically indigent persons.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: NDCC 50-24.1-01

75-02-05-02. Authority and objective. Under authority of North Dakota Century Code chapter 50-24.1, the department of human services is empowered to promulgate such rules and regulations ~~as are~~ necessary to qualify for federal funds under section 1901 specifically, and title XIX generally of the Social Security Act. These ~~regulations~~ rules are subject to the medical assistance state plan and to applicable federal regulation and state law and regulation.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-06-05.1, 50-24.1-04

Law Implemented: NDCC 50-24.1-04

75-02-05-03. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Abuse" means practices that:
 - a. Are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to medicaid;
 - b. Elicit reimbursement for services that are not medically necessary;
 - c. Are in violation of an agreement or certificate of coverage; or
 - d. Fail to meet professionally recognized standards for health care.
4. ~~2.~~ "Administrative or fiscal agent" means an organization which processes and pays provider claims on behalf of the ~~division of medical services~~ department.
2. ~~3.~~ "Affiliates" means persons having an overt or covert relationship each with the other such that any one of them directly or indirectly controls or has the power to control another.
4. "Business integrity agreement" means an agreement between the department and the provider that addresses the concerns of the department and recognizes essential elements of required compliance for the provider to preempt further sanction, exclusion from participation, or termination.
5. "Client share" means the amount of monthly net income remaining after all appropriate deductions, disregards, and medicaid income levels have been allowed. This is also referred to as recipient liability.
3. ~~6.~~ "Closed-end medicaid provider agreement" means an agreement that is for a specified period of time not to exceed twelve months.
7. "Credible allegation of fraud" means an allegation which has been verified by the department.
8. "Department" means the department of human services.
9. "Division" means the medical services division of the department.
4. ~~10.~~ "Exclusion from participation" means permanent removal from provider participation in the North Dakota medical assistance program.
11. "Fraud" means deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to that person or another and includes an act that constitutes fraud under applicable federal or state law.

12. "Licensed practitioner" means an individual, other than a physician who is licensed pursuant to North Dakota Century Code chapter 43-17, or otherwise authorized by the state to provide health care services.
- 5- 13. "Medicaid" means "medical assistance" and is a term precisely equivalent thereto.
- 6- 14. "Offsetting of payments" means a reduction or other adjustment of the amounts paid to a provider on pending and future bills for purposes of offsetting overpayments previously made to the provider.
- 7- 15. "Open-end medicaid provider agreement" means an agreement that has no specific termination date and continues in force as long as it is agreeable to both parties.
- 8- 16. "Person" means any natural person, company, firm, association, corporation, or other legal entity.
- 9- 17. "Provider" means any individual or entity furnishing medicaid services under a provider agreement with the division of medical services.
18. "Sanction" means an action taken by the division against a provider for noncompliance with a federal or state law, rule, or policy, or with the provisions of the North Dakota medicaid provider agreement.
- 10- 19. "Suspension from participation" means temporary suspension of provider participation in the North Dakota ~~medical assistance~~ medicaid program for a specified period of time.
- 11- 20. "Suspension of payments" means the withholding of payments due a provider until ~~the resolution of the matter in dispute between the provider and the division of medical services~~ is resolved.
21. "Termination" means determining a provider to be indefinitely ineligible to be a medicaid provider.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: ~~42 CFR 431.1~~; 42 CFR 431.107

75-02-05-04. Provider responsibility. ~~In order to~~ To assure the highest quality medical care and services, medicaid payments ~~shall~~ may be made only to providers meeting established standards. Providers who are certified for participation in medicare ~~shall be automatically approved~~ are eligible for participation, providing no sanction has been imposed as provided for in section 75-02-05-08. Comparable standards for providers who do not participate in medicare are established by state law and appropriate licensing and standard-setting authorities in the health and mental health fields.

1. Payment for covered services under medicaid is limited to those services ~~certified as that are~~ medically necessary in the judgment of a qualified physician or other practitioner, for the proper management, control, or treatment of an individual's medical problem and provided under the physician's or licensed practitioner's direction and supervision.
2. ~~Providers agree~~ Each provider agrees to keep retain documentation to support medical services rendered for a minimum of seven years and, upon request, to make the documentation available to persons acting on behalf of the division of medical services department and the United States department of health and human services, such. A provider shall provide the records as they may, from time to time, deem necessary and proper at no charge.
3. A provider must accept, as payment in full, the amounts paid in accordance with the payment structure established ~~for medicaid by the department.~~ A provider performing a procedure or service may not request or receive any payment, in addition to such the amounts established amounts by the department, from the recipient, or anyone acting on the recipient's behalf, for the same procedure or service. In cases where a ~~recipient liability~~ client share has been properly determined by a county social service board, the provider may hold the recipient responsible for a ~~portion of the allowable fee~~ client share.
4. No medicaid payment will be made for claims received by the ~~division of medical services department~~ later than twelve months following the date the service was provided ~~except that any periods of time exceeding thirty days, from the time a provider requests an authorization to the time the authorization is sent to the provider, shall be added to the twelve months.~~
5. The department will process claims six months past the medicare explanation of benefits date if the provider followed medicare's timely filing policy.
- 5- 6. In all joint medicare/medicaid cases, a provider ~~of service~~ must accept assignment of medicare payment ~~in order to receive payment from medicaid for amounts not covered by medicare.~~
- 6- 7. When the recipient has other medical insurance, all benefits available ~~due to such~~ from that other insurance must be applied prior to the ~~acceptance of provider accepting~~ payment by medicaid.
- 7- 8. ~~Providers~~ A provider may not offer or accept a fee, portion of a fee, charge, rebate, or kickback for a medicaid patient referral.

- 8- ~~9.~~ 9. Claims for payment and documentation ~~as required~~ must be submitted ~~on forms prescribed~~ as required by the ~~division of medical services department~~ or its designee.
- 9- ~~10.~~ 10. A provider ~~must~~ shall comply with all accepted standards of professional conduct and practice in dealing with recipients and the ~~division of medical services department~~.
11. A provider may not bill a recipient for services that are allowable under medicaid, but not paid due to the provider's lack of adherence to medicaid requirements.
12. Each provider shall comply with all applicable centers for medicare and medicaid services regulations.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: 42 CFR 431.107

75-02-05-05. Grounds for sanctioning providers. Sanctions may be imposed by the ~~division of medical services~~ against a provider who:

1. Presents or causes to be presented for payment any false or fraudulent claim for care or services.
2. Submits or causes to be submitted false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled.
3. Submits or causes to be submitted false information for the purpose of meeting prior authorization requirements.
4. Submits a false or fraudulent application to obtain provider status.
5. Fails to disclose or make available to the ~~division of medical services department~~ or its authorized agent records of services provided to medicaid recipients and records of payments received for those services.
6. Fails to provide and maintain services to medicaid recipients within accepted medical ~~community and industry~~ standards ~~as adjudged by a body of peers~~.
7. Fails to comply with the terms of the medicaid provider agreement or provider certification agreement which is printed on the medicaid claim form.

8. Overutilizes the medicaid program by inducing, furnishing, or otherwise causing a recipient to receive care and services that are not required by the recipient medically necessary.
9. Rebates or accepts a fee or portion of a fee or charge for a medicaid patient referral.
10. Is convicted of a criminal offense arising out of the practice of medicine ~~in a manner which resulted in death or injury to a patient~~.
11. Fails to comply and to maintain compliance with all regulations and statutes, both state and federal, which are applicable to the ~~applicant's/licensee's~~ provider's profession, business, or enterprise.
12. ~~Is suspended or involuntarily terminated~~ excluded from participation in medicare.
13. Is suspended, excluded from participation, terminated, or sanctioned by any other state's medicaid program.
- ~~13- 14.~~ 14. Is suspended or involuntarily terminated from participation in any governmentally sponsored medical program ~~such as workmen's compensation, crippled children's services, rehabilitation services, and medicare~~.
- ~~14- 15.~~ 15. Bills or collects from the recipient any amount in violation of section 75-02-05-04.
- ~~15- 16.~~ 16. Fails to correct deficient provider operations within a reasonable time, not to exceed thirty days, after receiving written notice of these deficiencies from the division of ~~medical services, other~~ another responsible state ~~agencies~~ agency, or their designees.
- ~~16- 17.~~ 17. Is formally reprimanded or censured by an association of the provider's peers for unethical practices.
- ~~17- 18.~~ 18. Fails to change or modify delivery patterns and services within a reasonable period after receipt of a request so to do by a peer review committee whose jurisdiction includes the provider.
- ~~18- 19.~~ 19. Is convicted of a criminal offense arising out of the making of false or fraudulent statements or of an omission of fact for the purpose of securing any governmental benefit to which the provider is not entitled, or out of conspiring, soliciting, or attempting such an action.
- ~~19- 20.~~ 20. Refuses to repay or make arrangements for the repayment of identified overpayments or otherwise erroneous payments. A refusal of repayment exists if no repayment or arrangement for repayment is

made within thirty days of the date written notice of discrepancy was sent.

- ~~20:~~ 21. Is served with a search warrant by a member of any law enforcement agency for the purpose of obtaining evidence of a crime of fraud committed; by that provider; against the medical assistance program, or is charged with such a crime, provided that no provider may be terminated from participation in the medical assistance program on such grounds.
22. Refuses to attend a division educational program or fails to agree to implement a business integrity agreement, if required by the division.
23. Defrauds any health care benefit program.

History: Effective July 1, 1980; amended effective November 1, 1983; July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: NDCC 12.1-11-02; ~~42 CFR 455.11;~~ 42 CFR 455.13, 42 CFR 455.16, 42 CFR 431.107

75-02-05-06. Reporting of violations and investigation.

1. Information from any source indicating that a provider has failed or is failing to fulfill the provider's responsibilities, as set forth in section 75-02-05-04; or that a provider has acted ~~or omitted to act~~ in a manner which forms a ground for sanction as set forth in section 75-02-05-05 shall must be transmitted to the division of medical services.
2. The division shall ~~forthwith~~ investigate the matter and, ~~should if~~ the report ~~be is~~ substantiated, shall take whatever action or impose whatever sanction is ~~deemed~~ most appropriate. The taking of any action or the imposition of any sanction shall does not preclude subsequent or simultaneous civil or criminal court action.
3. a. The division may investigate suspected fraud or abuse. The division may conduct an investigation to determine whether:
 - (1) Fraud or abuse exists and can be substantiated;
 - (2) Sufficient evident exists to support the recovery of overpayments or the imposition of sanctions; or
 - (3) The matter should be referred for action by another agency, including a law enforcement agency, to determine whether sufficient evidence exists to pursue any other civil or criminal action permitted by law.
- b. The division may undertake an investigation to:

- (1) Examine a provider's medical, financial, or patient records;
 - (2) Interview a provider and a provider's associates, agents, or employees;
 - (3) Verify a provider's professional credentials and the credentials of the provider's associates, agents, and employees;
 - (4) Interview recipients;
 - (5) Examine equipment, prescriptions, supplies, or other items used in a recipient's treatment;
 - (6) Sample a random mix of paid claims, prior authorizations, and medical records;
 - (7) Determine whether services provided to a recipient were medically necessary;
 - (8) Examine insurance claims or records or records of any other source of payment, including recipient payments; or
 - (9) The division may refer the case to the appropriate authority for further investigation and prosecution.
4. The division may contract with specialists outside the department as part of the investigation.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: 42 CFR 455.14; 42 CFR 455.15; 42 CFR 455.16

75-02-05-07. ~~Resolution~~ prior Activities leading to and including sanction.

1. a. When the ~~staff of the division of medical services~~ determines that a provider has been rendering care or services in a form or manner inconsistent with program ~~regulations~~ requirements or rules, or has received payment for which the provider may not be properly entitled, the ~~division of medical services may~~ shall notify the provider in writing of the discrepancy noted. The notice to the provider ~~will~~ may set forth:
 - a: (1) The nature of the discrepancy or inconsistency.
 - b: (2) The dollar value, if any, of such discrepancy or inconsistency.
 - c: (3) The method of computing such dollar values.

- d. (4) Further actions which the division may take.
 - e. (5) Any action which may be required of the provider.
2. b. When the division of medical services has notified the provider in writing of a discrepancy or inconsistency, it may withhold payments on pending and future claims in an amount reasonably calculated to approximate the amounts in question pending awaiting a response from the provider. If the division of medical services and the provider are able to satisfactorily resolve the matter, sanctions shall not be imposed.
2. If the department determines that a provider's claims were not submitted properly or that a provider has engaged in suspected fraud or abuse, the division may require the provider to participate in and complete an educational program.
- a. If the division decides that a provider should participate in an educational program, the division shall provide written notice to the provider, by certified mail, setting forth the following:
 - (1) The reason the provider is being directed to attend the educational program;
 - (2) The educational program determined by the division; and
 - (3) That continued participation as a provider in medicaid is contingent upon completion of the educational program identified by the division.
 - b. An educational program may be presented by the department. The educational program may include:
 - (1) Instruction on the correct submission of claims;
 - (2) Instruction on the appropriate utilization of services;
 - (3) Instruction on the correct use of provider manuals;
 - (4) Instruction on the proper use of procedure codes;
 - (5) Education on statutes, rules, and regulations governing the medicaid program;
 - (6) Education on reimbursement rates and payment methodologies;
 - (7) Instructions on billing or submitting claims; and

(8) Other educational tools identified by the division.

3. If a provider who is required to participate in an educational program refuses to participate in that program, the department shall suspend the provider from participation in medicaid until the provider successfully completes the required program. The timeframe to successfully complete the educational program may be extended upon provider request and with department approval.
4. If the department determines that a provider's claims were not submitted properly or that a provider has engaged in suspected fraud or abuse, the division of medical services may require the provider to implement a business integrity agreement. If the department requires a provider to enter a business integrity agreement and the provider refuses, the department shall ensure the provider is suspended from participation in medicaid until the provider implements the required agreement.
5. The division shall suspend all medicaid payments to a provider after the division determines there is a credible allegation of fraud for which an investigation is pending under the medicaid program unless the provider has demonstrated good cause why the division should not suspend payments or should suspend payment only in part.
6. The director of the division, or the director's designee, shall determine the appropriate sanction for a provider under this chapter. The following may be considered in determining the sanction to be imposed:
 - a. Seriousness of the provider's offense.
 - b. Extent of the provider's violations.
 - c. Provider's history of prior violations.
 - d. Prior imposition of sanctions against the provider.
 - e. Prior provision of information and training to the provider.
 - f. Provider's agreement to make restitution to the department.
 - g. Actions taken or recommended by peer groups or licensing boards.
 - h. Access to care for recipients.
 - i. Provider's self-disclosure or self-audit discoveries.
 - j. Provider's willingness to enter a business integrity agreement.
7. When a provider has been excluded from the medicare program, the provider will also be terminated or excluded from participation.

8. If the division determines there is a credible allegation of fraud, the division may impose any one or a combination of the following temporary sanctions:
 - a. Prepayment review of claims;
 - b. Postpayment review of claims;
 - c. Recovery of costs associated with an investigation;
 - d. Requirement of a provider self-audit;
 - e. Notification and referral to the appropriate state regulatory agency or licensing agency;
 - f. Suspension from participation in the medicaid program and withholding of payments to a provider;
 - g. Prior authorization of all services; and
 - h. Peer review at the provider's expense.

9. After the completion of a further investigation, the division shall document its findings in writing and provide a copy of that documentation to the provider. Following a determination by the division that the provider has engaged in fraud or abuse, the division may terminate, exclude or impose sanctions with conditions, including the following:
 - a. Recovery of overpayments;
 - b. Recovery of excess payments;
 - c. Recovery of costs associated with an investigation;
 - d. Requirement of a provider self-audit;
 - e. Prepayment review of claims;
 - f. Postpayment review of claims;
 - g. Notification and referral to the appropriate state regulatory agency or licensing agency;
 - h. Prior authorization of all services;
 - i. Penalties as established by the department; and

j. Peer review at the provider's expense.

10. A sanction may be applied to all known affiliates of a provider, provided that each sanctioned affiliate knew or should have known of the violation.
11. A provider subject to termination or exclusion from participation may not submit claims for payment, either personally or through claims submitted by any clinic, group, corporation, or other association to the department or its fiscal agent for any services or supplies provided under the medicaid program except for any services or supplies provided prior to the effective date of the termination or exclusion.
12. A clinic, group, corporation, or other organization which is a provider may not submit claims for payment to the department or its fiscal agent for any services or supplies provided by a person within the clinic, group, corporation, or organization who has been terminated or is under exclusion from participation in this state or any other state or who has been excluded from medicare except for those services or supplies provided prior to the effective date of the termination or exclusion.
13. When the division determines there is a need to sanction a provider, the director of the division, or the director's designee, shall notify the provider in writing of the sanction imposed. The notice must advise the provider of the right of appeal, when applicable.
14. After the division sanctions a provider, the director of the division may notify the applicable professional society, board of registration or licensure, and any appropriate federal, state, or county agency of the reasons for the sanctions and the sanctions imposed.
15. If the department sanctions a provider who also serves as a billing agent for other providers, the department may also impose sanctions against the other providers upon a finding that the actions performed as the billing agent fails to meet department standards.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1 04

Law Implemented: NDCC 50-24.1-04; 42 CFR 455.13, 42 CFR 455.14, 42 CFR 455.15, 42 CFR 455.16, 42 CFR 455.17, 42 CFR 455.23

75-02-05-08. Imposition and extent of sanction. Repealed effective July 1, 2012.

~~4. Imposition of sanction:~~

- ~~a. The determination of appropriate sanction shall be at the discretion of the director of the division of medical services or the director's designee.~~

- b. ~~The following factors shall be considered in determining the sanction to be imposed:~~
 - (1) ~~Seriousness of the offense.~~
 - (2) ~~Extent of the violations.~~
 - (3) ~~History of prior violations.~~
 - (4) ~~Prior imposition of sanctions.~~
 - (5) ~~Prior provision of provider information and training.~~
 - (6) ~~Provider willingness to adhere to program rules.~~
 - (7) ~~Agreement to make restitution.~~
 - (8) ~~Actions taken or recommended by peer groups or licensing boards.~~
- c. ~~When a provider has been suspended or involuntarily terminated from the medicare program, the director of the division of medical services or the director's designee shall impose the same sanction as that imposed by medicare.~~
- d. ~~A provider convicted of a violation of North Dakota Century Code section 12.1-24-03 shall be suspended from further participation in the medicaid program for a period of at least thirty days, or shall be terminated from participation in the medicaid program.~~

2. ~~Scope of sanction.~~

- a. ~~One or more of the following sanctions may be imposed on providers who become subject to sanction:~~
 - (1) ~~Termination from participation in the medicaid program.~~
 - (2) ~~Suspension from participation in the medicaid program.~~
 - (3) ~~Suspension or withholding of payments to a provider.~~
 - (4) ~~Transfer to a closed-end provider agreement not to exceed twelve months.~~
 - (5) ~~Mandatory attendance at provider information sessions.~~
 - (6) ~~Prior authorization of services.~~

- (7) ~~One hundred percent review of the provider's claims prior to payment.~~
- (8) ~~Referral to the state licensing board or other appropriate body for investigation.~~
- (9) ~~Referral to peer review.~~
- b. ~~A sanction may be applied to all known affiliates of a provider, provided that each affiliate so sanctioned knew or should have known, had the affiliate properly carried out the affiliate's official duties, of the violation, failure or inadequacy of performance for which the sanction is imposed.~~
- c. ~~No provider who is subject to suspension or termination from participation shall submit claims for payment, either personally or through claim submitted by any clinic, group, corporation, or other association to the division of medical services or its fiscal agent for any services or supplies provided under the medicaid program except for any services or supplies provided prior to the effective date of the suspension or termination.~~
- d. ~~No clinic, group, corporation, or other organization which is a provider of services shall submit claims for payment to the division of medical services or its fiscal agent for any services or supplies provided by a person within such organization who has been suspended or terminated from participation in the medicaid program except for those services and supplies provided prior to the effective date of the suspension or termination.~~
- e. ~~Claims submitted in violation of subdivisions c and d will be returned without processing. The submission of such claims may subject the person or organization submitting to sanction.~~

3. ~~Notice of sanction.~~

- a. ~~When a provider has been sanctioned, the director of the division of medical services or the director's designee shall notify the provider in writing of the sanction imposed. Such notice will also advise the provider of the right of appeal.~~
- b. ~~When a provider has been sanctioned, the director of the division of medical services may notify, as appropriate, the applicable professional society, board of registration or licensure, and federal, state, or county agencies of the findings made and the sanctions imposed.~~
- c. ~~When a provider's participation in the medicaid program has been suspended or terminated, the director of the division of medical~~

~~services or the director's designee will notify the counties from whom the provider has requested claims for services, that such provider has been suspended or terminated. Each county agency so notified shall post, in a prominent place within its office, the name and location of the suspended or terminated provider. The posting shall remain in place for the entire period of a suspension, and for the first ninety days of a termination.~~

~~History: Effective July 1, 1980.~~

~~General Authority: NDGG 50-24.1-04~~

~~Law Implemented: 42 CFR 455.16(e)~~

75-02-05-09. Appeal and reconsideration.

1. A provider may not appeal a temporary sanction until further investigation has been completed and the division has made a final decision.
2. ~~Within thirty days after notice of sanction~~ After completion of further investigation, if there is an imposition of a subsequent sanction, the provider may appeal the decision to impose sanctions ~~to the department of human services unless the sanction imposed is termination or suspension and the notice states that the basis for such the sanction is:~~
 - a. The provider's failure to meet standards of licensure, certification, or registration where those standards are imposed by state or federal law as a condition to participation in the medicaid program.
 - b. Because the provider has been similarly sanctioned by the medicare program or by another state's medicaid program.
2. 3. An appeal must be filed with the department within thirty days of the date the notice of sanction is mailed to the provider.
4. Appeals taken ~~shall be~~ are governed by chapter 75-01-03, and providers ~~shall~~ will be treated as claimants ~~thereunder~~ under that chapter.
3. 5. Without prejudice to any right of appeal, the provider, upon receipt of notice of ~~sanction,~~ decision may in writing, request reconsideration. Such ~~The~~ request for reconsideration must include a statement refuting the stated basis for the imposition of the sanction. The division of ~~medical services~~ shall, within ten days after receipt of a request for

reconsideration, make written response to the request, stating that imposition of the sanction has been affirmed or reversed.

History: Effective July 1, 1980; amended effective July 1, 2012.

General Authority: NDCC 50-24.1-04

Law Implemented: NDCC 23-01-03, 23-16-01, 23-17.1-01, 23-20.1-04, 23-27-01, 25-16-02, 26.1-18-02, 43-05-09, 43-06-08, 43-12.1-03, 43-13-15, 43-15-15, 43-17-34, 43-26-13, 43-28-10, 43-32-17, 43-33-02, 43-37-03, 50-11.1-03; NDAC 75-01-03; 42 USC 1396a(a)(39); 42 CFR 431.151; 42 CFR 455.13

75-02-05-10. Provider information sessions. Repealed effective July 1, 2012.

- ~~1. Except where termination has been imposed, each provider who has been sanctioned shall participate in a provider education program as a condition of continued participation, if the division of medical services in its direction so directs.~~
- ~~2. Provider education programs may include any of the following topics, or may include other topics that are deemed by the division of medical services to be reasonable and necessary:~~
 - ~~a. Instruction in claim form completion.~~
 - ~~b. Instruction on the use and format of provider manuals.~~
 - ~~c. Instruction on the use of procedure codes.~~
 - ~~d. Instruction on statutes, rules, and regulations governing the North Dakota medicaid program.~~
 - ~~e. Instruction on reimbursement rates.~~
 - ~~f. Instructions on how to inquire about coding or billing problems.~~
 - ~~g. Any other matter as determined by the division of medical services.~~

History: ~~Effective July 1, 1980.~~

General Authority: ~~NDCC 50-24.1-04~~

Law Implemented: ~~42 CFR 455.16(e)~~

TITLE 82

BOARD OF TRUSTEES OF THE TEACHERS' FUND FOR RETIREMENT

JULY 2012

CHAPTER 82-02-01

82-02-01-01. Definitions. Unless made inappropriate by context, all words used in this title have the meanings given to them under North Dakota Century Code chapter 15-39.1. The following definitions are not established by statute and apply for the purpose of this title:

1. "Acceptance of benefit" means the benefit payment date that is the first calendar day of each month for benefits paid by paper check or electronic funds transfer to a financial institution.
2. "Account balance" or "value of account" means the member's accumulated contributions or assessments, plus the sum of any member purchase or repurchase payments, plus interest at an annual rate of six percent compounded monthly.
- ~~2:~~ 3. "Administrative" means to manage, direct, or superintend a program, service, or school district or other participating employer.
- ~~3:~~ 4. "Benefit service credit" means employment service used to determine benefits payable under the fund.
5. "Bonus" means an amount paid to a member in addition to regular contract salary which does not increase the member's base rate of pay, is not expected to recur or continue in future fiscal years, or is not expected to be a permanent salary increase. A bonus is not considered eligible retirement salary and is not subject to payment of member and employer contributions.

Bonuses include the following:

- a. Recruitment or contract signing payments defined in North Dakota Century Code section 15.1-09-33.1.
- b. Retention, experience, or service-related payments.

- c. Early retirement incentive payments, severance payments, or other payments conditioned on or made in anticipation of a member's retirement or termination.
 - d. Payments made to recognize or reward a member's accomplishments or service.
 - e. Other special or irregular payments which the board determines to be bonuses using criteria and documentation described in section 82-04-02-01.
- 4- 6. "Cessation of employment" means severance or termination of employment.
 - 5- 7. "Contributions" means the assessments or payments made to the fund.
 - 6- 8. "Covered employment" means employment as a teacher in a North Dakota state agency, state institution, school district, special education unit, regional education association, or other governing body of a school district.
 - 7- 9. "Eligibility service credit" means employment service used to determine vesting and benefit eligibility for dual members and qualified veterans under the Uniformed Services Employment and Reemployment Rights Act of 1994. Eligibility service credit is not used for benefit calculation purposes.
 - 8- 10. "Extracurricular services" means outside of the regular curriculum of a school district or other participating employer which includes advising, directing, monitoring, or coaching athletics, music, drama, journalism, and other supplemental programs.
 11. "Member" is a teacher as defined in North Dakota Century Code section 15-39.1-04 who is a participant in the fund.
 - 9- 12. "Participating employer" means the employer of a teacher, including a North Dakota state agency, state institution, school district, special education unit, area career and technology center, regional education association, or other governing body of a school district who contributes to the teachers' fund for retirement.
 13. "Performance or merit pay" means an amount paid to a member pursuant to a written compensation plan or policy that links a member's compensation to attainment of specific performance goals and duties. The specific goals, duties, and performance measures under which performance pay is expected to be made must be determined in advance of the performance period and documented in writing. Performance or merit pay may be in addition to regular salary or may replace regular salary increases. Performance or merit pay is

considered eligible retirement salary and subject to payment of member and employer contributions, unless the teachers' fund for retirement board determines the payments are ineligible salary using criteria and documentation described in section 82-04-02-01.

- ~~40.~~ 14. "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent year.
- ~~41.~~ 15. "Referee" means all sporting and nonsporting event judges and officials, including referees, umpires, line judges, scorekeepers, timekeepers, ticket takers, ushers, and other judges or officials.
- ~~42.~~ 16. "Salary reduction or salary deferral amounts under 26 U.S.C. section 125, 132(f), 401(k), 403(b), or 457" means amounts deducted from a member's salary, at the member's option, to these plans. These reductions or deferrals are part of salary when calculating retirement contributions. Employer contributions to plans specified in 26 U.S.C. section 125, 132(f), 401(k), 403(b), or 457 which are made for the benefit of the member will not be counted as retirement salary when calculating retirement contributions. Member contributions paid by the employer under IRC section 414(h) pursuant to a salary reduction agreement do not reduce salary when calculating retirement contributions.
- ~~43.~~ 17. "Special teachers" include licensed special education teachers, guidance counselors, speech therapists, social workers, psychologists, librarians, audio visual or media coordinators, technology coordinators, and other staff members licensed by the education standards and practices board provided they are under contract with a school district or other participating employer to provide teaching, supervisory, administrative, or extracurricular services.
- ~~44.~~ 18. "Supervisory" means to have general oversight or authority over students or teachers, or both, of a school district or other participating employer.
- ~~45.~~ 19. "Teaching" means to impart knowledge or skills to students or teachers, or both, by means of oral or written lessons, instructions, and information.
- ~~46.~~ 20. "Vested" means the status attained by a teacher when the teacher has earned three years of service credit for a tier one member or five years of service credit for a tier two member for covered employment in this state.

47. 21. "Written agreement" means a teaching contract, school board minutes, or other official document evidencing a contractual relationship between a teacher and participating employer.

History: Effective September 1, 1990; amended effective May 1, 1992; May 1, 1998; May 1, 2000; May 1, 2004; July 1, 2008; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1,15-39.1-04, 15-39.1-07

CHAPTER 82-03-01

82-03-01-06. Veterans' rights. A member may be entitled to eligibility service credit for military service under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301 et seq.] provided that the member received an honorable discharge and had the member's North Dakota teaching service interrupted by military duty after December 31, 1994. Interruption of service requires the member to enter military service within ninety days of leaving covered teaching employment and reenter covered employment within ninety days of the member's honorable discharge. Notwithstanding the preceding sentence, a member who dies or becomes disabled (under the terms of the plan) while performing USERRA qualified military service on or after January 1, 2007, shall be treated as if the member has resumed employment in accordance with USERRA on the day preceding death or disability and terminated employment on the actual date of death or disability. A member eligible to receive military credit under USERRA will have the service credit recognized for vesting and benefit eligibility purposes.

In addition to having the service credit recognized for vesting and benefit eligibility purposes, at the member's option, a member eligible to receive military credit under USERRA may pay an amount calculated by the fund to allow the credit to be used for benefit calculation purposes. A member may purchase up to five years of military credit and must apply for and complete the purchase prior to retirement. The member must provide a copy of the member's military discharge papers (DD214) as proof of eligibility. The timeframe to purchase military service under USERRA begins with reemployment and is equal to three times the length of the military service but may not exceed five years.

The cost to purchase USERRA military credit for benefit calculation purposes is the member ~~assessment rate and employer contributions~~ required under North Dakota Century Code section 15-39.1-09 had the member's employment not been interrupted by military service. The member ~~assessment rate contributions~~ must be applied to the member's annual salary at the time of the military leave. The member ~~assessments contributions~~ must be paid by the member if the employer is withholding ~~assessments contributions~~ under a salary reduction plan. If the employer is paying all of the member ~~assessments contributions~~ in lieu of a salary increase, the employer is responsible for payment of any ~~assessments member contributions~~ owed. If the employer is paying a portion of the member ~~assessments contributions~~ in lieu of a salary increase, both the member and employer are responsible for payment of the ~~assessments owed by the member contributions~~. The employer is required to pay the employer contributions in an amount equal to the member assessments owed. No interest is charged if the credit is purchased within the timeframe allowed under USERRA.

Effective January 1, 2009, any employee receiving a differential wage payment on account of military service shall be treated as an employee of the employer making the payment and the payment shall be treated as compensation for purposes of calculation of contributions and benefits.

If the credit is not purchased within the USERRA timeframe, the cost becomes the responsibility of the member and six percent interest is charged beginning with the date the USERRA timeframe elapsed.

History: Effective May 1, 1992; amended effective May 1, 1998; May 1, 2000; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-24, 15-39.2-01.2; ~~38 USC 2021-2026~~ 26 USC 401(a)(37), 26 USC 414(u)(12)(A)

ARTICLE 82-04

CONTRIBUTIONS

Chapter	
82-04-01	Contributions
82-04-02	Eligible Salary Determinations

CHAPTER 82-04-01 CONTRIBUTIONS

Section	
82-04-01-01	Employer Contributions and Member Contributions
82-04-01-02	Employer Payment of Member Contributions
82-04-01-03	Taxation of Contributions and Benefits
82-04-01-04	Rollover Contributions Permitted for Service Purchases

82-04-01-01. Employer contributions and ~~teachers' assessments~~ member contributions. ~~Teachers' assessments and employer~~ Employer and member contributions must be paid to the fund administrative office by the fifteenth day of the month following collection of the ~~teachers' assessments~~ member contributions.

History: Effective September 1, 1990; amended effective July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-09

82-04-01-02. Employer payment of ~~teachers' assessments~~ member contributions. Section 414(h) of the Internal Revenue Code of 1986, as amended, allows the employer to pay its employees' contributions to a retirement plan. A participating employer that elects to pay the ~~teachers' assessments~~ member contributions may reduce the ~~teachers' members'~~ members' current salaries or offset future salary increases by an amount equal to the ~~teachers' assessments~~ member contributions paid by the employer. Employer payment of ~~teachers' assessments~~ member contributions to the fund is allowed only if the following conditions are satisfied:

1. The participating employer must specify in writing that the contributions are being paid by the employer in lieu of ~~assessments~~ contributions paid by the ~~teacher~~ member.
2. ~~Teachers~~ Members must not have the option of choosing to receive the contributed amounts directly instead of having them paid by the participating employer to the retirement fund.
3. All ~~teachers~~ members of a participating employer must be covered by the plan for employer payment of ~~teachers' assessments~~ member contributions.

4. All teachers members covered under such a plan must be treated equally.
5. The participating employer's plan to pay teachers' ~~assessments~~ member contributions must comply with the fund's "plan for employer payment of member ~~assessments~~ contributions to the fund" or other instructions prepared by the fund.
6. ~~The participating employer's contributions paid to the fund must equal assessments paid by the teacher plus the assessments paid by the employer on behalf of the teacher.~~
7. ~~6.~~ Salaries, assessments, and Eligible salary and member and employer contributions paid by the participating employer must be certified by the disbursing official on the required fund reports.
8. ~~7.~~ Participating employers implementing the plan must report the payment of teachers' ~~assessments~~ member contributions to the fund on forms provided by the fund. The employer payment plan ~~will remain in effect until a notice of cancellation~~ must be implemented at the beginning of the fiscal year. The employer payment plan will remain in effect until a notice of cancellation or a new form is filed with the fund.
8. Participating employers must file a new employer payment plan form if:
 - a. The employer changes the model or amount of member contributions paid.
 - b. The legislative assembly approves a change to the contribution rate.
 - c. The teachers' fund for retirement board changes the models.

History: Effective September 1, 1990; amended effective July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-09

CHAPTER 82-04-02
ELIGIBLE SALARY DETERMINATIONS

Section

82-04-02-01

Criteria for Eligible Salary Determinations

82-04-02-01. Criteria for eligible salary determinations. The teachers' fund for retirement board will consider the following criteria and documentation to determine whether benefits or payments made to a teachers' fund for retirement member is eligible retirement salary as authorized in subsection 9 of North Dakota Century Code section 15-39.1-04:

1. Written authorization made in advance of payment. Examples include:
 - a. Master contract or negotiated agreement.
 - b. Individual employment contract.
 - c. Written agreement between employee and employer.
 - d. Minutes of school board or participating employer.
 - e. Policy of school board or participating employer.
 - f. Other information the board deems relevant.

2. Written documentation describing payment details, including:
 - a. Duration of payment or whether payment is recurring or nonrecurring in future years.
 - b. Frequency and date of payment.
 - c. Relation of payment to base or contract salary.
 - d. Reason or intent of payment.
 - e. Description of duties or services to be performed.
 - f. Description of employees who are eligible for payment.
 - g. Amount of payment expressed as either a fixed dollar amount or percentage of known contract amount (not fixed percent of unknown amount).
 - h. Funding source for payment.

3. Other pertinent information the board deems relevant. Examples include:
- a. Employee salary history.
 - b. Retirement eligibility.
 - c. Other information the board deems relevant.

History: Effective July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-04

CHAPTER 82-05-01 PROCEDURAL REQUIREMENTS

Section	
82-05-01-01	Application for Benefits
82-05-01-02	Proof of Age
82-05-01-03	Designation of Beneficiary
82-05-01-04	Proof of Marriage [Repealed]
82-05-01-05	Benefit Eligibility Calculation

82-05-01-01. Application for benefits. A teacher member or beneficiary must make written application for benefits on enrollment forms provided by the fund before benefits can be paid. The enrollment form must be signed by the teacher member or beneficiary and notarized or witnessed by a plan representative. The form of payment option selected may not be changed after the first benefit payment has been accepted by the teacher member or beneficiary except as allowed under section 82-05-02-02. If the member dies before accepting the first benefit payment, the member's beneficiary is eligible for death benefits the first day of the month following the member's death.

Retirement benefits may not be issued to a teacher member who has terminated a teaching position only for the summer months or for a leave of absence.

History: Effective September 1, 1990; amended effective April 1, 1994; May 1, 2000; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-10, 15-39.1-17

82-05-01-03. Designation of beneficiary. ~~The teacher shall~~ A member may designate a survivor or a beneficiary in writing on forms provided by the fund prior to the beginning of benefit payments.

~~If the teacher is married, the teacher's spouse must be named as the primary beneficiary or the teacher must provide written spousal approval to name an alternate beneficiary. If the teacher is not married, or if the teacher has written spousal consent, the teacher may name any person, organization, church, or charity as beneficiary of the teacher's retirement account. If more than one beneficiary is named, the beneficiaries are not eligible to receive a monthly annuity for life. Multiple beneficiaries receiving a survivor benefit must select the same form of payment.~~

After benefit payments have begun, the teacher member may not change the designated ~~survivor or~~ beneficiary, except under the following circumstances:

1. Teachers Members who select the single life, five-year term certain and life (option no longer available to new retirees), twenty-year term certain and life, or ten-year term certain and life annuity plans may change their beneficiary at any time.

2. Teachers Members who select the one hundred percent joint and survivor or fifty percent joint and survivor annuity plans may only name one beneficiary and may not change their beneficiary after retirement, except under the following circumstances:
 - a. If the teacher's member's designated beneficiary precedes the teacher member in death; or
 - b. If the marriage of a teacher member and the designated beneficiary is dissolved and the divorce decree provides for sole retention of the retirement benefits by the teacher member.

In these cases, the form of benefits shall automatically revert to the standard form of benefit payment under section 82-05-02-01 and a new beneficiary may be designated. The teacher member, upon remarriage, may designate the new spouse as the primary beneficiary and may elect a joint and survivor benefit option under section 82-05-02-02.

History: Effective September 1, 1990; amended effective April 1, 1994; May 1, 2000; May 1, 2002; May 1, 2004; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-04, 15-39.1-16, 15-39.1-17

82-05-01-05. Benefit eligibility calculation. In determining eligibility for benefits under North Dakota Century Code chapter 15-39.1, the calculations for age and service credit are rounded to the nearest one thousandth (.000).

History: Effective July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-10, 15-39.1-27

CHAPTER 82-05-03

82-05-03-02. Death benefits - Proof of death. Death benefits will not be paid until the teacher's beneficiary or legal heir submits to the fund after proof of the teacher's member's death is submitted to the fund office. A Proof of death includes a death certificate will normally be required as proof of death, but in certain cases, or other documentation approved by the executive director may accept proof other than a death certificate. If death benefits are required to be paid to the member's estate, documentation naming the administrator or personal representative of the estate must also be submitted to the fund office prior to payment.

History: Effective September 1, 1990; amended effective April 1, 1994; May 1, 1998; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-17

CHAPTER 82-05-06

82-05-06-01. Retiree reemployment reporting requirements.

Participating employers and retirees must complete and submit a "TFFR Retired Member Employment Notification" form and a copy of the employment contract within thirty days of the retired member's return to covered employment.

Time spent performing extracurricular duties and attending professional development sessions is excluded from the annual hour limit. Extracurricular duties include those duties outlined in the extracurricular schedule of a participating employer's master agreement, unless the duty was part of the retiree's regular job duties and base salary prior to retirement. Employer and member contributions are required to be paid ~~and are~~ based on the employer payment plan model. Contributions are calculated on the retirement salary paid to the reemployed retiree, including salary for extracurricular duties and professional development.

Employer and member contributions are required to be paid on salary earned by retirees who perform in-staff subbing duties while under contract with a teachers' fund for retirement participating employer.

Retirees who perform regular substitute teaching duties and are not under contract with that teachers' fund for retirement participating employer are not subject to the annual hour limit and employer and member contributions are not required to be paid.

History: Effective July 1, 2008; amended effective July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-19.1, 15-39.1-19.2

CHAPTER 82-07-01

82-07-01-02. (Effective through June 30, 2013) Disability retirement eligibility. A teacher member, with at least one year of service credit, who has a "total disability" is eligible for disability retirement benefits if the teacher member became totally disabled while employed as a teacher and otherwise complies with the requirements of article 82-07.

(Effective after June 30, 2013) Disability retirement eligibility. A member, with at least five years of service credit, who has a "total disability" is eligible for disability retirement benefits if the member became totally disabled while employed as a teacher and otherwise complies with the requirements of article 82-07.

History: Effective September 1, 1990; amended effective May 1, 1998; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-18

82-07-01-03. Determination of disability - Procedures. The following procedures govern the determination of disability benefits under the fund:

1. Application process.

- a. Application for disability benefits must be made within thirty-six months from the last date of covered employment on the form provided by the fund. On a case-by-case basis, the board may extend the thirty-six month period ~~according to the provisions of North Dakota Century Code section 28-01-25.~~
- b. If the fund member is unable or unwilling to file an application, the teacher's member's employer or legal representative may file the teacher's member's disability application.
- c. The application must describe the disability, explain the cause of the disability, the limitations caused by the disability, the treatment being followed, the efforts by the employer and the employee member to implement reasonable accommodations, and the effect of the disability on the individual's ability to perform as a teacher.
- d. Applicants shall be provided information on potential services offered by the office of vocational rehabilitation.
- e. The employer's statement of disability must provide information about the teacher's member's sick leave benefits, explain how the disability affects the performance of the teaching duties, include a detailed listing of job duties, and describe efforts to provide reasonable accommodation for the teacher member.

2. Medical examination process.

- a. The applicant for disability retirement must provide the fund with medical examination reports.
- b. An initial medical examination should be completed by the ~~teacher's~~ member's attending or family physician on the medical examination form provided by the fund. If deemed necessary by the fund's medical consultant, an additional examination must be completed by a specialist in the disability involved. Available medical or hospital reports may be accepted in lieu of a medical examination report if deemed acceptable by the fund's medical consultant.
- c. The fund is not liable for any costs incurred by the applicant in undergoing medical examinations and completing and submitting the necessary medical examination reports, medical reports, and hospital reports.
- d. A medical examination report is not necessary if the applicant provides written proof documenting eligibility for disability benefits under the Social Security Act. In such cases, the applicant is eligible for disability benefits under North Dakota Century Code section 15-39.1-18 without submitting further medical information to the fund but is subject to recertification requirements specified in this chapter.

3. Medical consultant review.

- a. The fund shall retain a medical doctor to act as its consultant and evaluate and make recommendations on disability retirement applications.
- b. The medical consultant shall review all medical information provided by the applicant.
- c. The medical consultant shall advise the board regarding the medical diagnosis and whether the condition is a "total disability".

4. Decision.

- a. The board shall consider applications for disability retirement at regularly scheduled board meetings. The discussion concerning disability applications must be confidential and closed to the general public.
- b. The applicant must be notified of the time and date of the meeting and may attend or be represented.

- c. The executive director shall provide to the board for its consideration a case history brief that includes membership history, medical examination summary, and the medical consultant's conclusions and recommendations.
- d. The board shall make the determination for eligibility at the meeting unless additional evidence or information is needed.
- e. The executive director may make an interim determination concerning eligibility for disability retirement benefits when the medical consultant's report verifies that a total disability exists. However, the board must review the interim determination and make a final determination at its next regularly scheduled board meeting unless additional evidence or information is needed.
- f. The applicant shall be notified in writing of the decision.
- g. If the applicant is determined to be eligible for disability benefits, the disability annuity is payable on, or retroactive to, the first day of the month following the ~~teacher's~~ member's last day of paid employment.
- h. If the applicant is determined not to be eligible for disability benefits, the executive director shall advise the applicant of the appeal procedure.

5. Redetermination and recertification.

- a. A disabled annuitant is subject to redetermination and recertification to maintain eligibility. The schedule for redetermination and recertification must be as follows:
 - (1) Temporary disability. On July first, following the first anniversary date of disability retirement, and every two years thereafter (unless normal retirement is reached). No further recertification is required after the fourth recertification of temporary disability has been filed and accepted. Basis recovery will begin when the member reaches normal retirement age.
 - (2) Permanent disability. On July first, following the second anniversary date of disability retirement, and five years thereafter unless normal retirement is reached. No further recertification is required after the second recertification of permanent disability has been filed and accepted. Basis recovery will begin when the member reaches normal retirement age.

- b. The fund may require additional recertifications, or waive the necessity for a recertification, if the facts warrant this action.

When a member who is drawing disability benefits is also eligible for normal retirement benefits at the time disability benefits commence, recertification will cease according to the following schedule:

Before age 60	Age 65
At or after age 60, before age 65	5 years
At or after age 65, before age 69	Age 70
At or after age 69	1 year

Basis recovery will also begin according to the above schedule.

- c. The fund will send a recertification form to the disabled annuitant to be completed and sent back to the fund.
- d. The fund may require the disabled annuitant to be reexamined by a doctor at the annuitant's own expense. The submission of medical reports by the teacher member, and the review of those reports by the fund's medical consultant, may satisfy the reexamination requirement.
- e. The executive director must make the redetermination and recertification decision and bring the matter to the board only if warranted. The disability annuitant may appeal an adverse recertification decision to the board in the same manner as the initial determination.
- f. If it is determined that the disability annuitant was not eligible for benefits during any time period when benefits were provided, the executive director may do all things necessary to recover the erroneously paid benefits.

History: Effective September 1, 1990; amended effective April 1, 1994; May 1, 1998; May 1, 2000; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-18

CHAPTER 82-07-03

82-07-03-01. Forms of disability benefits. Except for the level income with social security and partial lump sum distribution options, all optional forms of retirement benefits are available to members entitled to disability retirement annuities.

History: Effective September 1, 1990; amended effective May 1, 1998; July 1, 2012.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-18

TITLE 98

OFFICE OF ADMINISTRATIVE HEARINGS

JULY 2012

CHAPTER 98-01-01

98-01-01-03. Inquiries. Any inquiries concerning the office of administrative hearings, the uniform rules of administrative procedure for adjudicative proceedings adopted by it, or any of the laws relating to the office of administrative hearings or the uniform rules may be addressed to:

Director
Office of Administrative Hearings
~~1707 North Ninth Street~~ 2911 North 14th Street - Suite 303
Bismarck, ND ~~58504~~ 58503

History: Effective January 1, 1992; amended effective August 1, 2004; July 1, 2012.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1

CHAPTER 98-02-02 PREHEARING PROCEDURE

Section	
98-02-02-01	Complaint Against a Specific-Named Respondent [Reserved]
98-02-02-02	Proceedings Other Than a Complaint Against a Specific-Named Respondent [Reserved]
98-02-02-03	Service and Filing
98-02-02-04	Time
98-02-02-05	Appearances and Representation
98-02-02-06	Discovery
98-02-02-07	Subpoenas
98-02-02-08	Motions - Certification of Motions
98-02-02-09	Prehearing Conferences
98-02-02-10	Prehearing Briefs
98-02-02-11	Affidavits Presented by Parties
98-02-02-12	Consolidation
98-02-02-13	Intervention [Reserved]
98-02-02-14	Informal Disposition [Reserved]
98-02-02-15	Disqualification of Hearing Officer
98-02-02-16	Default [Reserved]
98-02-02-17	Request for Auxiliary Aids or Services
98-02-02-18	Withdrawal of Attorneys
98-02-02-19	Electronic Filing and Service

98-02-02-03. Service and filing. All pleadings, notices, written motions, requests, petitions, and briefs relating to a proceeding must be served on all parties and filed with the agency. When a proceeding has been assigned to a hearing officer outside the agency, the agency shall inform the parties of the designated hearing officer's name and address, and filing must be with the designated hearing officer at the address of the hearing officer. Unless otherwise provided by law, filing is complete upon actual receipt by the agency or the hearing officer, if one outside the agency has been designated, or upon mailing, unless the agency or hearing officer requires actual receipt by a time certain. The date of service is the day when the document is deposited in the United States mail or is delivered in person, the day of facsimile or e-mail transmission, or the date of publication if service by publication is allowed or required, except that the date of service of a document served by certified mail is the date of its delivery, or of its attempted delivery, if refused. When a party has appeared by an attorney or an authorized representative, service must be upon the attorney or the duly authorized representative, unless service upon the party is ordered by the hearing officer. The serving party must be prepared to furnish satisfactory proof of service.

History: Effective January 1, 1992; amended effective April 1, 1998; July 1, 2012.

General Authority: NDCC 54-57-05

Law Implemented: NDCC 28-32-21, 28-32-31, 54-57-04

98-02-02-04. Time. In computing any period of time under this title, the time begins with the day following the act or event, or default from which the designated

period of time begins to run, and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday, in which event it includes the next following day which is not a Saturday, Sunday, or legal holiday. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period of time after service of a document upon the party and the document is served upon the party by mail, other than certified mail, three days must be added to the prescribed period of time. Service by facsimile or e-mail transmission is not service by mail for purposes of computing any period of time under this section.

History: Effective January 1, 1992; amended effective April 1, 1998; July 1, 2012.

General Authority: NDCC 54-57-05

Law Implemented: NDCC 28-32-21, 28-32-31, 54-57-04, 54-57-05

98-02-02-19. Electronic filing and service.

1. Electronic filing.

- a. Documents may be filed electronically with an agency, if permitted by the agency. If a proceeding has been assigned to a hearing officer outside of the agency and the agency permits documents to be filed electronically, documents may be filed electronically with the designated hearing officer. If a proceeding has been assigned to a hearing officer outside the agency and the agency has not stated whether it will permit electronic filing, documents may be filed electronically with the designated hearing officer, if permitted by the hearing officer or the hearing officer's agency.
- b. A document filed electronically has the same legal effect as a paper document.
- c. The typed name or facsimile signature on a document filed electronically has the same effect as an original manually affixed signature.

2. Filing formats. Documents filed electronically must be submitted by facsimile transmission or by e-mail. E-mailed documents must be in portable document format (.pdf) or in an approved word processing format.

- a. Approved word processing formats for documents filed electronically are those approved by the agency or, if the proceeding has been assigned to a hearing officer outside the agency, those approved by the designated hearing officer or the designated hearing officer's agency, if the designated hearing officer or the designated hearing officer's agency has a different word processing format. Permission must be obtained in advance of submission to submit documents in other than an approved word processing format.

- b. All pages or paragraphs must be numbered in a document filed by e-mail, as required by the agency, except in cover letters or attachments to a document. Reference to material in an e-mail document must be to page number or paragraph number, as required by the agency. All lines on pages in a document filed by electronic means must be double-spaced except in cover letters or attachments to a document.

3. Time of filing.

- a. Unless otherwise stated by the agency, a document in compliance with the rules and submitted electronically to an agency by five p.m. local time will be considered filed on the date submitted. An agency may permit submission of documents to be considered filed on the date submitted if submitted by 11:59 p.m. local time. A document in compliance with the rules and submitted electronically to a party by 11:59 p.m. local time will be considered served on the date submitted. For purposes of the time of filing, local time means local time for the receiving agency or designated hearing officer.
- b. Upon filing or serving a document electronically, the filing or serving party may implement that party's own method for confirmation that the document has been received.
- c. A party filing a document electronically must pay any filing fee as required by the agency.
- d. A party filing a document electronically must pay any surcharge for internal reproduction of the document as required by the agency or, if the proceeding has been assigned to a hearing officer outside the agency, as required by the designated hearing officer's agency. No surcharge payment may be required for documents twenty total pages in length or less; for this purpose, attachments are considered part of the document. A party electronically filing a document greater than twenty total pages in length must pay a per page surcharge for each page of the document in an amount and at such time as the agency or designated hearing officer's agency may require.
- e. If all required fees and surcharges are not paid as required by the agency or the designated hearing officer's agency, the document will be returned to the party and the party will be required to file the document again. The document will not be considered filed until proper refiling occurs.

4. Electronic service - Parties.

- a. If a party files a document by electronic means, the party may serve the document on the parties by electronic means if the recipient

consents in writing to accept documents served electronically. Service by electronic means is not effective if the party making service learns that the attempted service did not reach the intended recipient. If a party files a document by electronic means, that party has consented to service by electronic means by the hearing officer and any other party. Consent to accept documents served electronically may be given by consent for a specific proceeding or consent for all proceedings.

- b. A party may designate a facsimile number or an e-mail address as the party's own address for the purpose of accepting electronic service.
- c. If a recipient does not consent to accept electronic service of a document, service by another means specified in the rules is required.
- d. For purposes of computation of time, any document electronically served must be treated as if it were mailed on the date of transmission.
- e. If a party files a document by electronic means and the document is confidential, in whole or in part, the document must be filed with an appropriate confidentiality statement.

History: Effective July 1, 2012.

General Authority: NDCC 54-57-05

Law Implemented: NDCC 28-32-21, 28-32-31, 54-57-04, 54-57-07

TITLE 99
STATE GAMING COMMISSION

JULY 2012

CHAPTER 99-01.3-01

99-01.3-01-01. Ineligible organizations. An organization or a closely related organization may be ineligible for a license or permit if either organization has failed to resolve an imbalance involving its gaming or trust account according to section 99-01.3-03-05, has deals or games with state gaming stamps that are not accounted for, is delinquent in paying any tax, interest, penalty, or monetary fine due, has failed to comply with the terms and conditions of an administrative order, or was convicted of violating this article or North Dakota Century Code chapter 12.1-28 or 53-06.1. An auxiliary that is not a closely related organization is eligible for a permit. An organization that is licensed or issued a permit must either have its principal executive office in North Dakota or be a foreign corporation authorized to conduct a raffle under chapter 20.1-04 or 20.1-08. A county, city, state, political subdivision, or federal entity is not eligible for a license or permit. A nonprofit social, hobby, trade, business, professional, similar club or association, or organization whose primary purpose mainly provides a direct benefit to its officers, is not a public-spirited organization eligible for a license.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01, 53-06.1-01.1

99-01.3-01-03. License.

1. An organization may not conduct games at a site unless the attorney general first approves a site authorization and license for that city or county. A separate license is required for each city or county. For an initial application for a license for an organization that desires to be recognized as an eligible organization, the attorney general shall determine whether the organization qualifies by examining a copy of an organization's articles of incorporation, charter, bylaws, board of directors' minutes for the previous two years, or any other documents or records considered necessary to determine its primary purpose and date of origin. If the attorney general determines that an organization's

actual primary purpose does not qualify it as an eligible organization, the attorney general shall deny the application.

2. A license is effective for one year beginning July first and ending June thirtieth and may be issued at any time during the fiscal year. However, the annual license fee is not prorated. If an organization plans to conduct a raffle on or after July first, a license cannot be issued before January first. If an organization received a charity local permit during the fiscal year, it may not receive a state license.
3. When an organization first applies for a license to conduct ~~a game~~ games of chance, the license may not be issued to the organization until after its gaming manager satisfactorily demonstrates to the attorney general that the organization is capable of properly managing and controlling the ~~game~~ games that it intends to conduct.
4. If an organization only conducts a raffle or calcutta in two or more cities or counties, the organization may apply for a consolidated license prescribed by the attorney general and remit a one hundred fifty dollar license fee for each city or county in which a site is located.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-03

CHAPTER 99-01.3-02

99-01.3-02-01. Definitions. As used in this article:

1. "Attorney general" includes an agent of the attorney general.
2. "Bar" means retail alcoholic beverage establishment.
3. "Bar employee" is a person, employed by a bar that is not operated by an organization, who redeems winning pull tabs or prize boards, or both, involving a dispensing device or who sells raffle tickets or sports pool chances on a board for an organization.
4. "Cash on hand" means coin, currency, and checks, plus an IOU due from another source of cash or nongaming funds, less an IOU owed to another source of cash or nongaming funds.
5. "Cash prize" means coin, currency, marketable security, and a similar item that can be readily redeemed or converted into legal tender. Cash prize does not include precious metal bullion, a coin of precious metal or antique coin that has a market value greater than its face value, or a merchandise gift certificate. The value of a marketable security is its cost.
6. "Cash profit" means:
 - a. For bingo and quick shot bingo card marking devices, total ending cash on hand, which includes unredeemed credits for quick shot bingo card marking devices, less starting cash on hand and prizes paid by check, for a bingo session.
 - b. For a raffle, total receipts less prizes paid by cash and check.
 - c. For a commingled game of pull tabs, total ending cash on hand, less starting cash on hand and cash prizes paid by check, for a day's activity.
 - d. For a commingled game of pull tabs involving a dispensing device, total currency withdrawn from a dispensing device, less credit paid on a credit redemption register, cash long or short from an employee bank, and prizes paid, for an interim period.
 - e. For a club special, tip board, seal board, and punchboard, the total daily difference between ending cash on hand and starting cash on hand and less prizes paid by check, for the game.
 - f. For a prize board, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check and cost of coins, for the game.

9. For a prize board involving a dispensing device, total currency withdrawn from a dispensing device, less total cash prizes paid, prizes paid by check, cost of coins, credit paid on a credit redemption register, and cash long or short from an employee bank, for the game.
 - h. For a sports pool, the total daily difference between ending cash on hand and starting cash on hand, less prizes paid by check.
 - i. For twenty-one, and paddlewheels described by subsection 2 of section 99-01.3-11-01, total ending cash on hand, plus drop box cash, less total starting cash on hand, for a day's activity.
 - j. For poker, total ending cash on hand, less starting cash on hand, less prizes paid by check, for a day's activity.
 - k. For calcuttas, total ending cash on hand, less starting cash on hand, prizes paid by check, and refunds to players, for the event.
 - l. For paddlewheels described by subsection 1 of section 99-01.3-11-01, total ending cash on hand, less starting cash on hand and prizes paid by check, for a paddlewheel ticket card.
7. "Conduct of games" means the direct operation of a game on a site, including placing pull tabs in or withdrawing currency from a dispensing device. This term excludes a bar employee who redeems a winning pull tab or removes the seal on a prize board involving a dispensing device or who sells a raffle ticket or a sports pool chance on a board.
 8. "Deal" in pull tabs means each individual game or series of pull tab packages which makes up a game with a specific form number and a unique serial number.
 9. "Employee" includes a person employed by an organization, an employee of a temporary employment agency who provides gaming-related services to an organization, and a volunteer of an organization.
 10. "Flare" refers to a flare or master flare as follows:
 - a. Flare. A flare is a display with the state gaming stamp affixed which describes a punchboard, sports-pool board, calcutta board, deal of pull tabs, club special, tip board, prize board, and seal board. The flare for a punchboard is its face sheet. A flare for a sports-pool board, calcutta board, prize board, club special, tip board, and seal board is the game board.
 - b. Master flare. A master flare for a game of pull tabs is the same as a "flare" but it does not have a state gaming stamp affixed.

A master flare for paddlewheels is described by subsection 1 of section 99-01.3-11-02.

11. "Gaming equipment" means a game piece or device specifically designed for use in conducting games, including integral components of a dispensing device such as a currency validator, processing board, EPROM microchip or other data storage device, attached bar code credit devices, and card shuffling devices. The term excludes fill and credit slips, promotional paper bingo cards, bingo daubers, video surveillance equipment, and weight scales.
12. "Inside information" is any information about the status of a game when that game is conducted that may give a person an advantage over another person who does not have that information, regardless if the person uses or does not use the information, when providing that information is prohibited by the gaming law or rules. It includes information provided through written, verbal, or nonverbal communications that implies or expresses the number of unsold chances; relationship of a game's cash on hand to its ideal adjusted gross proceeds; number of unredeemed top tier or minor winning game pieces that is not posted, value of a hole card in twenty-one, number under the tape of a sports-pool board, or number under a seal.
13. "Organization" in reference to a local permit includes a "group of people" working together for a public-spirited cause.
14. "Primary game" is the principal game conducted on a site. Determining factors include frequency of conduct, square footage used, duration of time conducted, and volume of activity.
15. "Retail price" means the purchase price paid by an organization, excluding sales tax.
16. "Volunteer" means a person who conducts games for no compensation. A volunteer may receive a gift not exceeding a total retail value of thirty dollars for a consecutive twenty-four-hour period, cash tips, and reimbursement for documented business expenses. No gift may be cash or convertible into cash. See definition of employee.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

CHAPTER 99-01.3-03

99-01.3-03-02. Gaming account.

1. An organization shall maintain all gaming accounts at financial institutions located in North Dakota. These accounts must be used for depositing gaming funds and transferring net proceeds to a trust account, except as provided by subsection 3. Transfers must be made by the last day of the quarter following the quarter in which the net proceeds were earned. The amount transferred must be for an amount equal to or greater than the adjusted gross proceeds, less gaming ~~and~~ excise taxes, and less the greater of actual or allowable gaming expenses for the quarter. The gaming account may be used for payment of expenses. An organization may transfer funds to its general account for payment of expenses. If an organization is not required to maintain a trust account, a disbursement of net proceeds to an eligible use must be payable to the ultimate use or recipient. A payment may be made by electronic transfer.
2. Interest earned is other income. A service fee is an expense.
3. Organizations shall reimburse the gaming account as required by section 99-01.3-03-05 and may deposit raffle nongaming funds, bingo dauber receipts, fees from players who use bingo card marking devices, and prizes paid by an insurance company to an organization for payment to a player. Any additional deposit of nongaming funds into a gaming account ~~must be approved by~~ should be communicated to the attorney general.
4. ~~If an organization buys a qualifying item of video surveillance equipment according to subsection 2 of section 99-01.3-08-04 and later sells or rents the item, it shall make a record of the transaction, deposit the gross receipts or rental income directly into its gaming account, and make a proper adjustment on the tax return.~~

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-11

99-01.3-03-04. Restrictions and requirements.

1. An organization is allowed an expense limit according to subsection 2 of North Dakota Century Code section 53-06.1-11 ~~and an additional expense for qualifying items of security and video surveillance equipment prescribed by subsection 2 of section 99-01.3-08-04.~~ The allowable expense amount may be used for any purpose that does not violate the gaming law or rules.

2. An organization may not base an employee's compensation on a participatory percentage of gross proceeds, adjusted gross proceeds, or net proceeds. An organization may pay a fixed bonus through an incentive program.
3. An organization may not pay or reimburse, nor may a lessor accept a payment or reimbursement from an organization, for any media advertising done by the lessor or any other person that is related to games at a site unless the organization's share of this expense is prorated to the benefit the organization receives and the media advertising is voluntary by the organization.
4. An organization may not pay or reimburse a lessor or share in the cost, nor may a lessor accept a payment, reimbursement, or sharing of the cost from an organization, of any sign advertising related to games at a site unless the sign is not owned by the lessor. If a lessor rents an advertising sign from a vendor, the organization's share of this expense must be prorated to the benefit the organization receives and the sign advertising is voluntary to the organization.
5. A player's uncollectible check is an expense. If an organization establishes a policy to reduce a player's cash prize by the amount of the player's uncollectible check and award the player the difference, if any, the organization shall disclose or make available to players that policy.
6. If a door prize is awarded as a promotion of games, the cost of the door prize is an expense.
7. A net cash short is an expense and a net cash long is other income for a quarter.
8. Only an unopened pull tab, unopened set of stapled jar tickets, or set of banded jar tickets that has the band intact may be accounted for as unsold or defective when a game is reported on a tax return. An organization shall account for any single unsold or defective jar ticket at a proportional selling price of a stapled set of jar tickets.
9. If foreign currency is exchanged into United States currency, any loss is an expense.
10. The attorney general shall determine whether a theft of an organization's gaming funds can be deducted toward adjusted gross proceeds on its tax return and notify the organization. The attorney general shall consider whether the organization:
 - a. Immediately reported the theft to a local law enforcement agency and the attorney general;

- b. Has documentation that substantiates the theft amount;
 - c. Had physical security of the funds;
 - d. Has an adequate system of internal control; and
 - e. Incurred an identifiable theft.
11. If an organization rents out gaming equipment, the income is nongaming income.
12. All accounting records must be completed and initialed or signed with permanent ink. The use of correction fluid or correction tape to make changes to accounting records is prohibited. Changes shall be made with a single strikethrough of the original amount, writing the correct amount, and initialed by the person making the change. An organization shall maintain a register of each employee's name and the employee's initials or signature as the employee normally writes them on a record or report. The initials or signature of a person on a record or report attests that to the person's best knowledge the information is true and correct.
13. A fee charged a player to enter a twenty-one tournament, less the cost of a prize, must be reported as other income.
14. For computing prizes on a tax return, a merchandise prize and a gift certificate are valued at an organization's actual cost, including sales tax, and a donated prize is valued at zero.
15. If a prize winner is ineligible to receive a merchandise prize, the organization may convert the prize to a cash prize or other fair alternative, provided that the conversion of a raffle prize does not exceed the limits outlined in North Dakota Century Code section 53-06.1-10.1.
16. If a raffle, sports pool, or calcutta prize is not claimed by the winning player and has previously been reported on a tax return, an organization shall report the prize as other income.
- ~~16.~~ 17. When a deal of pull tabs, club special, tip board, seal board, prize board, sports-pool board, calcutta board, or a series of paddlewheel ticket cards is placed in play, an employee shall compare the game serial number on the pull tab, board, or card to the serial number on the state gaming stamp. If the two serial numbers are different, an employee shall immediately notify the distributor ~~and complete a form prescribed by the attorney general.~~
- ~~17.~~ 18. If an organization pays a fee to an insurance company to insure a contingency cash or merchandise prize for bingo or a raffle, the fee is

an expense. If the insurance company pays or provides a prize to a winning player, it is not reported as a prize on a tax return.

~~48.~~ 19. If an organization conducts twenty-one, it may pay monthly rent for more than one table provided that each additional table is used at least thirteen times a quarter. This level of activity is based on a site's historical experience, or seasonal activity, for each of the previous four quarters, regardless of which organization conducted twenty-one at the site. For a new site or a site that has been completely remodeled in appearance and function, the level of activity must be reviewed and or reestablished after the first full quarter. If an additional table is used at least thirteen times in at least one but not all of the previous four quarters, the allowable monthly rent for that table must be prorated over all the active months of the licensing year. For example, if a second table was used at least thirteen times in only two of the previous four quarters, the additional monthly rent for the second table would be a maximum of two hundred dollars per month (or three hundred dollars per month if a wager greater than five dollars is accepted on the table) multiplied by six months (totaling one thousand two hundred dollars) and prorated to one hundred dollars per month for the licensing year.

~~49.~~ 20. If an organization does not intend to reapply for a license for the next fiscal year, its license is revoked or suspended for a period of more than six months, or its license application is denied, and it has net proceeds that are not disbursed, the organization shall file an action plan with the attorney general. The plan must be filed within thirty days of the expiration of the license or when the license is relinquished, revoked, suspended, or the license application is denied, and include a planned timetable for disbursing all the net proceeds and anticipated uses.

If the action plan is not timely filed, net proceeds must be disbursed within ninety days of the expiration of the license or when the license is relinquished, revoked, suspended, or the license application is denied. The disbursement must be reported to the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06, 53-06.1-11

99-01.3-03-06. Gross proceeds, IOUs, documenting cash and chip banks.

1. Gross proceeds for a game must be separately maintained while the game is conducted. An organization shall use a separate cash bank for each game. However, the cash banks for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined and the cash banks for pull tab games at a site may be combined, if approved by the attorney general. If an employee needs

to establish or replenish a cash bank by withdrawing funds from the gaming account, the employee shall execute a withdrawal by check or other withdrawal method and reference the specific game's name, other game type, or the combined cash bank. If a cash bank needs replenishment and another specific game or other game type's cash bank, cash reserve bank, or other funds from nongaming sources are used, an IOU form must be used to record the loan and payback. An IOU form must include:

- a. The source and destination of the funds;
 - b. For a club special, prize board, tip board, seal board, series of paddlewheel ticket cards, and punchboard, the game's gaming stamp number;
 - c. Amount and date of loan and repayment; and
 - d. Initials of a cash bank cashier or an employee for each transaction.
2. An organization shall document each game's daily starting and ending cash on hand, including a cash reserve bank. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the cash count in the presence of each other. After completing and documenting the cash count, both persons shall initial the record.
 3. An organization shall document the daily starting and ending chip banks for casino and betting chips including, on the date of a poker event, an organization's no-value poker chips. The chip banks for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. Unless there is only one employee on duty when a site opens or closes, two persons shall participate in the count of the chips in the presence of each other and record the count by denomination of chip or ~~color~~ total quantity of no-value chips. After completing and documenting the chip count, both persons shall initial the record.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-09. Inventory records of games, paper bingo cards, tickets, cash banks, and chips and reconciliation.

1. An organization shall maintain master and site inventory records of all deals and games that have a state gaming stamp affixed to their flares. The master records must include the sales invoice number, date received, name of game, dates of issuance to and received from a site,

site name, date deal was placed, date deal was closed, and quarter tax return on which reported, by gaming stamp number. The site records must include the gaming stamp number, date received, date placed, and date closed, by site and name of game. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. Annually an organization shall reconcile its inventory records of all deals and games that have a state gaming stamp affixed to their flares that are recorded as being in play and in inventory as unplayed to the items that are actually in play and in inventory. A person shall count these items that are actually in play and in inventory, compare this count to the inventory records, and resolve any difference.

2. An organization shall maintain master and site inventory records of paper bingo cards. The master records must include for each primary color ~~or serial number~~, the and type of card, the sales invoice number, date received, number of cards bought, serial number (optional), dates of issuance to a site, and site name, and quantity of cards issued to the site, or include information prescribed by a method approved by the attorney general. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. The site records for each series must include site name, primary color ~~or serial number~~, and type of card, serial number (optional), quantity received, date received, and quantity issued and returned for each session, or include information prescribed by a method approved by the attorney general. Annually an organization shall reconcile its inventory records of paper bingo cards that are recorded as being in inventory to the cards that are actually in inventory. A person shall count these items that are actually in inventory, compare this count to the inventory records, and resolve any difference.
3. An organization shall maintain master and site inventory records of rolls of tickets. The master records must include for each ticket roll the color of the roll, date received, beginning ticket number, ending ticket number, number of tickets bought, date of issuance to a site, and site name, or include information prescribed by a method approved by the attorney general. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. The site records must include site name, color of roll, beginning ticket number, ending ticket number, quantity received, date received, and quantity issued and returned for each session or event, or include information prescribed by a method approved by the attorney general. Annually an organization shall reconcile its inventory of rolls of tickets. This reconciliation must include verification of the starting ticket number and total number of remaining tickets that are recorded as being at the home office and site to the rolls of tickets that are actually on hand. A person shall count the rolls of tickets at the home office and site, compare this count to the inventory records, and resolve any difference.

4. An organization shall maintain a master record of ideal cash bank amounts and account for permanent increases or decreases. For each cash bank, the record must include the site, game type, game identifier, and amount. When a cash bank is started or when the ideal amount is permanently increased or decreased, the date, check number, amount, source or destination of the funds, and updated ideal cash bank amount must be recorded. Annually an organization shall reconcile its master cash bank records to the actual cash banks. A person shall count the cash banks, compare the count to the current ideal cash bank amount recorded on the record, and resolve any difference.
5. An organization shall maintain casino and betting chip master and site inventory records. The records must include the dates chips are acquired, transferred to, and received from a site and running totals, by value of chip. Annually an organization shall reconcile its inventory of chips that are recorded as being at the home office and site to the chips that are actually in inventory. If an organization has only one site where inventory is stored, it may combine the master and site inventory records. A person shall count the chips in inventory at the home office and site, compare this count to the inventory records, and resolve any difference.
6. The count and reconciliation must be done by a person who does not have access to deals, games, paper bingo cards, rolls of tickets, cash banks (and who does not have sole signatory authority of the gaming account), or chips. It must be documented, including the name and title of the person who does the count and reconciliation, date and procedure performed, result, corrective action taken, and initials of that person.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-03-10. Bank deposit and audit.

1. The cash profit, less a documented increase or plus the decrease in the starting cash on hand for the next gaming activity, plus cash and merchandise prizes paid by check and cost of coins for a prize board, must be deposited in the gaming account by the third banking day following the day of a bingo session or quick shot bingo card marking device session; club special, prize board, tip board, seal board, or punchboard is removed from play; sports-pool game; calcutta event; poker occasion; day's or interim period's pull tab and prize board, and twenty-one or paddlewheel activity. However, the receipts for a raffle, calendar or master sports-pool board, or paddlewheel described by subsection 1 of section 99-01.3-11-01 must be deposited in the gaming account by the third banking day following receipt of the cash by the person responsible for the activity.

2. For a day's pull tab ~~and prize board~~ activity, bingo session, quick shot bingo card marking device session, raffle drawing, poker occasion, twenty-one and paddlewheel activity, and interim period's pull tab or prize boards activity involving a dispensing device, a deposit slip or receipt must reference a site, name of the game, game type, date of activity, and deposit amount. The deposit amount for twenty-one, and paddlewheel activity described by subsection 2 of section 99-01.3-11-01, may be combined. For a club special, prize board, tip board, seal board, punchboard, and series of paddlewheel ticket cards, a deposit slip or receipt must reference a site, name of the game, game type, date removed from play or date of activity, deposit amount, and gaming stamp number. For a sports-pool board or calcutta board, a deposit slip or receipt must reference a site, date of the event or auction, deposit amount, and gaming stamp number. For all game types, an employee who prepares a deposit shall initial the bank deposit slip. If another employee makes the bank deposit and has access to the cash, the employee shall also initial the bank deposit slip.
3. If an organization prepares a deposit slip for more than one type of game, it shall record on the deposit slip or a supporting schedule by each game type, the information required by subsection 2. A supporting schedule must reconcile to a validated bank deposit slip or receipt. A validated bank deposit slip or receipt and any supporting schedule must be included with the accounting records. If a bank does not return a validated bank deposit slip that contains information required by subsection 2, an organization shall prepare a duplicate deposit slip, make a copy of it, or prepare a supporting schedule that reconciles to the bank deposit amount.
4. For a bank deposit, a person shall record the amount to be deposited on the game's accounting record and retain the copy of a two-part bank deposit slip and any supporting schedule. This person shall forward the accounting record, copy of the bank deposit slip, and any supporting schedule to a bookkeeper. A second person shall take custody of the bank deposit funds and the original of the bank deposit slip and take them to a financial institution or arrange for the funds to be deposited. If, before the bank deposit is made, the custody of bank deposit funds is transferred from a person to another person, face-to-face, and the cash is accessible to be counted, both persons shall participate in a count of the cash in the presence of each other and resolve any difference. After completing and documenting the cash count, both persons shall initial and date the record. The person who makes the bank deposit shall forward a validated bank deposit slip or receipt to a bookkeeper. An organization shall comply with this rule unless it uses another bank deposit procedure which has proper accounting control.
5. If an employee prepares or has custody of a bank deposit which is not scheduled to be immediately deposited, the employee shall safeguard the funds.

6. An employee who did not have access to the cash to be deposited shall, within a reasonable time, verify that the amount recorded on a daily or interim accounting record to be deposited was actually deposited according to a bank statement. The employee shall document the verification by initialing the accounting record and dating it. If more than one deposit amount is recorded on an accounting record, the employee shall initial the record for each verified deposit amount and date the record.
7. A closed game or daily activity must be audited, within a reasonable time, by a person who did not conduct the game and who did not have sole access to the total receipts or cash profit for the game's or day's activity. This person may not have sole signatory authority of the gaming account. A person who audits a closed game or daily activity shall verify the number and value of unsold chances, gross proceeds, number and value of prizes, adjusted gross proceeds, and cash profit. If the audit reveals an irregularity, the person shall notify the appropriate organization representative.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-04

99-01.3-04-01. Bingo. "Bingo" is when a player buys a card or uses a bingo card marking device and marks squares, or a radio frequency signal or Wi-Fi transmission marks squares on a marking device, as a caller announces a letter and number or only a number for speedball bingo. Speedball bingo is a game in which a bingo caller announces the drawn numbers in a fast manner. ~~Except for a bonanza bingo or a game that has a certain number or all of its numbers predrawn,~~ a winning player of a game is the player who first covers a predetermined pattern of squares by matching letters and numbers on a bingo card with balls drawn and called for that or another game and the player has timely called bingo ~~calls out the word "bingo".~~ Except for a game that has all of its numbers predrawn, there must be a winning player. Quick shot bingo is a bingo game in which all of the numbers are predrawn and that may or may not have a winning player and if there is a winning player, the player is not required to timely call out the word "bingo". Bonanza bingo is a game in which a bingo caller predraws a certain quantity of balls before a session begins for a predetermined pattern ~~and players buy and play cards throughout the session.~~ During the session when the bonanza bingo game is conducted, and unless a player has already won, the caller will draw additional balls until a player wins the game. In a game in which a bingo caller draws a certain quantity of balls for the game before a session begins for a predetermined pattern, both quick shot and bonanza bingo games, players may buy and play the cards throughout the session.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04-03. Conduct and play.

1. These rules and information must be disclosed or made available to players:
 - a. A person may not separate a paper card when there are two or more faces on a sheet;
 - b. A person under eighteen years of age may not play bingo unless an individual, eighteen years of age or older, accompanies a minor when buying a bingo card or package and throughout the session. The adult may not be an employee on duty. This rule does not apply if a person under twenty-one years of age is not allowed on the site or an organization has a permit or prize structure that does not exceed the limit of a permit;
 - c. If an organization does not restrict duplicate paper cards from being in play for a game, it shall disclose or make available that information to all players before their purchase of cards or packages;

- d. The actual letter and number on a ball drawn or freely awarded is official;
 - e. If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;
 - f. A bingo card is void if it is taken outside the gaming area; and
 - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited.
2. These policies must be disclosed or made available to players:
- a. A policy of when an organization may cancel a bingo session;
 - b. A policy that if a player has more than one bingo on one card or on two or more cards for a game, whether it is considered as one bingo or more than one bingo for splitting a prize with another winning player;
 - c. A policy that a bingo is timely called by a player when, on the last number called, the player calls the word "bingo" or other required word before the bingo caller announces the whole letter and number of the next ball to be called, or other policy;
 - d. A policy on sharing a prize by two or more winning players on identically or differently priced cards. A policy must include the following except that an organization may award a minimum prize:
 - (1) If a prize is cash and all winning players bingo on identically priced cards, the cash prize must be divided equally. An organization may round fractional dollars.
 - (2) If a prize is cash and the winning players bingo on differently priced cards, an organization shall award each winning player:
 - (a) The designated prize;
 - (b) An equal share of the designated prize; or
 - (c) A proportional part of the designated prize for that card or any other fair method. The proportional part is the ratio that each winning player is in relation to the total number of winning players. To illustrate, if three players bingo on differently priced cards, each player

- a. A certificate is accounted for when it is sold or awarded. An employee shall issue a certificate to the purchaser or player and retain a copy or stub of the certificate with the daily records and record the certificate on a register to document the sale. An organization shall recognize a sale of a certificate as gross proceeds on the tax return for the quarter in which it was sold. A certificate awarded as a prize has no cash value. A certificate must be used to buy only a bingo card or package;
 - b. A register is maintained which accounts for all certificates sold or awarded at a site. A register must include, for each certificate, a consecutive control number, selling price (if applicable), dates issued and redeemed, sites at which it is issued and redeemed, and initials of the employees who issue and redeem the certificate; and
 - c. A redeemed certificate is signed by a player and retained by an organization with the daily accounting records. A player is issued a bingo card or package at the site when the certificate is redeemed.
6. If an organization changes a publicly announced bingo program for a session in which a potential prize or the number of games is reduced, an employee shall notify a player of the change before the player buys a card.
 7. If an organization sells two or more differently priced cards or packages for a game, it shall use a different type, color, serial number, or a distinctive identifiable feature for each differently priced card or package. An organization may not use the same serial numbered paper bingo cards for more than one game or group of games during a bingo session, unless the face of a card is a different color or a card audit tracking number is used.
 8. If an organization accepts a discount coupon, the redeemed coupon must contain the dollar value or percentage discount and be signed by a player. An employee shall write the value of the bingo card or package purchased on the face of the coupon unless the value is already stated, record the date on the coupon or on a group of coupons for a session, and retain the coupon with the daily records. The value of a player's one or more coupons must be less than the value of the card or package bought.
 9. If an organization accepts a donated item in exchange for a discount, an employee shall account for the discount on a register as part of the daily records. A discount must be less than the value of the card or package bought. A register must contain:
 - a. Bingo session and date of the session;

- b. Amount of the discount;
 - c. Value of the bingo card or package bought;
 - d. Signature of the player;
 - e. Total amount of bingo card or package discounts for the session;
and
 - f. Date and initials of the cashier.
10. A card or package must be bought on a site immediately before the start of a game or during a session. However, an organization may presell a card or package for a special session that involves a bingo prize or prizes that equal or exceed ten thousand dollars for the session provided the organization:
- a. Uses a consecutively numbered two-part receipt to register a player who prepays. One part is issued to a player who shall redeem the receipt to receive the card or package. The second part is retained by the organization to account for the gross proceeds;
 - b. Separately accounts for the gross proceeds and reports it on a tax return for the quarter in which the game is conducted; and
 - c. Provides a card or package to the player before the start of the session that day.

No card may be sold for a game which is in progress or ended except for a bonanza bingo or a game that has all of its numbers predrawn. If a paper bingo card is included in a package for a game in progress or ended, the card must be withdrawn and voided or destroyed. An employee may exchange a purchased package for another package if the employee accounts for all the cards of the first package and a session has not started.

11. An organization may allow a player to use a bingo card marking device provided by the organization that marks an electronic card image of a purchased card as follows:
- a. A device cannot be reserved for a player unless a player is disabled. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis. A device cannot be issued through a floorworker;
 - b. A device must be used only at a site where the site system is located and the session is being conducted;

- c. A device must be rented for a fixed amount, regardless of the price for a card or package or number of cards played through the device, or provided free to a player for the player's temporary use during the session;
- d. No player can use more than one device at a time during a session;
- e. No player can play more than seventy-two single-faced cards per game on a device and cannot choose or reject downloaded cards;
- f. An organization shall use paper bingo cards in the session that are of a series different than the cards downloaded in the devices;
- g. If a card or package may be used in a device and in paper form, it must be sold for the same price. An organization may sell a special card or package to a player for use only in a device. The organization may require a player to buy a minimum-priced card or package to use a device;
- h. If a player rents a device while a game for that session is in progress, the player may not play that game and a cashier shall record on the player's receipt that the specific game number is void;
- i. An organization may print a facsimile of a winning card and post it for players to inspect;
- j. A player may use an input function key on a device or an organization may use a radio frequency signal or Wi-Fi transmission to mark each number as it is called. When a player inputs a number or an organization sends a radio frequency signal or Wi-Fi transmission, a device may automatically mark all the player's cards that contain that number;
- k. If a player has a winning card, the player shall:
 - (1) Timely call bingo according to subdivision c of subsection 2 and it must be by a method other than through a device; and
 - (2) Provide the device with the winning card displayed to a floorworker to verify according to subsection 18;
- l. If a player's call of a bingo is disputed or if the attorney general makes a request, an organization shall print the winning card stored on the device;
- m. An organization shall have one spare device available should a device in use malfunction. If a player's device malfunctions, the player may exchange the device for a spare device. An

organization shall restore the player's same cards from the site system;

- n. An organization may perform routine maintenance on a device; and
 - o. An organization shall back up all of a site system's accounting information for a session on a report or separate electronic media immediately after that session and retain the backup file for three years from the end of the quarter in which the activity was reported on a tax return. The accounting information must comply with subsection 1 of section 99-01.3-16-09.1.
12. After the start of a session, an organization may not refund the purchase price of a card or package unless a site incurs an electrical power loss, there is inclement weather, an organization experiences an extraordinary incident, a session is canceled, or a player has an emergency.
 13. If an organization sells hard cards before each game, during the game an employee shall count the number of hard cards played by all the players to the number recorded as sold. If the comparison reveals an irregularity, the gaming manager shall take corrective action.
 14. An organization may not sell a bingo package that contains a variable number of cards based on each player's ability to play. Each separately priced package must contain a standard number of cards.
 15. If a game has an actual or potential prize valued at five hundred dollars or greater, an employee shall use an electronic bingo card verifier; record in writing the called numbers and the sequence in which they were drawn; or audio recording of the bingo caller calling the balls. When a player bingos, an employee shall retain the bingo card verifier record, the written record, or audio record, which includes the following and retain these records for three months:
 - a. Game number, winning pattern, type of card (number of faces on a sheet), type of package (regular, premium, super), series (card) number, and last number called; and
 - b. Cash register receipt number, if applicable.
 16. A caller shall manually display the letter and number on the ball to players except for speedball bingo or when a monitor or random number generator is used. An employee shall announce the letters and numbers on the balls or displayed by a random number generator in their exact sequence; however, numbers freely awarded do not need to be announced. The caller is also not required to announce all letters and numbers for a game in which the pattern does not require the use

of the selected letters or numbers. If a player calls bingo and the bingo is invalid, the next ball called must be in sequence of the balls drawn.

17. A player may bingo more than one time on the same card when an organization conducts continuation games of more than one pattern on the same card. An organization may also conduct bonus games where multiple winning patterns may be played on the same card and where one or all of the prize patterns has a winner.
18. A winning card must be verified by an employee and one neutral player or person unless an electronic bingo card verifier is used and the display of an electronic bingo card verifier is shown to all players on a monitor. A floorworker may not access a verifier. For a winning card on a bingo card marking device, an employee shall compare the serial number of the device to the receipt for the cards played on that device.
19. An organization may offer a variety of prizes to a winning player who may choose a prize by random selection or chance. A player may win an additional prize by choosing the prize by random selection, by an organization drawing from previous winning players, or playing a game of skill if the player is not required to give anything of value. An organization shall disclose the potential prizes in the bingo program and notify a player of these prizes before the player chooses a prize, has the opportunity to win a prize, or plays a game of skill.
20. An organization may award, as a prize, cash, merchandise, merchandise gift certificate, or gift certificate that can be redeemed for a bingo card or package.
21. An organization may conduct a qualifying game whereby a player wins an opportunity to play in a special game.
22. An organization may award a bonus that is based on a factor incidental to a bingo program if it is disclosed in a program, calendar, or flyer, and announced before a session, and is recorded on a prize register. Factors may include a player binging on a certain color of card, combination of colored cards, last number called, particular face of a multifaced card, or winning a game on the player's birthday.
23. If a player bingos and an employee determines that the player is playing more bingo cards than were bought, the player's bingo is void.
24. Bonanza bingo and a game that has all of its numbers predrawn must be conducted as follows:
 - a. A caller shall initially call a certain quantity of balls. While a caller initially calls the bingo balls or before the caller calls the next continuous number, a player shall verify that the letter and number on the balls drawn are correctly displayed. A posted display must

be used for the games, have restricted access, and reference that game;

- b. A card must be sealed and unpeekable when it is sold;
- c. An organization may sell or exchange cards throughout a session until sales are closed. If an organization exchanges cards, an employee shall, before the next continuous number is called, fully account for the floorworkers' sales of cards according to section 99-01.3-04-07. A floorworker may not turn in any exchanged card after the accounting is begun;
- d. If a player bingos before the next continuous number is called, the player wins. Otherwise, an additional bingo ball is drawn until a player bingos. This rule does not apply to a game that has all of its numbers predrawn;
- e. A game may not extend beyond a session;
- f. If an organization permits a player to exchange a partially played card for a new card and pay a discounted or exchange price, an employee shall:
 - (1) Validate the date of the session on the card with a mechanical device or rubber stamp. A card validated for a session, but not sold, must be voided. The organization shall use a different color of card for each game conducted at a site during a day;
 - (2) Retain the exchanged cards as part of the daily records for six months;
 - (3) Record the validation date and card color used by session; and
 - (4) Reconcile the cards, accounting for:
 - (a) Number of cards taken from inventory which must be independently counted and verified by two employees who shall initial and date the verification;
 - (b) Number of cards sold;
 - (c) Number of cards exchanged, which must be separately maintained for each floorworker. The cards must be recounted by an employee who is not the floorworker. The employee who controls the floorworker sales report shall band each floorworker's exchanged cards separately, identify the banded group with the

floorworker's name, session, and initial and date. A floorworker shall also initial the floorworker's banded group;

- (d) Number of cards returned to inventory and voided which must be independently counted and verified by two employees. Each person shall initial and date the verification; and
- (e) Document any discrepancy and corrective action taken; and

9. A voided card must be retained for six months.

- 25. If an employee determines, during or immediately after the play of a game and before a card is verified as a winning bingo, that a ball is missing, the employee shall void the game and offer the players a fair alternative.
- 26. An employee shall record a prize and bonus prize on a register according to section 99-01.3-03-07, except for a game that has all of its numbers predrawn and for which an organization has recorded the information required by section 99-01.3-03-07 on the winning card and retains the card.
- 27. An organization shall receipt gross proceeds, including an additional amount paid by a player for a chance to win an extra prize in a special game, by a cash register, tickets, paper card count, or floorworker sales report, unless written approval is obtained from the attorney general for use of another receipting method. The receipting method must reference the primary color ~~or serial number~~, and type of cards, serial number (optional), number of the cards sold, or reference other information approved by the attorney general.
- 28. For a site where bingo is the primary game or a site that is leased by a licensed organization, the organization or any person may not pay bingo prizes in which the total bingo prizes exceed total bingo gross proceeds for two entire consecutive quarters. However, if bingo is the primary game at the site, a bingo prize that equals or exceeds ten thousand dollars is excluded from the calculation of total bingo prizes.
- 29. An organization shall have a written bingo program for each session. However, if the program does not change each day or session, an organization may retain one program and record the dates on which it applied. A program must contain:
 - a. Name of a site ~~or~~ and organization;
 - b. Date or dates of the sessions;

- c. Description of each game and the game's prize; and
- d. Selling prices of the cards or packages.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.1

99-01.3-04-05. Tickets. The ticket receipting method may be used to record gross proceeds of packages, hard cards, and paper cards, including floorworker sales, by issuing consecutively numbered tickets. These rules apply:

1. All tickets must have a preprinted consecutive number and must be issued consecutively from a roll.
2. The daily records must contain the ticket color, ticket selling price, and lowest and highest numbered tickets issued from each roll for a session. A verification of the tickets used must be done by two persons, unless there is only one employee on duty at the time. Both persons shall participate in the verification in the presence of each other and resolve any differences. After completing and documenting the verification, both shall initial the records. Every ticket on a particular roll must be issued for the same price on that day. Tickets issued for each type of sale must be recorded separately. A ticket not issued during a session that bears a number below the highest numbered ticket issued, along with any tickets from the end of the roll which will not be issued in a future session, must be retained as part of the daily records as unsold.
3. A discount coupon and gift certificate must be recorded in the daily records.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04-06. Paper card count. The paper card count receipting method may be used to record gross proceeds of paper bingo cards, including floorworker sales. The daily records must include the total number of cards or collated sets taken from inventory and returned to inventory. A count of the cards or sets taken from or returned to inventory must be done by two persons, unless there is only one employee on duty at the time. Both persons shall participate in a count of the cards or sets in the presence of each other and resolve any difference. After completing and documenting the count, both persons shall initial the record. The record must include the selling price of the card or set and number of cards or sets

issued, returned, voided, and sold for each type of card for the session. A discount coupon and gift certificate must be recorded in the daily records.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-04.1
QUICK SHOT BINGO CARD MARKING DEVICES

Section

<u>99-01.3-04.1-01</u>	<u>Quick Shot Bingo Card Marking Devices</u>
<u>99-01.3-04.1-02</u>	<u>Equipment</u>
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99-01.3-04.1-01. Quick shot bingo card marking devices. "Quick shot bingo card marking devices" means a device used to play a quick shot bingo game where letters and numbers are predrawn and players purchase sealed bingo cards on the device which are matched against the predrawn letters and numbers. If a predetermined pattern is achieved, then the player wins a prize based on a specific prize table. Because the game has all of its letters and numbers predrawn, there may or may not be a winning player for each game played. A player is not required to say the word "bingo" before a bingo is awarded. Before a session begins, an employee shall draw or a random number generator shall draw twenty-four balls or numbers comprised of the first five balls or numbers from each of the "B", "I", "G", and "O" rows, and the first four balls or numbers from the "N" row. Up to six additional balls or numbers may be drawn as bonus numbers. Once twenty-four balls or numbers and any bonus balls or numbers, if applicable, are selected, an employee or the related equipment shall enter the numbers into the quick shot bingo site operating system and post the selected balls or numbers prior to starting the session. A quick shot bingo card marking device and related equipment may only be sold or provided to an organization with a state gaming license.

History: Effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04.1-02. Equipment. An organization shall use this equipment:

- 1. A device from which bingo balls are drawn or a random number generator. The device or random number generator must draw from a set of seventy-five balls or numbers used to determine the original twenty-four balls or numbers for play of the game and any bonus numbers, if applicable. If actual bingo balls are used, rather than a random number generator, an organization employee shall ensure that all seventy-five numbers are available prior to the draw.**
- 2. A quick shot bingo card marking device site operating system, including a portable point-of-sale device, which allows an employee to deposit credits received from a player by cash, check, or debit card. All deposits must be received prior to play and no credit play is allowed. The quick shot bingo card marking device site operating system must store all accounting information for a session.**

3. A quick shot bingo card marking device that allows a player to play between one and sixteen bingo cards for an individual game. When a player initiates play of the selected cards, the device may automatically mark all of the player's cards with the predrawn numbers. The device may randomly mark the predrawn numbers in any order for each game played. No auto-daub feature which initiates play of a new game without a player's interaction is allowed.

History: Effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-04.1-03. Conduct and play.

1. The predrawn numbers for the current session must be posted at the site. The use of a flashboard is optional. Unless there is only one employee on duty, two persons shall verify and attest to the numbers drawn or selected, numbers posted, and numbers entered into the quick shot bingo card marking device site operating system for the current session. Players are not allowed to pick any numbers to match for a quick shot bingo game or bonus feature. No bingo session may extend beyond the end of a business day.
2. Players are responsible for safeguarding their receipt with the designated control number to track all deposits on a quick shot bingo card marking device. A player's receipt must be presented when redeeming prizes or cashing out credits.
3. If a player has a winning prize pattern, all prize winnings must be awarded to players in a separate winnings account on a quick shot bingo card marking device. Automatic transfer by the player of any winnings balance to the credit (deposit) balance on the device is prohibited. All payouts of winnings must be transacted by an organization employee.
4. A player must not be required to forfeit any winnings or make an additional wager in order to receive a bonus game or feature.
5. These rules and information must be disclosed or made available to players:
 - a. If applicable, a person under eighteen years of age may not play bingo unless an individual, eighteen years of age or older, accompanies a minor when buying bingo cards on a quick shot bingo card marking device;
 - b. The actual letters and numbers predrawn by the organization are official;

- c. If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving bingo, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both:
 - d. A quick shot bingo card marking device may not be taken outside of the gaming area:
 - e. An employee may only assist a player in how to use a quick shot bingo card marking device:
 - f. No player can use more than one quick shot bingo card marking device at a time during a session:
 - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited:
 - h. That a player may not sell the remaining credits on a device to another player; and
 - i. A player must present the player's receipt when redeeming prizes or cashing out credits.
6. These policies and information must be disclosed to players:
- a. A policy that if a player has more than one winning bingo pattern on a card, whether the highest prize pattern will be awarded or all winning prize patterns will be awarded:
 - b. A policy in the event that a player has lost the player's receipt:
 - c. A policy when an organization may cancel a session due to power outage, quick shot bingo card marking device site operating system being down, or any transmission problems; and
 - d. If applicable, a policy regarding use of a quick shot bingo card marking device and additional paper bingo cards at the same time.
7. An employee or floorworker must use a point-of-sale device when adding additional credits (deposits) and redeeming winnings for additional credits (deposits) involving a quick shot bingo card marking device provided that all transactions are accounted for according to the manufacturing specifications in section 99-01.3-16-09.4.
8. A quick shot bingo card marking device cannot be reserved for a player. An organization shall provide each player an equal opportunity to use the available devices on a first-come, first-served basis.

9. An organization may pay a fixed rate per quick shot bingo card marking device or a fixed fee per bingo card sold. No payment for use of a device may be based on a percentage of the gross proceeds or net income earned.
10. A receipt must comply with paragraph 1 of subdivision i of subsection 13 of section 99-01.3-16-09.4.
11. All prizes awarded must be cash.
12. No quick shot bingo games may be played with a progressive prize unless authorized by the attorney general.
13. A separate cash bank must be used with quick shot bingo card marking devices at a site. All deposits must be separately identified from other game types, including other bingo games conducted at a site.
14. Unredeemed credits on a quick shot bingo card marking device are not considered to be gross proceeds but rather is cash profit. Unclaimed prizes on the device are subtracted from total prizes won in calculating the adjusted gross proceeds.
15. An organization shall deactivate an employee password within forty-eight hours of that employee leaving employment. Passwords for employees of a site must be changed every six months.
16. No discount, gift certificates, or promotions are allowed unless authorized by the attorney general.

History: Effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-04.1-04. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For each session:
 - a. The quick shot bingo site operating system involving a bingo card marking device must include the summary report for the session according to paragraph 2 of subdivision i of subsection 13 of section 99-01.3-16-09.4.
 - b. The starting and ending cash on hand and IOU records according to section 99-01.3-03-06;
 - c. A summary of the gross proceeds, unplayed credit cashed out, unredeemed credits, prizes, unclaimed prizes, adjusted gross

proceeds, cash profit, cash long and short, and bank deposit. The summaries of all sessions for a quarter must reconcile to the tax return:

- d. Record of win according to section 99-01.3-03-08; and
 - e. Record of the balls or numbers predrawn, including bonus numbers and a record of numbers actually entered into the quick shot bingo card marking device site operating system.
2. Ideal cash bank master records according to subsection 4 of section 99-01.3-03-09.
 3. The cash profit defined in subdivision a of subsection 6 of section 99-01.3-02-01, verification of the amount deposited according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10.

History: Effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-05

99-01.3-05-05. Double roll tickets. An organization may use double roll tickets provided:

1. Two single tickets must be printed side by side on a roll with a consecutive number. Both tickets must have the same number;
2. A list of the prizes must be disclosed or made available to players or the prize must be present at the site. If there is more than one prize, an organization may use a different receptacle for each prize to enable an employee or player to place one of the tickets in the receptacle related to a certain prize, or one receptacle in which the winning player can select from a variety of prizes. All tickets must be sold consecutively or in consecutive sets if the tickets are tracked by each ticket seller at an authorized site on the day of the raffle. All the tickets of each separately colored roll must be sold for the same price on that day. An organization may use a separate colored roll to sell several tickets to a person at a discount. The organization and player each retains one ticket, unless the player is allowed to temporarily retain the entire ticket until the player places one ticket into a receptacle;
3. A winning player need not be present when a drawing is held but shall claim the prize within a reasonable redemption period set by the organization. Otherwise, an organization shall conduct one or more additional prize drawings until the prize is claimed. A statement of the time of the drawing and redemption period must be on all promotional material and be posted at a site; and
4. ~~An organization shall record in its daily records the color and selling value of each ticket and the lowest and highest numbered ticket sold from each roll.~~ The organization's daily records must contain the ticket color, ticket selling price, and lowest and highest numbered tickets sold from each roll. A verification of the tickets used must be done by two persons, unless there is only one employee on duty at the time. Both persons shall participate in the verification in the presence of each other and resolve any differences. After completing and documenting the verification, both shall initial the record. Any tickets left on a roll which will not be sold in any other raffle must be retained as part of the daily records. This subsection does not apply to a local permit.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-06

99-01.3-06-02. Conduct and play.

1. Deals of pull tabs must be commingled for a game as follows:
 - a. Two or more deals must be placed in a receptacle and be thoroughly intermixed. When an organization's predetermined number or range of numbers of winning pull tabs remain in a game as unredeemed, an additional deal is added. An employee shall add a deal to a game when there are about two hundred fifty pull tabs remaining and the game cannot be or is not being closed. The new pull tabs must be intermixed with the pull tabs in the receptacle before any pull tab is sold;
 - b. The deals must be identical except for the game serial number, and a minor difference in printing that is approved by the attorney general. Each deal must have at least two top tier winning pull tabs. If deals of a game involve folded or banded jar tickets, the color of the tickets' band must be the same; however, multiple-colored bands on a single ticket may be used. When a deal is added to a game, an employee shall compare the color of a deal's pull tabs to the color of the game's pull tabs. If the two colors are not the same, the deal cannot be used;
 - c. A master flare or flare for at least one deal of a game must be displayed with the game and be visible to and not easily removed by a player. An organization shall retain all original flares at a site while a game is in play. If a deal has a last sale prize feature, the deal's flare must also be displayed. Only the flare of one deal of a game may have a last sale prize feature;
 - d. If an indicator for adding a deal to a game has been reached and an organization does not have a deal to add, the organization shall temporarily suspend the game until it procures a deal. However, if the organization is unable to procure a deal from the distributors and all the top tier winning pull tabs have been redeemed, it may close the game;
 - e. If a site's total gross proceeds of pull tabs averages twelve thousand five hundred dollars or less per quarter, a game may be closed anytime if all top tier winning pull tabs have been redeemed;
 - f. Except as provided by subdivision g, if a site's total gross proceeds of pull tabs averages more than twelve thousand five hundred dollars per quarter, no game may be closed unless an organization discontinues gaming at the site, or all the top tier winning pull tabs have been redeemed and:

- (1) Fifty deals have been added to a game;
 - (2) A game's actual gross proceeds are twenty-five thousand dollars; or
 - (3) A game has been in play for twenty-five consecutive calendar days; and
9. An organization shall close a game by the end of a quarter. If all top tier winning pull tabs have been redeemed, an organization may close a game for the quarter within fourteen calendar days before the end of that quarter. An organization may start a new game for the next quarter within fourteen calendar days before the next quarter begins. However, an organization may not start a new game and end that game within this fourteen-calendar-day period.
2. An employee may not place a deal of pull tabs, club special, or prize board in play which has a manufacturer's or distributor's seal broken on the game's container when the game was received from a distributor. A person may not take off a deal's manufacturer's cellophane shrink wrap or break the manufacturer's or distributor's security seal on the deal's container until the deal is to be placed in a receptacle. If a distributor's or manufacturer's security seal is broken before the deal is used, an organization shall return the deal to the distributor. If a deal is packaged in two or more containers, the full deal must be placed in play at the same time.
3. These rules must be disclosed or made available to players:
 - a. Restricting the play of a game to one player or a group of players is prohibited;
 - b. A winning pull tab must be redeemed within a fifteen-minute time limit;
 - c. If a person knowingly solicits, provides, receives, or knowingly uses any inside information, from or to any person, by any means, or knowingly uses a fraudulent scheme or technique to cheat or skim involving pull tabs, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both;
 - d. A pull tab cannot be redeemed if it has been taken from the gaming area;
 - e. To the best of the organization's knowledge, a prize remaining on a board relates to a winning pull tab that has not been bought. This rule is not required to be disclosed or made available to players if an organization does not conduct a prize board;

- f. A deal may be added to a game at any time; and
 - g. If a player attempts to falsify or falsifies a record of win, the prize is forfeited. This rule is not required to be disclosed or made available to players if an organization does not pay a prize that requires a record of win.
4. These policies and information must be disclosed to players:
- a. For any last sale prize, the method of determining which player is entitled to buy the last pull tab or punch for a last sale prize when two or more players desire to buy the last pull tab or punch;
 - b. The information, if any, authorized by subdivision a or b, or both, of subsection 6;
 - c. Any limit on the number of pull tabs or punches that a player may buy at a time; and
 - d. When a game is being closed, an employee shall:
 - (1) Post a notice that the game is being sold out; and
 - (2) Any limit on the number of pull tabs or punches that two or more players may buy at a time.
5. A player may not redeem and an employee may not knowingly pay a prize for a pull tab after fifteen minutes have elapsed since the pull tab was bought. If a player attempts to redeem a pull tab after the time limit, an employee shall, if possible, retain and void the pull tab.
6. A person may post the information referenced by subdivision a or b, or both, for a commingled game provided that the posting contains a statement that the information is correct to the best of the organization's knowledge and that the information is not guaranteed to be accurate. If an organization does not have a policy on when to stop posting this information when a game is being closed, it shall stop posting the information when there are less than six winning pull tabs, through a level of prize value determined by the organization, that remain unredeemed. Posted information may be as described in subdivision a or b, or both:
- a. The minimum number of unredeemed winning pull tabs or a range of numbers of unredeemed winning pull tabs, through a level of prize value determined by an organization, that will always be in a game unless the game is being closed. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning

prize patterns, the information must be based on the value of each prize pattern.

- b. The number of unredeemed winning pull tabs, through a level of prize value determined by an organization, that remain in a game. This information may be for each prize value or the total of several prize values. The level of prize value must be posted. If a pull tab has two or more winning prize patterns, the information must be based on the value of each prize pattern. The information must be continually updated.
7. An organization may limit the number of pull tabs a player may buy regardless if the player is redeeming a winning pull tab.
8. An employee may not selectively pick a pull tab from a receptacle based on its game serial number or other factor. An employee shall take a handful of pull tabs from a receptacle and count off the number bought. An employee may not permit a player to physically handpick a pull tab or honor a player's request to select a specific pull tab. However, an employee may honor a player's suggestion to select a pull tab from a general area of a receptacle. In applying subsection 2 of North Dakota Century Code section 53-06.1-16, the phrase "fraudulent scheme or technique" includes an employee selecting, by any method, only certain pull tabs in a game or an employee not thoroughly intermixing pull tabs of the initial or added deals.
9. An employee may only assist a disabled player in opening a pull tab.
10. An employee shall deface a winning number or symbol of a pull tab, including pull tabs used with a prize board, and punchboard punch when it is redeemed. If a pull tab has two or more winning prize patterns, a winning number or symbol of at least one pattern must be defaced. An employee may not knowingly pay a prize to a player who is redeeming a pull tab that has been defaced, tampered with, counterfeited, has a game serial number different from the serial numbers of the deals in the game, or is defective.
11. If a player buys a set of stapled jar tickets and, before or after opening any jar ticket, determines that the set contains less than the standard number of tickets, an employee may issue the player only the number of tickets actually missing. If a player buys a set of banded jar tickets and, before breaking the band, determines that the set contains less than the standard number of tickets, an employee may issue the player a new set in exchange for the defective set. An employee may staple together the proper number of loose jar tickets of a game to sell. An employee may, at any time, sell a loose unopened jar ticket or partial set of banded jar tickets at a proportional selling price of a full set.

12. When a game is being closed, an organization may continue to conduct the game although all of its top tier and minor winning pull tabs have been redeemed. An employee may not permit a player to buy out a game except when a game is being closed. If an organization closes a game that has pull tabs unsold, it may not open or place the pull tabs back into play.
13. Unless an organization conducts a commingled game according to subdivision e of subsection 1 or closes a commingled game at least monthly, an employee who did not conduct the game shall do a monthly interim audit of the game. If the percent-of-accuracy of all the games of a site for the previous quarter was less than ninety-eight and one-half percent, and a cash shortage of more than one hundred dollars, an employee who did not conduct the game shall do a weekly interim audit of the games for that site for up to twelve continuous weeks or until the organization determines, resolves, and documents the cause. One of the weekly interim audits may be the audit required by subsection 7 of section 99-01.3-03-10. An organization shall start the weekly audits no later than the date on which its tax return for the quarter was filed with the attorney general. Percent-of-accuracy is computed as cash profit divided by adjusted gross proceeds.
14. An employee shall award the last sale cash or merchandise prize to the player who actually buys the last pull tab or punch.
15. An organization may transfer a commingled game, club special, tip board, seal board, prize board, and punchboard from a site to another site, or rotate games among sites. If an organization discontinues gaming at a site, it may close a game. If a game is in the process of being conducted through a jar bar, the game cannot be transferred to a dispensing device. A game must be reported for the site at which it was closed and on a tax return for the quarter in which it was closed.
16. An employee may not pay, from any source of funds, a prize to a player unless the player redeems an actual winning pull tab that has a game serial number from a game conducted at the site. This rule does not apply to a last sale prize.
17. Before leaving a jar bar unattended, an employee shall safeguard the games, cash, and records.
18. An organization may not publicly display a redeemed pull tab.
19. An organization or employee may not reimburse, from any source of funds, an amount to a player for play of a game that has a manufacturing defect or has an incorrect posting of information described by subsection 6, unless the attorney general approves.

20. If an organization suspects or determines that a game may be defective, the organization shall temporarily suspend the game, notify the attorney general, and follow the attorney general's instructions.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-08

CHAPTER 99-01.3-08

99-01.3-08-04. Video surveillance system. If a site had twenty-one gross proceeds averaging ten thousand dollars or more per quarter for two entire consecutive quarters, this level of activity is expected to continue, and wagers exceed two dollars, an organization shall have a video surveillance system operational at the site within forty-five days from the end of the second quarter. However, for a site with seasonal activity, this level of activity is based on the average gross proceeds of the active quarters within the fiscal year July first through June thirtieth. A level of activity is based on a site's recent historical experience, but not earlier than the previous fiscal year, regardless of which organization conducted twenty-one at the site. If an organization conducts twenty-one at a newly acquired site that has a level of activity requiring a video surveillance system, it shall have the system for a table operational within forty-five days of conducting twenty-one or limit wagers to two dollars until the system is operational. A system must be operational for each twenty-one table that is regularly located on a site, regardless of how infrequent a table is used or the value of wagers accepted at the table. A temporary table that is brought onto a site for fourteen or fewer consecutive days for a special event according to subsection 4 of section 99-01.3-01-02, but for not more than two events per quarter, does not need a system. An organization shall:

1. Install a system that meets these specifications:
 - a. A recording unit must be a super VHS (S-VHS) system utilizing super VHS (S-VHS) videotapes, central processing unit (CPU), or a digital video recorder (DVR) system and must record in real time. A video system must be approved by the attorney general and no time lapse or multiplex video recorders may be used as the primary mode of operation. A recording unit must be secured in a locked vented cabinet or area, plugged into an outlet that cannot be switched off, and be programmable with a minimum seven-day memory backup. A recording unit must have a built-in or separate time and date generator that displays the time and date on the recorded video without significantly obstructing a recorded picture. A playback unit used to review a recorded video must have forward and reverse frame-by-frame and high-speed scanning capability;
 - b. A super VHS, digital, or high resolution color camera that has four hundred or more active lines of horizontal resolution must be used. A camera must have a signal to noise ratio, with the automatic gain circuitry off, of forty-five decibels or better. A camera must be positioned above the center of a table and record gaming activity from the dealer's perspective. A camera must be plugged into a surge protector and use an outlet that cannot be switched off. A camera must be protected by a slotted or clear dome. An automatic iris is optional;

- c. A camera lens must have an f-stop rating of f-1.2 or better, be color-corrected and have a format size equal to or greater than the format size of a camera. A lens may be fixed or variable focus. A lens must have a field of view to record the face of a dealing shoe, all betting spaces, discard holder, chip tray, currency plunger, and table number;
- d. A color video monitor with a connection that produces lines of horizontal resolution that equal or exceed the number of active lines of horizontal resolution that a video camera is outputting. A monitor's screen must measure at least thirteen inches [330.2 millimeters] diagonally;
- e. For a super VHS color camera, super VHS YC or coaxial video cable must be used. For a high resolution color camera, coaxial video cable must be used. The cable must meet these specifications:
 - (1) If the length of a cable is one hundred linear feet [30.48 linear meters] or less and the cable will not be flexed, exposed outside a building, or constantly moved, the center conductor must be stranded or solid pure copper material. Otherwise, the center conductor must be stranded pure copper material.
 - (2) The shield must be braided pure copper material. The dielectric must be foam material. A cable must be rated for seventy-five ohms of impedance. If a cable is to be placed in a return air system, the jacket must be teflon or other accepted fire-rated material; and
- f. A digital video recorder (DVR) system must be capable of allowing organizations to download, burn, or copy files onto a storage device.

2. ~~Buy or lease qualifying items. Additional allowable expense funds may be used for only these qualifying items:~~

- ~~a. Super VHS video cassette recorder (VCR), central processing unit (CPU), digital video recorder (DVR), time and date generator, and locking vented enclosure;~~
- ~~b. Super VHS, digital, or high resolution color camera with a fixed or zoom lens and dome;~~
- ~~c. Super VHS or high resolution color video monitor;~~
- ~~d. Super VHS YC or coaxial video cable;~~

- ~~e.~~ ~~VCR, CPU, or DVR cabinet, super VHS tapes or computer hard drives, and related storage cabinet;~~
 - ~~f.~~ ~~Table number and site identification;~~
 - ~~g.~~ ~~Installation and maintenance of equipment, including lighting fixture;~~
 - ~~h.~~ ~~In-line video cable amplifier, surge protector, video printer, tape rewinder, battery backup, and tape eraser; and~~
 - ~~i.~~ ~~Lease payment and interest expense on a financing loan.~~
- ~~3.~~ 2. If an organization conducts twenty-one or paddlewheels at more than one site, a table must have a site identification. A site identification and any table number must be visible on a recorded video.
- ~~4.~~ 3. A playing surface must be the standard green, unless authorized by the attorney general. Red or maroon and black jumbo-faced playing cards may be used.
- ~~5.~~ 4. Maintain a clean dome and a proper field of view on the playing surface.
- ~~6.~~ 5. Authorize only a gaming or shift manager or an independent person to:
- a. Access a recording unit, camera, and stored recorded video;
 - b. Start and stop a recording unit for a table when chips are first made available for use on the table and continue recording until the table is permanently closed for the day; and
 - c. Change a recorded video in a recording unit for a table at the beginning, during, or at the end of a day's activity, regardless if the authorized person is a dealer or wheel operator at the site. An organization may use two real time recorders in sequence to record a table's activity that exceeds the recording capability of one tape. If two recorders are used for one table, their separate recordings for a day's activity must overlap by ten minutes.
- ~~7.~~ 6. Retain a recorded video in a safe storage place for thirty days.
- ~~8.~~ 7. On a daily basis an employee shall review and document that a surveillance camera at each twenty-one and paddlewheel table at a site is recording an unobstructed view of the table activity. If a recording unit or camera for a table is not properly operating or not producing an unobstructed view and clear picture of the cards, currency, or chips and is not repaired or remedied within forty-eight hours of activity on the table or four calendar days, the organization shall close the table or limit wagers to two dollars on the table until the equipment is repaired.

- 9- 8. The attorney general's current recordkeeping system must be used unless approval is obtained from the attorney general for use of another recordkeeping system. An organization shall track a dealer's and wheel operator's percent-of-hold performance. Percent-of-hold is computed as adjusted gross proceeds divided by gross proceeds.
- 10- 9. Limit its purchase or lease of a camera, lens, cable, camera dome, digital recording device, time and date generator, and installation, including moving a camera to another site, to a vendor approved by the attorney general. An organization shall defer remitting at least fifty percent of the cost or lease price of this equipment to a vendor until the attorney general approves the clarity of the recorded video for a table. A vendor shall provide the attorney general with a sample recording to evaluate. If an organization acquires video surveillance equipment at a new site from another organization, moves a camera or table to another location at the site, or converts to a digital video recorder (DVR), the organization shall, within fourteen days, provide the attorney general with a sample recorded video to evaluate. If the quality of the sample tape recording is not satisfactory, an organization and vendor shall resolve the deficiency. An organization may buy or lease a qualifying item from another organization provided the equipment meets the specification of subsection 1.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10, 53-06.1-11

99-01.3-08-09. Betting.

1. An original wager must be an even dollar amount and may range from one dollar to twenty-five dollars. A wager of one dollar must be accepted unless an organization has more than one active table then a minimum wager may be set on no more than one-half of the tables. An active table under this subsection means a table in which a dealer and chips are present and available for play or has one or more players participating in the game. An organization may establish a maximum wager for each table. If all the tables at a site do not have the same betting limit, a plaque must be placed on top of a table indicating the minimum and maximum wager for the table. If a table that has a minimum wager becomes the only active table at a site or more than one-half of the active tables have a minimum wager, then the organization must notify players that the minimum wager amount will be lowered to a wager of one dollar at the end of the current dealing shoe. A wager that exceeds the maximum wager is valued at a table's maximum wager and the excess must be returned to a player. An organization shall post and announce a change in the maximum wager at a table with adequate notice to a player.

2. An original wager is the amount bet per hand before the first card is dealt and excludes tip betting. After the first card has been dealt, no original wager or tip bet may be changed. A separate wager may be a tip bet, insurance bet, splitting pairs, and doubling-down. After the first two cards have been dealt to each betting space, with the exception of the tip bet which is placed prior to any cards being dealt, the following additional wagers may be bet:
- a. **Tip bet.** An organization may permit tip betting. A tip bet is made when the original wager is made by placing a chip outside a betting space, but with the chip touching the lower left edge of the betting space, from a dealer's perspective. A betting space is limited to one tip bet. A tip bet does not have to equal an original wager and may range from fifty cents up to a table's maximum wager, but may be limited to less than the table's maximum wager at an organization's option. If a player's hand wins, a tip bet is paid off at an equal amount and the tip bet and payoff are placed in a dealer's tip receptacle. If the dealer's hand wins, a tip bet is placed in the chip tray. If a player's and dealer's hands tie, a tip bet is a tie (push).
 - b. **Insurance bet.** If a dealer's faceup card is an ace, the dealer shall ask the players if they desire to make an insurance bet. A player shall make an insurance bet by placing a chip on the insurance line of the playing surface. An organization may permit insurance betting except on a tip bet. An insurance bet must be one-half the original wager. The payoff on a winning insurance bet is two to one. A dealer shall reposition the chip below the lower right-hand corner of the first card dealt and to the immediate right of the second card dealt, from the dealer's perspective. A dealer shall then announce "insurance bets are closed". However, if a player who has been dealt a natural twenty-one (blackjack) desires to make an insurance bet and does not desire to double-down, a dealer may, at an organization's option, do an even money payoff rather than having the player place an "insurance" bet. To exercise this option, a dealer shall state "even money" and immediately do a chip payoff to a player equal to the player's original wager. A dealer shall then place the player's cards in a discard holder. For this option, a tip bet is a tie (push). This rule does not apply if an insurance bet is not permitted.
 - c. **Splitting pairs.** A dealer shall, beginning from the dealer's left and for each player's hand, prompt a player to indicate whether the player desires to split. Splitting is permitted on any pair or any two 10-count value cards. A player is allowed a maximum of four hands per betting space. For splitting a hand, a player shall place an additional wager, equal to an original wager, horizontal to the original wager. A player's right-hand card in a split must be played to completion before the adjacent split hand is dealt a second card. A player shall take at least one card on a split hand. A wager on

each hand must equal the original wager. Split aces draw only one card each; however, if an additional ace is drawn it may be split again up to a maximum of four hands. A two-card twenty-one after a split is not a natural twenty-one.

- d. Doubling-down. Doubling-down is permitted on the first two cards dealt to a betting space or the first two cards of a split hand, except on split aces ~~or a tip bet~~. An organization may permit doubling-down on tips bets. An organization may require a double-down wager to equal the original wager or tip bet or ~~allow~~ a double-down wager to be equal to or less than the original wager or tip bet. Only one additional card is dealt. A dealer shall, beginning from the dealer's left and for each player's hand, prompt a player to indicate whether the player desires to double-down. For doubling-down on an original wager or tip bet, a player shall place a chip vertical to the wager. A player may not double-down on a tip bet unless the player also doubles-down on the original wager. ~~A doubled-down tip bet may be equal to or less than the original tip bet.~~ If a dealer is unsure of a player's intent, the dealer shall ask the player and properly reposition a chip.
3. If a player's wager consists of two or more values of chips, a player shall neatly stack the lowest value chip on top of the highest value chip. If the chips are improperly stacked, a dealer shall tell the player and either the dealer or player shall properly stack the chips.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-11. Playing.

1. A dealer may announce the dealer's faceup card one time to all the players at a table. As a prompt for optional wagers (splitting pairs or doubling-down), a dealer may announce the point total of each player's hand.
2. A dealer may not allow a player to touch any cards and may not switch or remove a player's card or chip, pay on a tie, or do anything to alter a fair and legal outcome of a betting hand.
3. If a player has split or doubled-down, or both, a dealer shall play each hand as follows:
 - a. When a player places a wager for a split, a dealer shall split the cards side by side. If a player has also placed a tip bet, a dealer shall assign and reposition the tip bet to the split hand located at the foremost left of a betting space, from the dealer's perspective.

Each split hand must be played separately. If aces are split, one additional card must be dealt face upwards to each of the hands and placed at a right angle to the first card dealt, except if an additional ace is drawn it may be split again up to a maximum of four hands.

- b. A doubled-down hand must be dealt one additional card face upwards and placed at a right angle to the first two cards dealt. However, if a table does not have a video surveillance system, the card may be placed beneath a player's original wager.
4. A dealer may not take a hit card from a dealing shoe nor may a dealer bypass a player unless the player has first indicated the player's request for a hit card or to stand by a distinct hand signal.
5. As a player indicates to stand or draw a hit card, other than on a hand that has split aces or a double-down, a dealer shall deal face upwards an additional card or cards as the player requests. A player is responsible for correctly computing the total card count of the player's hand.
6. If a player did not split, double-down, or place an insurance bet, and busts (a player's total card count exceeds twenty-one), the player loses an original wager and any tip bet. A dealer shall immediately collect and place a player's chips, including any tip bet, in a chip tray and the cards in a discard holder.
7. If a dealer's faceup card is not an ace or a ten-count card and a player split or doubled-down and busts, the player loses the wager for that split or double-down hand and any tip bet assigned to it. A dealer shall immediately collect and place a player's chips in a chip tray and the cards in a discard holder.
8. If a dealer's faceup card is an ace or a ten-count card and a player split, doubled-down, or placed an insurance bet and busts, the dealer shall gather the cards of that hand and place them outside the betting space. Then, a dealer shall reposition the player's split and or doubled-down wagered chips, in the same betting position, on top of the player's cards of that hand. A tip bet for such a split or double-down hand that busts is lost. A dealer shall immediately place the tip bet chips in a chip tray.
9. If a dealer's faceup card is not an ace or a ten-count card and all players bust, a dealer shall end the round. If a dealer's faceup card is an ace or a ten-count card and all players bust, and no player split, doubled-down, or placed an insurance wager, a dealer shall end the round.
10. If the decisions of all players have been carried out, a dealer shall turn up the dealer's facedown card (hole-card-no-peek method) or deal a second card face upwards to the dealer (no-hole-card method). However, for the no-hole-card method, a dealer shall remove the

dealer's second card from a dealing shoe and, without looking at the value of the card, place it beside the dealer's first card. Then, a dealer shall announce the total card count of the two cards. A dealer shall play the dealer's hand as follows:

- a. If a dealer's faceup card is an ace and the dealer's hand is not a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect all the players' insurance bet chips, with the dealer's right or left hand, in a sweeping motion, and place them in a chip tray. A dealer may not use the right and left hand at the same time. Then, for all the players' busted hands that have been split, doubled-down, or both, a dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands, and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's insurance bet chips and busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.
- b. If a dealer's faceup card is a ten-count card and a dealer's hand is not a natural twenty-one, for all the players' busted hands that have been split, doubled-down, or both, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of busted hands, with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. When no other busted hand remains, a dealer shall place the collected chips in a chip tray, collect those players' busted hands and place the cards in a discard holder. A dealer may, at an organization's option that is consistently applied at a site, collect each player's busted hands and related chips with only the dealer's right hand, on a hand-by-hand basis, and place the chips in a chip tray and the cards in a discard holder. Then, for all the players who have been dealt a natural twenty-one, the dealer shall immediately, starting with the player to the dealer's right and moving left around the table, do the payoff according to subsection 15 or 16, and collect and place those players' cards in a discard holder. If a player's hand remains in play, a dealer

shall proceed according to subdivision f or g, and do the payoff procedure on any winning hand according to subsection 15 or 16.

- c. If a dealer's faceup card is an ace, the dealer's hand is a natural twenty-one, and a player has placed an insurance bet, the player wins the insurance wager at the rate of two to one. A dealer shall do the payoff procedure according to subsection 15 or 16. However, if a player's original hand also is a natural twenty-one, subdivision d also applies.
- d. If a dealer's faceup card is an ace or a ten-count card and the dealer's hand is a natural twenty-one, the organization wins all original wagers and original tip bets, unless a player's original hand also is a natural twenty-one which results in a tie (push). All other players lose.
- e. If a player has doubled-down or split against a dealer's faceup card of an ace or a ten-count card and the dealer's hand is a natural twenty-one, only the player's original wager is lost unless the player's original hand also is a natural twenty-one which results in a tie. All separate splitting and doubling-down wagers are voided. A dealer shall return the chips of the separate wagers to the players.
- f. If the count of a dealer's hand is sixteen or under, the dealer shall draw a hit card until the count exceeds sixteen. An additional card must be dealt face upwards to the immediate right of a dealer's first two cards dealt, from the dealer's perspective, and the dealer shall announce the total card count.
- 9. If the count of a dealer's hand exceeds sixteen but does not exceed twenty-one, the dealer shall stay (not draw a hit card). At its option, an organization may permit a site to allow a dealer to take a hit card when the dealer has a soft seventeen (ace card and a six). If the organization allows this option, it must be posted at the site. If a dealer's hand contains an ace and a count of seventeen, eighteen, nineteen, twenty, or twenty-one can be obtained by counting the ace as an eleven, a dealer shall value the dealer's hand as such and stay. A dealer shall announce the final total card count of the dealer's hand.
- h. If a dealer's hand busts, the remaining players with active hands win.
- 11. If a player's original hand is a natural twenty-one and a dealer's faceup card is not an ace or a ten-count card, the player's hand wins and is paid off at a rate of three to two, unless the player chooses to double-down. A dealer's chip payoff on a player's wager may occur immediately or when the dealer, in the order of hands, comes to that player's hand.

12. A wager is won or lost by comparing the total card count of each player's hand to the dealer's hand. A dealer or player with the highest total card count wins. Wagers, including tip bets, are paid off at an equal amount according to subsection 15 or 16. All ties are a push - no payoff is made, including on a tip bet.
13. If a player's hand loses against a dealer's hand, an organization wins any tip bet. A dealer shall immediately, starting with the player to the dealer's right and moving left around the table, collect the chips of adjacent losing hands with the dealer's right or left hand, in a sweeping motion. A dealer may not use the right and left hand at the same time. A dealer may, at an organization's option that is consistently applied at a site, collect the chips of losing hands with only the dealer's right hand, on a hand-by-hand basis. When a tie hand is reached, the dealer shall recognize that hand with a tap on the tabletop and announce that it is a push. When a winning hand is reached, a dealer shall place any previously collected chips in a chip tray and do the payoff procedure for adjacent winning hands according to subsection 15 or 16. When a losing hand is again reached, the dealer shall repeat the collection and payoff procedure until all losing wagers have been collected and all winning hands have been paid. The dealer shall then collect all the remaining cards according to subsection 17.
14. If a player's hand wins against a dealer's hand and the player placed a tip bet, the dealer wins the tip bet and the one-to-one payoff from a chip tray according to subsection 15 or 16.
15. If a player's hand wins against a dealer's hand and a table does not have a video surveillance system, the payoff procedure is:
 - a. Normal hand. A payoff chip must be placed beside the original wagered chip in a betting space.
 - b. Split hand. The payoff chip must be placed beside the wagered chips in a betting space.
 - c. Double-down hand. The payoff chips must be placed beside the two wagered chips in a betting space.
 - d. Insurance bet. A payoff chip must be first placed beside the insurance bet chip, fanned, then placed on top of the insurance bet chip and the chips pushed to a player.
 - e. Natural twenty-one. The payoff chips must be pyramided with the higher value chip placed beside the original wagered chip in a betting space and the smaller value chip placed on top over the center of the other two chips.

- f. Tip bet. A payoff chip must be placed beside the tip bet chip and any double-down chip in the inner table area. Then, a dealer shall place the chips directly in a tip receptacle.
16. If a player's hand wins against a dealer's hand and a table has a video surveillance system, the payoff of each winning hand must be done on a hand-by-hand basis. The payoff procedure is:
- a. A dealer shall fan all of a player's wagered chips toward the dealer or side with only the dealer's left hand. A dealer may, at an organization's option that is consistently applied at a site, fan all of a player's wagered chips toward the dealer or side with only the dealer's right hand. However, for a site that has a pit boss on duty and the organization requires a double-down wager to equal the original wager, a dealer may, for a player who has placed a split bet or double-down bet, or both, fan only one of the player's stacks of wagered chips. A dealer shall reposition a player's tip bet chip chips in the inner table area with the dealer's left hand and fan the chips. A dealer may, at an organization's option that is consistently applied at a site, fan all the players' tip bets ~~and double-down chips~~ after the payoff procedure has been done on all winning players' hands. However, if a player's bet exceeds five dollars, the dealer shall separate the player's chips, by value, fan them in sets of five chips, and then fan any remaining chips. A dealer shall, with the dealer's right hand, take ~~a chip chips~~ from ~~a~~ the chip tray, equal in value to the player's wagered chips (not tip bet chips), place the payoff chip ~~in a stacked manner~~ chips beside the wagered fanned chips, and fan the payoff chips toward the side or toward the dealer or side, and move the dealer's hands away from the chips. However, if the prize payoff exceeds twenty casino chips of the same value, the dealer may use a rack to account for one or more sets of twenty chips and fan the remaining chips. A dealer shall repeat this procedure for each separate winning hand.
- b. After the payoff procedure has been done on all winning players' hands and the tip bet chips have been fanned, a dealer shall, with the dealer's right hand, take ~~a chip chips~~ from ~~a~~ the chip tray of ~~the same~~ equal in value as the tip bet chip chips, place the payoff chip ~~in a stacked manner~~ chips beside the fanned wagered tip bet chips, and fan the payoff chips. A dealer shall repeat this procedure for each separate winning tip bet. Then, a dealer shall move the dealer's hands away from the chips. After a dealer has picked up the cards according to subsection 17, the dealer shall place the chips directly in a tip receptacle.
17. At the end of a round of play, a dealer shall pick up all the cards remaining on the playing surface so that they can be played back to recreate each hand, starting with the player to the dealer's right and moving to the left around the table. After the cards have been collected

in a sweep or hand by hand, a dealer shall pick up the dealer's cards against the top of the players' cards and place them in a discard holder.

18. If a table has a video surveillance system, a dealer's shift ends, and the dealer:
- a. Does not desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view. A dealer shall then take the tip receptacle and leave the table.
 - b. Does desire to exchange the dealer's tips for other chips in the chip tray, the dealer shall take all the chips out of the tip receptacle. A dealer shall place the chips in the inner table area at the dealer's left; sort, stack, and fan only the chips to be exchanged; take chips from a chip tray equal in value to the fanned chips; place the replacement chips at the dealer's right; sort, stack, and fan the chips, momentarily move the dealer's hands away from the chips so the chips are within a camera's view; place the exchanged chips in a chip tray; then place the replacement chips and unexchanged chips in a tip receptacle. A dealer shall then momentarily show both sides of the dealer's hands, with fingers extended, within a camera's view, take the tip receptacle, and leave the table. As an option, a dealer for the next shift may exchange the present dealer's tips.
19. An organization may adopt a policy to allow a dealer, when a player leaves a table, to exchange two or more of the player's casino chips for higher value chips provided that the dealer first asks the player's permission, the player agrees, and the dealer announces the value of chips being exchanged.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

99-01.3-08-13. Disclosure. These rules and notice must be disclosed or made available to players:

HOUSE RULES

Betting limit

Use Hole-Card-No-Peek method of dealing

- or -

Use Hole-Card with Card Reading Device method of dealing

- or -

Use No-Hole-Card method of dealing (Choose one)

PLAYER RULES

Must compute the card count of the player's hand

Must be twenty-one years of age or older
Hand signals must be used
No touching of cards
Two betting spaces maximum
No side bets
No payoff on tie counts
Splitting on any pair and two 10-count
value cards and limited
to a maximum of 4 hands per betting space
Doubling-down on the first 2 cards dealt
or the first 2 cards of any split hand, except on split aces
Double-down bet must equal the original wager

- or -

Double-down bet may be equal to or less than the original wager (Choose one)
Insurance not permitted

- or -

Insurance permitted - pays 2 to 1 (Choose one)
Tip betting permitted

- or -

Tip betting not permitted (Choose one)

Doubling-down on tip bets permitted - must equal the original tip bet

- or -

Doubling-down on tip bets permitted - may be equal to or less than the original
tip bet

- or -

Doubling-down on tip bets not permitted (Choose one)

NOTICE

If a person knowingly uses a fraudulent scheme or technique to cheat or skim involving twenty-one, regardless of the amount gained, the offense is a class C felony punishable by a five thousand dollar fine or five years in jail or both.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-10

CHAPTER 99-01.3-09

99-01.3-09-01. Definitions. As used in this article:

1. "Add-on" is the last opportunity a player has to buy additional chips in an attempt to better the player's chances to win in a tournament that allows the additional purchase of chips. The amount and time restriction is found in the tournament rules.
2. "Bounty" is a feature in some poker tournaments that rewards a player for eliminating another player.
3. "Buy-in" is the minimum amount of money required to enter a tournament.
- ~~3.~~ 4. "Poker" is a card game dealt by one dealer. A player bets on the cards (hand) the player holds. All bets are collected together in the center of the table which is the pot. There may be an initial ante round and a blind bet by players. Then, after players receive their starting cards and after each round of new cards, there is a betting round. Each round, a player decides whether to continue contending for the pot by calling or raising the bet. After all the dealing of cards and betting has occurred and there are two or more players still in contention, there is a showdown to determine which player has the best hand. The object is for a player to win the pot by making a bet no other player is willing to match or for the player to have the most valuable hand after all the betting is over. Cards and hands are ranked according to the normal rules of poker.
- ~~4.~~ 5. "Poker run" is an event in which each participant in the event follows a charted course, stopping at five to seven checkpoints along the route to pick up a single playing card. Upon all participants' arrival at the final checkpoint, a showdown of the poker hands is conducted and prizes are awarded.
- ~~5.~~ 6. "Rebuy" is when a player qualifies to purchase another buy-in during a tournament that allows a player to continue competing in the tournament. The number and time restriction are found in the tournament rules.
- ~~6.~~ 7. "Satellite" is a qualifying tournament in which the prize is a buy-in to a larger tournament.

7. 8. "Side game" is a poker game running concurrently with a tournament made up of players who have either been eliminated or opted not to play in the tournament.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-09-02. Limitations and fees.

1. An organization may only conduct poker on two occasions per year. An occasion may include more than one authorized site. A nontournament occasion and a side game are restricted to a twenty-four-hour period of play. Tournament activity, including any satellite activity, is an occasion of not more than three consecutive calendar days of play. Both tournament and nontournament play can occur as part of the same occasion provided that the nontournament play and a side game do not exceed a twenty-four-hour period of play.
2. For nontournament play and a side game, if an organization does not provide a dealer, players shall use cash. If an organization provides a dealer, players shall use chips. An organization shall charge a player a fee not to exceed two dollars per one-half hour of playing time and collect the fee in advance. An employee shall record the fee when it is collected. The fee schedule must be disclosed or made available to players.
3. For a tournament, an organization may provide a dealer who cannot play in the game or allow the players to alternate as dealers and:
 - a. An organization may award a buy-in to a larger tournament to multiple winning players of each satellite; ~~however, the tournament.~~ If a satellite buy-in prize is nontransferable transferable to another player, an organization must issue a receipt for the buy-in prize.
 - b. Satellite tournaments may be conducted with a separate fee not to exceed three hundred dollars per player and are considered part of gross proceeds for the tournament.
 - c. Advance players with the most number of chips from each round to the next round or championship round. A player with the most number of chips, based on a championship round, wins. Any remaining players in the tournament may agree to split the prize rather than finish the tournament.
 - e: d. Use no-value chips. The buy-in fee, plus any rebuy or add-on fees collected, for a tournament cannot exceed three hundred dollars per player and are considered gross proceeds for a tournament.

~~Only a cash prize may be awarded and the total prizes may not exceed ninety percent of the entry fees.~~

- ~~d. Satellite tournaments may be conducted with a separate fee not to exceed three hundred dollars per player and are considered part of gross proceeds for the tournament.~~
 - ~~e. Bounty buy-in fees and payouts, if applicable, must be included as part of the gross proceeds and prizes of a tournament.~~
 - ~~f. Only a cash prize may be awarded and the total prizes may not exceed ninety percent of entry fees.~~
4. An organization shall establish and post tournament rules for each poker occasion and indicate the buy-in fee for satellite tournaments and the main tournament. Any restrictions regarding rebuys and add-ons, if allowed, shall be provided in the tournament rules.
 5. An organization that conducts poker through a poker run involving more than one site shall comply with guidelines prescribed by the attorney general.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.2

CHAPTER 99-01.3-11

99-01.3-11-02. Paddlewheels - Excluding the use of a table. This section applies to the method of paddlewheels described by subsection 1 of section 99-01.3-11-01.

1. All paddlewheel tickets of a card must be preprinted and contain one or more numbers or symbols corresponding to a paddlewheel. A number or symbol cannot be repeated on any of the tickets of a card number. A ticket must have a game serial number corresponding to the number printed on the ticket card's stub. A master flare for a series of paddlewheel ticket cards must state the type of paddlewheel tickets, cost per ticket, range of card numbers, have a state gaming stamp affixed to it bearing the card number of the lowest-numbered ticket card, and be posted.
2. The maximum price per ticket is two dollars. All the tickets of a series of paddlewheel ticket cards must be sold for the same price and the tickets cannot be discounted. A person may not be required to buy more than one ticket. All tickets must be sold on a site the day the game is conducted. All the tickets of a card must be sold before a spin. Otherwise, an employee shall refund the gross proceeds in exchange for the players' unplayed tickets.
3. A winner must be determined by spinning a paddlewheel. An organization may spin a paddlewheel multiple times to award multiple prizes for one paddlewheel ticket card. A paddlewheel must make at least four revolutions. Otherwise, the spin is void and the paddlewheel must be spun again.
4. No cash prize may be a variable multiple of the price of a ticket. No cash prize or the retail price of a merchandise prize for one winning ticket may exceed one hundred dollars. After a prize payoff, an employee shall record the date, card number, and cash prize amount or cost and description of a merchandise prize and retain the winning ticket.
5. All paddlewheel ticket cards of a series related to the same master flare must be reported on the tax return in the quarter in which the series was first played. An organization may not carry over a partial series of paddlewheel ticket cards to another quarter. Any cards of a series which remain unsold during a quarter when other cards of that series were sold must be retained as part of the accounting records and cannot be used or disposed.
6. These rules and policy must be disclosed or made available to players:
 - a. A player may not bet tickets that exceed a value of twenty dollars for one spin;

- b. A paddlewheel must make at least four revolutions;
- c. Whether a player is or is not required to be present when the paddlewheel is spun to win; and
- d. The time limit for the winning player to claim the prize; however, the limit cannot exceed one hour from the time of the drawing.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4

99-01.3-11-03. Paddlewheel, table, chips, and video surveillance system.

1. A paddlewheel is a round mechanical vertical wheel, at least thirty inches [76.2 centimeters] in diameter, and may be divided into a maximum of five concentric circles. The outer circle must contain at least forty numbers or symbols. A paddlewheel may have house numbers or symbols for an optional odd or even bet. Each inner circle may contain up to one-half of the number of numbers or symbols as that circle's adjacent outer circle. The numbers and symbols may repeat on a circle. Each circle must be divided into equally spaced sections, be a different primary color, and correspond to the colored numbers or symbols of a table playing surface. The colored numbers or symbols of all concentric circles must be at least five-eighths of one inch [15.88 millimeters] in height.
2. A peg must protrude, on the circumference of a paddlewheel, between each section of the outside circle. A pointer must be positioned above a paddlewheel. It is used to stop a spin of a paddlewheel and determine the winning colored number or symbol.
3. A table must have:
 - a. A chip tray and a rail for holding a player's chips;
 - b. A playing surface which must be permanently imprinted with colored numbers or symbols of at least one and one-half inches [3.81 centimeters] in height relating to each circle of a paddlewheel. A table may have spaces for various wagers, including sets of numbers, colored numbers, symbols, and "ODD" and "EVEN" bets;
 - c. Either a mirror to reflect or a color video camera and monitor to display the winning colored number or symbol on the paddlewheel; and

- d. A table must have a "drop box" that meets the specification of subsection 5 of section 99-01.3-15-02. A "drop box" must have a money plunger which must remain in the slot unless the plunger is used.
4. An organization shall issue solid color-coded sets of chips for betting purposes. No betting chip can be the primary color of mustard yellow. The number of different sets and number of chips within each set is based on an organization's discretion. Each chip must be one and nine-sixteenths inches [39.62 millimeters] in diameter and be permanently impressed, engraved, or imprinted on one side with an organization's name and the other side may have a stated value of one dollar. The name may be represented by a unique identification that differentiates an organization's chips from other organizations' chips. Each chip is valued at one dollar. An organization shall issue casino chips in values of one dollar, five dollars, twenty-five dollars, and one hundred dollars for paying a winning bet or exchanging a betting chip. A casino chip must meet the specification of subsection 3 of section 99-01.3-08-03.
5. An organization shall have a picture-in-picture or simultaneous recording video surveillance system on a table and paddlewheel. The system must meet the specifications and requirements prescribed by subsections 1, 2, ~~3~~ 4, 5, 6, 7, 8, and 9, ~~and 10~~ of section 99-01.3-08-04.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-07.4

99-01.3-11-07. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. For paddlewheel activity described by subsection 1 of section 99-01.3-11-01:
 - a. For each day's activity, the starting and ending cash banks and IOU records according to section 99-01.3-03-06;
 - b. For each ticket card of each series of paddlewheel ticket cards:
 - (1) Date conducted, card number, cash prize amount or cost and description of a merchandise prize;
 - (2) All winning tickets and unsold ticket cards which must be retained for one year from the end of the quarter in which the activity was reported on a tax return; and

- (3) The flare with the state gaming stamp affixed;
 - c. Inventory records according to subsection 1 of section 99-01.3-03-09;
 - d. The count and reconciliation of each series of paddlewheel ticket cards according to subsection 6 of section 99-01.3-03-09;
 - e. Prize register according to section 99-01.3-03-07; and
 - f. Purchase invoice or receipt documenting the cost of a merchandise prize.
2. For paddlewheel activity described by subsection 2 of section 99-01.3-11-01:
 - a. The starting and ending cash and chip banks and IOU records according to section 99-01.3-03-06;
 - b. Drop box cash and values of fill and credit slips;
 - c. Daily surveillance review log;
 - d. Wheel operator percent-of-hold information log must be retained for one year from the end of the quarter of the activity;
 - e. Inventory records according to subsection 5 of section 99-01.3-03-09;
 - f. An organization using a combined cash bank for twenty-one and paddlewheel at a site, shall document the allocation of cash profit on a monthly basis to each game type based on the ratio of the game type's adjusted gross proceeds to the total adjusted gross proceeds of both game types; and
 - g. The count and reconciliation of casino and betting chips according to subsection 6 of section 99-01.3-03-09.
 3. For all paddlewheel activity:
 - a. A summary of gross proceeds, prizes, adjusted gross proceeds, cash profit, cash long or short, and bank deposit. For paddlewheel activity described by subsection 1 of section 99-01.3-11-01, a summary must be completed for each series of paddlewheel ticket cards. The summaries of all paddlewheel activity for a quarter must reconcile to the tax return;

- b. The cash profit defined in subdivisions i and l of subsection 6 of section 99-01.3-02-01, verification of the amount deposited according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10;
- c. Ideal cash bank master records according to subsection 4 of section 99-01.3-03-09; and
- d. The count and reconciliation of cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-12

99-01.3-12-03. Requirements of a bar.

1. A bar shall:
 - a. Place a device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;
 - b. Prohibit a person from tampering or interfering with the operation or play of a device;
 - c. Have the electrical current to a device turned off unless alcoholic beverages may be dispensed, a bar employee or an employee is available to redeem a winning pull tab and a bar has cash on hand to redeem a winning pull tab;
 - d. Absorb a loss related to a counterfeited or lost pull tab, redeemed pull tab that was not bought at the site, and loss or theft of the temporary loan of funds;
 - e. Repay an organization's temporary loan of funds ~~within fourteen days of when~~ immediately upon request from the organization that discontinues conducting pull tabs through a device at a site;
 - f. If a malfunction of a device is known by the bar or its employee, turn the device off and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage; and
 - g. Use an organization's loan of money only to redeem a winning pull tab. If the bar violates this rule, the attorney general may suspend any or all games at the site for up to six months.
2. A bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of a device for any reason, except to withdraw currency or a drop box according to subsection 4 of section 99-01.3-12-02.
3. If a bar employee believes that a deal is defective or there is a problem with a redeemed pull tab, the bar employee shall contact an organization and may turn a device off.
4. A bar may accept or not accept a gaming-related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar may allow a player to buy back the player's check with cash and may return a player's check to the player as part of a prize payout.

5. Only a bar employee who is authorized by a bar may redeem a winning pull tab.
6. A bar employee may not summarize or audit a game of pull tabs for an organization.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

99-01.3-12-05. Recordkeeping. Records must include and be retained for three years from the end of the quarter in which the activity was reported, unless otherwise provided by rule:

1. All redeemed and unsold pull tabs for a game and be retained as documentation for gross proceeds and prizes for one year from the end of the quarter in which the activity was reported on a tax return;
2. The deal's game information sheet and flare with the state gaming stamp affixed;
3. A record of game serial numbers for each game;
4. Record of win according to section 99-01.3-03-08;
5. Credit redemption register, including the date, amount, if credits were still on the device, player's name and signature, signature or initials of person who paid the player, bar reimbursement information if applicable, and date paid;
6. If an employee redeems winning pull tabs at a site, a daily employee report documenting the starting and ending cash on hand, IOU records according to section 99-01.3-03-06, and prizes redeemed by prize value, total prizes, credits paid, and cash long or short, and number of redeemed top tier pull tabs by game serial number;
7. Interim period site summary, including meter readings, test vends (if it affects the meter readings), gaming stamp number and game serial number of a deal added to a device, currency withdrawn, redeemed prizes by denomination obtained from a bar, total prizes, total prizes credited through the device if applicable, information on top tier winners redeemed by game serial number, credit redemption register refunds, cash profit or loss, and bank deposit;
8. A summary that includes the following:
 - a. Number of redeemed top tier pull tabs by game stamp and serial number, cumulative cash profit (loss), bank deposits, and prizes;

- b. Reconciliation of nonresettable meters for currency and the number of pull tabs dispensed to the currency in the device and to the value of the pull tabs dispensed; and
 - c. Ideal gross proceeds, value of unsold pull tabs, gross proceeds, prizes, adjusted gross proceeds, cash profit, and cash long (short). The summaries of all games for a quarter must reconcile to the tax return;
9. Inventory records according to subsection 1 of section 99-01.3-03-09;
 10. Ideal cash bank master records according to subsection 4 of section 99-01.3-03-09;
 11. Access log, including the date, time, nonresettable currency meter reading, reason for entry, and initials of the employee;
 12. Interim ~~period~~ audit records according to subdivision i of subsection 14 of section 99-01.3-12-02;
 13. The cash profit defined in subdivision d of subsection 6 of section 99-01.3-02-01, verification of the amount deposited according to a bank statement, and an audit of the game's activity according to section 99-01.3-03-10; and
 14. The count and reconciliation of deals and cash banks according to subsection 6 of section 99-01.3-03-09.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-12.1

99-01.3-12.1-03. Requirements of a bar.

1. A bar shall:
 - a. Place a device in a location where alcoholic beverages are dispensed and consumed and where a bar employee will regularly observe the device;
 - b. Prohibit a person from tampering or interfering with the operation or play of a device;
 - c. Have the electrical current to a device turned off unless alcoholic beverages may be dispensed, a bar employee or an employee is available to redeem a winning pull tab, and a bar has cash on hand to redeem a winning pull tab or cash seal prize;
 - d. Absorb a loss related to a counterfeited or lost pull tab, redeemed pull tab that was not bought at the site, and loss or theft of the temporary loan of fund;
 - e. Repay an organization's temporary loan of funds ~~within fourteen days of when~~ immediately upon request from the organization that discontinues conducting prize boards through a device at a site;
 - f. If a malfunction of a device is known by the bar or its employee, turn the device off and promptly notify the organization. Otherwise, the bar or its employee is responsible for any cash shortage; and
 - g. Use an organization's loan of money only to redeem a winning pull tab or cash seal prize. If the bar violates this rule, the attorney general may suspend any or all games at the site for up to six months.
2. A bar employee may not access, attempt to access, or permit a person, other than an employee of an organization, to access the interior of a device for any reason, except to withdraw currency or a drop box according to subsection 4 of section 99-01.3-12.1-02.
3. If a bar employee believes that a deal is defective or there is a problem with a redeemed pull tab, the bar employee shall contact an organization and may turn a device off.
4. A bar may accept or not accept a gaming-related check from a player. A player's check must be payable to a bar. A bar is responsible for a player's check returned by a financial institution as uncollectible. A bar may allow a player to buy back the player's check with cash and may return a player's check to the player as part of a prize payout.

5. Only a bar employee who is authorized by a bar may redeem a winning pull tab or pay a cash or merchandise prize.
6. A bar employee may not summarize or audit a prize board for an organization.

History: Effective July 1, 2010; amended effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-06

CHAPTER 99-01.3-15

99-01.3-15-02. Restrictions and requirements.

1. A licensed organization, organization that has a permit, or licensed manufacturer may not be a distributor. A person who is an officer, manager, gaming manager, or member of a governing board of a licensed organization or organization that has a permit may not be an officer, director, shareholder, proprietor, independent contractor, consultant, or employee of a distributor, nor have a financial interest in that distributor. A person having a financial interest in a distributor may not be a lessor of a site to an organization that is an active customer of that distributor. A change in ownership of a distributor must be immediately reported to the attorney general.
2. A distributor shall have an office in North Dakota where records must be kept.
3. An officer, director, shareholder, agent, or employee of a distributor may not:
 - a. Play a game of pull tabs, club special, tip board, prize board, seal board, sports-pool board, ~~or~~ punchboard, or quick shot bingo card marking device at any site, or provide bookkeeping services, including summarizing or auditing games, to an organization; ~~or~~
 - b. Conduct games at an organization's site unless the organization discloses to players that distributor employees are allowed to conduct at that site; or
 - c. Interfere with or attempt to influence a lessor's relationship with an organization involving a lease agreement, interfere with or attempt to influence an organization's management, employment practices, policy, gaming operation, disbursement of net proceeds, or procure a site for an organization. A distributor may notify an organization of an available site.
4. A distributor may not have an expressed or implied agreement with another distributor to restrict the sales of either of them to a specific geographic area or organization.
5. A distributor may not sell or provide a drop box unless it is a double-locking removable metal container and has:
 - a. One lock that secures a drop box to the underside of a table, and one or two separate locks that secure the contents placed into the drop box. The key to each of the locks must be different; and

- b. A slot opening through which currency and forms can be inserted into a drop box. The slot of a drop box may not exceed three and one-half inches [88.90 millimeters] in length and one-half inch [38.10 millimeters] in width. Inside a drop box there must be a spring-loaded mechanism that automatically closes and locks the slot opening when the drop box is removed from a table.
6. A distributor may not sell or provide twenty-one and paddlewheel (betting and casino) chips to an organization if those chips are identical in physical characteristic to chips previously sold or provided by that distributor to a different organization.
7. A distributor may not give a gift, trip, prize, or other gratuity valued singly or in the aggregate in excess of one hundred dollars per employee per calendar year related to a licensed organization or organization that has a permit. A distributor may not loan money (excluding credit) to a licensed organization or organization that has a permit, or to an employee of such an organization.
8. An employee of a distributor who is an owner or salesperson shall, within thirty days of starting business or employment, request training from the attorney general. The training must include the gaming law, rules, and recordkeeping. An employee shall read and acknowledge in writing, within thirty days of employment and the effective date of new gaming laws or rules, that the person has read and understands the provisions of the gaming law and rules which relate to the person's job duties. The attorney general shall designate the provisions to be read. The acknowledgment must be dated, reference the provisions, and be part of the person's personnel file.
9. A distributor may not share an office or warehouse facility with an organization.
10. A distributor shall file a copy of each sales invoice related to a licensed organization and record of voided gaming stamps with the attorney general by the fifth business day following the month of the transaction.
11. A distributor may not buy or be provided gaming equipment from an affiliated company unless the company is a wholly owned subsidiary of the distributor. An affiliated company must have originally bought the equipment directly from a licensed manufacturer.
12. A distributor may not buy or be provided gaming equipment from an out-of-state distributor unless the out-of-state distributor has the manufacturer ship the equipment directly to the licensed distributor and the manufacturer is licensed.

13. A distributor may not knowingly possess, display, sell, or provide an organization a deal of pull tabs, club special, tip board, prize board, or punchboard that:
 - a. Does not conform to the quality standards of sections 99-01.3-16-04 and 99-01.3-16-05;
 - b. Has a manufacturer's or distributor's seal broken on the manufacturer's container or has been prohibited by the attorney general from sale or play within North Dakota; or
 - c. Contains pull tabs or punches that have winner protection features although they are not winning pull tabs or punches.
14. A distributor may not temporarily store any game that has a state gaming stamp affixed to its flare which has been sold. A sale occurs when a distributor issues a sales invoice. If a distributor sells or provides gaming equipment to another distributor, the distributor shall ship the equipment directly to the other distributor's address.
15. A distributor shall direct a manufacturer to ship gaming equipment directly to the distributor and the distributor shall have it unloaded at its warehouse. However, if a distributor buys equipment from a manufacturer for sale to another distributor or buys a flashboard, blower, jar bar, paddlewheel, or twenty-one, poker, or paddlewheel table for sale to an organization, the distributor may direct the manufacturer to ship the equipment directly to the other distributor or organization, including the organization's site.
16. A distributor may not separate a paper bingo card when there are two or more faces on a sheet.
17. A distributor may not:
 - a. Sell or provide a dispensing device ~~or~~ bingo card marking device, or quick shot bingo card marking device and related equipment to an organization unless a model of the device has first been approved by the attorney general;
 - b. Modify an approved dispensing device model or electronic currency validator unless authorized by the attorney general; or
 - c. Rent a dispensing device to an organization unless the rent is for a fixed dollar rate per month or other duration. For a bingo card marking device, a distributor may rent a ~~bingo card marking device~~ to an organization for a fixed dollar rate per month or other duration, or for a percentage or fixed dollar amount of rental income derived from a player who uses the device. For a quick shot bingo card marking device, a distributor may rent a device to an organization

for a fixed dollar rate per month or other duration, or a fixed rate per bingo card sold. Rent may not be based on gross proceeds of or net revenue earned from bingo. If a distributor rents a bingo card marking device or quick shot bingo card marking device to an organization, the distributor may have a manufacturer, on behalf of the distributor, issue an invoice to an organization; however, the organization shall remit all rent payments directly to the distributor.

d. Modify a quick shot bingo card marking device and related equipment unless notification of approval by the attorney general has been received.

18. A distributor may arrange for an organization to acquire a dispensing device through a financing lease purchase agreement with a finance or lease company. Although an organization is deemed to own a device, a finance or lease company may have a security interest or ownership right in the device until the organization satisfies the lease.
19. If a distributor is an agent for another distributor in marketing a dispensing device, the agent is not required to complete a sales invoice. A distributor is an agent if it receives a commission and does not finance or take temporary possession or title to the device.
20. A distributor that sells or provides a new or used dispensing device to an organization or distributor, other than as an agent, or merely transacts a transfer of a device, for or without a fee, between two organizations, shall do the following unless that distributor contracts with another distributor to comply with this rule on its behalf:
 - a. Maintain an adequate inventory of electronic and mechanical parts in North Dakota, provide maintenance service, and provide technical assistance and training in the service and repair of a device;
 - b. Make available, upon request, electrical and mechanical parts to all other licensed distributors at the usual price for such parts; and
 - c. Notify the attorney general of any recurring electronic or mechanical malfunction of a device model.
21. A distributor that resells, transacts a transfer, rents, or provides a used dispensing device to an organization shall change or arrange to have changed all the keyed locks on the device.
22. A distributor that sells or provides a dispensing device to an organization shall record this information on a sales invoice:

- a. Name, address, and license number of an organization and name and location, if known, of the site where the device will be placed; and
 - b. Name of device and its serial number.
23. A distributor shall initially set up a dispensing device or quick shot bingo card marking device and related equipment at a site and conduct and document one training session on the operation and service of the either device and related equipment for an employee of an organization that acquires a device for the first time. A distributor shall provide an operations manual to an organization operating a quick shot bingo card marking device and related equipment.
 24. A service technician may not access a dispensing device unless accompanied by an organization employee.
 25. A distributor may not possess, in inventory, a processing chip encoded with proprietary software that was duplicated by the distributor for a dispensing device usable in North Dakota.
 26. A distributor may not sell or provide new video surveillance equipment or install video surveillance equipment for an organization unless the distributor is an approved vendor of the equipment or is approved by the attorney general.
 27. If a distributor receives an administrative or criminal complaint or a citation from another state, it shall notify the attorney general in writing within thirty days of the date of the complaint or citation.
 28. A quick shot bingo card marking device and related equipment may only be sold or provided to an organization with a state gaming license.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1, 53-06.1-14

99-01.3-15-03. Inventory records and reconciliation.

1. A distributor shall maintain a quantity-based perpetual inventory system for deals of pull tabs ~~used in a dispensing device~~, club specials, tip boards, prize boards, and punchboards that are bought or received from any source. A system must account for the sale or disposition of each item. The system must separately account for the quantity of items acquired, sold, and remaining in inventory by:
 - a. Name of manufacturer or other source, and purchase invoice number and date;

- b. Name of game and manufacturer's game form number, excluding deals of jar tickets; and
 - c. Distributor's sales invoice number and date.
2. A distributor shall maintain a quantity-based perpetual inventory system for paper bingo cards that are bought or received from any source. A system must account for the sale and disposition of each card. The system must separately account for the quantity of cards acquired, sold, and remaining in inventory by:
- a. Name of manufacturer or source, and supplier's sales invoice number and date;
 - b. Type of card or booklet;
 - c. Primary color of card;
 - d. Size of the series;
 - e. Quantity received; and
 - f. Distributor's sales invoice number and date.
3. A distributor shall semiannually reconcile its inventory of deals of pull tabs ~~used in a dispensing device~~, paper bingo cards, club specials, prize boards, tip boards, and punchboards that are recorded as being in inventory to these items that are actually in inventory. A person shall count these items in inventory, compare this count to the inventory records, and resolve any difference. The count must be done by a person who is not primarily responsible for safeguarding the physical inventory. A reconciliation must be documented, including the name and title of the person who does the reconciliation, date performed, result, corrective action taken, and initials of that person.

History: Effective May 1, 1998; amended effective July 1, 2002; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-15-06. Distribution of gaming equipment.

1. A manufacturer's game serial number must be on a paddlewheel ticket described by subsection 1 of section 99-01.3-11-01, pull tabs, prize board, club special, seal board, tip board, sports-pool board, and calcutta board. No game serial number may be special ordered. A game serial number must be preprinted on a paddlewheel ticket card. If a game serial number is not preprinted on a seal board, prize board, sports-pool board, or calcutta board, a distributor shall assign and

electronically or mechanically imprint it on the board. No serial number may be repeated within three years.

2. For a deal of pull tabs and jar ticket game, a distributor may open a manufacturer's cellophane shrink wrap to access a flare. A distributor shall affix a state gaming stamp on the front of the original flare, or a legible copy of the flare, of a deal of pull tabs, club special, tip board, series of paddlewheel ticket cards, and on a punchboard, sports-pool board, seal board, prize board, and calcutta board that is sold or provided to a customer. A gaming stamp must be affixed in North Dakota. A distributor shall legibly write a manufacturer's game serial number in ink on the stamp. If the written number is incorrect, the number cannot be changed or erased and the stamp must be voided. For a series of paddlewheel ticket cards, the game serial number written must be the lowest numbered paddlewheel ticket card. Then, a distributor shall replace, if applicable, a flare inside the cellophane shrink wrap and seal the opening. This rule does not apply to gaming equipment provided directly to an organization that has a permit, Indian tribe, United States military, out-of-state purchaser, or another licensed distributor.
3. If a manufacturer's security seal on a container is inadvertently broken but the integrity of a deal remains intact, a distributor may reseal the deal with an adhesive security seal identifying the distributor. The seal must be applied to all accessible sides of a container and ensure that a deal is secure. A distributor shall indicate on a sales invoice that the deal was resealed by the distributor and the reason.
4. A distributor shall provide a flare with a deal of pull tabs or jar tickets and series of paddlewheel ticket cards. The master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's numbers and symbols printed in matching colors. A flare, including a master flare, must indicate the name of the game, manufacturer's form number, cost per play, and value and number of winning prizes. The front of a flare for a deal of jar tickets must indicate the number of jar tickets in the deal. The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes and winning number or symbol. A symbol must be pictured on a flare, not described. A flare, including a master flare, may not display combinations of winning pull tabs, unless the phrase "prizes above are combinations of single prizes listed below" or a similar phrase is used and additional statements such as "multiple winners may not appear exactly as shown" or "may contain multiple winners", may be used in conjunction with this phrase. A last sale prize must be printed on a flare or be indicated by a permanently affixed sticker. The flare or sticker must contain the last sale feature, prize value, and distributor's name or license number. A distributor may not alter a flare except to add a last sale feature to a manufacturer's flare

for a deal of pull tabs. A distributor may make a flare for a deal of jar tickets. This information must be mechanically or electronically printed on a flare.

5. A distributor may not sell or provide a multiple line or multiple square sports-pool board to a customer unless a special opaque tape covers the numbers on the board. If a tape is disturbed, any recovering of the numbers must be detectable. A tape must prevent the concealed numbers from being viewed from the outside when using a high-intensity lamp.
6. For a deal of jar tickets, club special, tip board, and prize board, a distributor shall provide a game information sheet containing cost per play, ideal gross proceeds, ideal prizes, including any last sale prize, if known, ideal adjusted gross proceeds, and the quantity, face value, and total face value of coins on a prize board or, in place of a separate sheet, the information may be printed on the front or back of the deal's flare.
7. A distributor shall print these phrases on a sports-pool board:
 - a. Professional sports pool;
 - b. Cost per play \$ _____ (maximum cost per play is \$5.00);
 - c. Date of sports event _____;
 - d. Ideal prizes \$ _____; and
 - e. Method of prize payout _____.
8. A distributor shall indicate this information on the flare of a series of paddlewheel ticket cards:
 - a. Game serial numbers of the lowest and highest numbered paddlewheel ticket cards;
 - b. Quantity of cards; and
 - c. Type of paddlewheel ticket (for example, 40 x 3 x 120), if applicable.
9. A distributor shall print the phrases "merchandise prize _____" and "retail price \$ _____" on a flare and for each seal for a game that has a merchandise prize.
10. A distributor shall sell a calcutta board that is cardboard or similar material on which is printed a matrix of horizontal lines and vertical columns sufficient to accommodate the information required by

subsections 7, 10, and 12 of section 99-01.3-10-01. A distributor shall print "calcutta" at the top of a board and print the phrases "sporting event _____", "method of prize payout _____", and "date of sports event _____" on the board.

11. A distributor shall print the phrases "cost per play \$ _____", "merchandise prize _____" (if applicable), and "retail price \$ _____" on a seal board.
12. A distributor shall print "cost per play \$ _____", "merchandise prize _____" (if applicable), and "retail price \$ _____" on a prize board.
13. If a distributor is notified by an organization that the game serial number of a deal of pull tabs, club special, tip board, seal board, punchboard, series of paddlewheel ticket cards, calcutta board, prize board, or sports-pool board is different from the number written on a state gaming stamp, the distributor shall follow procedures prescribed by the attorney general.
14. If a distributor is notified by a manufacturer or attorney general of a ban or recall of defective pull tabs or punchboards, the distributor shall comply with subsection 2 of section 99-01.3-16-07.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1.-01.1, 53-06.1-14

99-01.3-15-10. Recordkeeping. A distributor shall maintain complete, accurate, and legible accounting records in North Dakota. The records must be retained for three years and include, by month:

1. Purchase invoices for gaming equipment.
2. Sales of gaming and nongaming equipment, supplies, and services sold or provided on a distributor's invoice. A sales invoice must be prepared on a form approved by the attorney general and include:
 - a. License number of the distributor;
 - b. Business name and address of the buyer and business name and address where the gaming equipment or supplies were shipped to or where the service was performed;
 - c. License or permit number of the buyer, if applicable;
 - d. Invoice number and date;

- e. Date shipped;
 - f. Indication for a credit memo;
 - g. Quantity, price, and description of each item of gaming equipment, supplies, and services. This includes the name of game and indication of the item as a deal of pull tabs, club special, prize board, tip board, seal board, punchboard, sports-pool board, calcutta board, or series of paddlewheel ticket cards. For a deal of pull tabs (excluding jar tickets), it must include a manufacturer's form number. For a series of paddlewheel ticket cards, it must include the number of paddlewheel ticket cards and number of tickets on each card. For a prize board, it must include separate costs, including sales tax, for a merchandise prize (if any), coins, and board and pull tabs. For paper bingo cards, it must include the primary color of single cards or primary color of the top card of collated booklets, type (number of faces on a sheet) of collated booklets or single cards, number of cards in a collated booklet, and serial number and size of series. For a bingo card marking device and quick shot bingo card marking device, it must include the quantity;
 - h. Gaming stamp number;
 - i. Ideal gross proceeds, ideal adjusted gross proceeds, price of a merchandise prize, and value of a last sale prize; and
 - j. An indication that a deal was resealed and the reason, if applicable.
3. A sales invoice must be:
- a. Prenumbered consecutively with a preprinted number of at least four characters;
 - b. Prepared in three parts and issued as follows:
 - (1) One part to the customer;
 - (2) One part retained in an invoice file by customer name; and
 - (3) One part to the attorney general according to subsection 10 of section 99-01.3-15-02; and
 - c. A credit memo for a returned item must be prepared and issued like a sales invoice. A credit memo must represent only a returned item.
4. A sales journal must include the invoice date, number, total amount, and name of customer.

5. A cash receipts journal must include cash sales, cash received from all sources, name of customer, date a payment is received, and amount.
6. A cash payments journal must include checks issued, cash payments, date of check or payment, check number, name of payee, and type of expense.
7. Record of voided gaming stamps on a form prescribed by the attorney general.
8. Inventory records and reconciliation of inventories.
9. A repair report for each service call on a dispensing device.
10. Documentation of a training session conducted according to subsection 23 of section 99-01.3-15-02.
11. A manufacturer's invoice that references a rental fee charged an organization for a bingo card marking device and a quick shot bingo card marking device.
12. ~~A quantity-based perpetual~~ Perpetual inventory record of bingo card marking devices ~~provided to or withdrawn from a site~~ and quick shot bingo card marking devices which must include the organization name and, site, model of device, serial number of device, and dates issued to and returned from a site.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

CHAPTER 99-01.3-16
MANUFACTURERS OF PULL TABS, PAPER BINGO CARDS, PULL
TAB DISPENSING DEVICES, BINGO CARD MARKING DEVICES, CARD
SHUFFLING DEVICES, AND QUICK SHOT BINGO CARD MARKING DEVICES

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99-01.3-16-03. Restrictions and requirements.

1. A manufacturer that sells, or provides, paper bingo cards to a distributor shall print its name or distinctive logo and the assigned serial number and series number (card number) on each card. A manufacturer shall have available for sale or provide to a distributor a master checkbook covering all card serial numbers. A manufacturer may not ship paper bingo cards directly to a licensed organization or organization that has a permit.
2. A manufacturer may only sell or provide gaming equipment to a licensed distributor. A manufacturer shall maintain accounting records of all sales of gaming equipment and retain them for three years. The records may be in electronic form.
3. A manufacturer may not modify the assembly or operational functions of an approved pull tab dispensing device model unless requested by the attorney general or a written request is approved by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device model.
4. A manufacturer may not modify paytables, bonus features, games, or current methods of operation of an approved bingo card marking device, and quick shot bingo card marking device and related

equipment unless requested or authorized by the attorney general. The attorney general may apply section 99-01.3-16-10 for approving a modification to a device.

5. A manufacturer may service a bingo card marking device or quick shot bingo card marking device and related equipment used by an organization.
5. 6. A manufacturer shall provide a master flare for a deal of jar tickets or pull tabs that contain:
 - a. Name of game;
 - b. Manufacturer's form number;
 - c. Cost per play;
 - d. Value and number of winning prizes; and
 - e. Number of pull tabs or jar tickets.

The number of prizes may be designated by a number or by a quantity of symbols that represent the number of winning prizes and the winning number or symbol. A symbol must be pictured on a flare, not described. A master flare for a game involving deals of jar tickets that contain winning tickets of the same prize value printed in differently colored numbers or symbols must have the flare's number and symbols printed in matching colors.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.1. Manufacturing specifications - Bingo card marking devices. A site system, and bingo card marking device which displays a facsimile of a bingo card and allows a player to electronically mark the card in the conduct of bingo according to chapter 99-01.3-04, must meet these specifications:

1. A site system is computer hardware and software used at a site by an organization which generates and downloads electronic bingo card images to devices, accounts for gross proceeds, and provides accounting information on all activity for three years from the end of the quarter in which the activity occurred. It must:
 - a. Record a nonresettable electronic consecutive six-digit receipt number for each transaction;
 - b. Issue a receipt for each transaction containing:

- (1) Name of a site or organization;
 - (2) Date and time of the transaction;
 - (3) Number of electronic bingo card images downloaded;
 - (4) Selling price of a card or package, rental fee, gross proceeds, and receipt number; and
 - (5) Serial number of device issued to a player;
- c. Print a summary report for each session containing the date and time of the report, name of site, date of the session, sequential session number, number of transactions, number of voided transactions, number of electronic bingo card images downloaded, number of devices used, total gross proceeds, and, for each transaction, list:
- (1) Sequential transaction number starting with one, for each device;
 - (2) Device serial number;
 - (3) Type of transaction (sale or void);
 - (4) Time of transaction;
 - (5) Number of electronic bingo card images downloaded;
 - (6) Selling price of a card or package; and
 - (7) Receipt number;
- d. Must be remote-accessible by the manufacturer of the device and attorney general for monitoring the system operation and accounting information in real time; and
- e. Must be capable of printing an electronic card image of any downloaded card;
2. A device must be a portable hand-held unit and cannot be wired directly to a site system;
 3. A device must be programmed for use at only the site where the site system is located;
 4. A device must have a unique serial number permanently encoded in the software;

5. No device can allow more than seventy-two single-faced cards per game;
6. A device may require a player to manually enter each bingo number by using an input function key or may use a radio frequency or Wi-Fi transmission to automatically daub the bingo numbers called;
7. A device can display a player's best card or a winning card and alert the player through an audio or video method, or both, that the player has a winning card;
8. A device must automatically erase all stored cards at the end of the last game of a session or when the device is turned off; and
9. A device must be downloaded with new cards at the time of the sales transaction.

History: Effective July 1, 2000; amended effective July 1, 2002; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-09.4. Manufacturing specifications - Quick shot bingo card marking devices. A quick shot bingo card marking device and related equipment used in the conduct of quick shot bingo according to chapter 99-01.3-04.1 must meet these specifications:

1. The device shall not display any other graphic representations other than the game of bingo, except for advertising. The device shall not accept cash, currency, or tokens for play. The device shall be rendered unplayable if communications from the quick shot bingo site operating system are lost.
2. The quick shot bingo card marking device shall display:
 - a. The player's credit balance;
 - b. The player's wins balance;
 - c. The current bet amount;
 - d. The denomination being played;
 - e. All possible winning patterns, or be made available as a menu item;
 - f. The amount won for the last completed game until the next game starts; and

9. The player options selected, including amount and number of cards purchased, for the last completed game until the next game starts or a new selection is made.
3. A device must be a portable hand-held unit and cannot be wired directly to a site system.
4. A device can only be used at the site where the quick shot bingo site operating system is located.
5. A device must have a unique identification number permanently encoded in the software.
6. No device can allow more than sixteen single-faced cards per game.
7. A device can display a player's best card or a winning card and alert the player through an audio or video method, or both, that the player has a winning card.
8. Electronic cards must contain a five-by-five grid of space and will contain a unique number which any not appear twice on the same card. The card must contain one square labeled "free" space.
9. When a number is covered, the covering must be indicated on the electronic card by a change in the color of the space or some other readily apparent visual means.
10. Each card will be assigned a series number which will have an unduplicated face.
11. A device must use a radio frequency or Wi-Fi transmission to automatically daub the bingo numbers called.
12. "Quick shot bingo site operating system" means computer hardware, software, and peripheral equipment, that is located at the bingo premise, is operated by the organization conducting bingo, and interfaces with, connects with, controls, or defines the operational parameters of the quick shot bingo card marking devices. Quick shot bingo site operating systems must include the following: central database service, point of sale, required printers, remote access capability, proprietary executable software, report generation software, and an accounting system and database.
13. A quick shot bingo site operating system must account for and provide accounting information on all activity for three years from the end of the quarter in which the activity occurred. It must:

- a. For each session, archive all electronic transactions of sales, redemptions, balls called, winning bingo patterns, prizes awarded, and winning cards;
- b. Include a printer with a paper-sensing device that upon sensing a "paper low" condition will allow the system to finish printing the receipt and then prevent further receipt writing. Each system shall recognize a printer power loss occurrence and cease transactions until power has been restored to the printer and the system is capable of producing a valid receipt;
- c. Be remote-accessible by the manufacturer of the system and attorney general for monitoring the system operation and accounting information in real time;
- d. Not allow date, time, credit balance, or other source information to be changed;
- e. Not allow automatic transfer, by a player or employee, of any winnings balance to the credit (deposit) balance on a quick shot bingo card marking device;
- f. Account for each session with a nonresettable electronic consecutive session number;
- g. Account for each transaction on the system with a nonresettable electronic consecutive receipt number at least six digits in length;
- h. Be capable of printing an electronic card image of any card; and
- i. The system must have the ability to:
 - (1) Issue a receipt for each transaction containing:
 - (a) Name of a site;
 - (b) Receipt number;
 - (c) Date and time of the transaction;
 - (d) Session number;
 - (e) Account number or control number; and
 - (f) Credit or deposit balance.
 - (2) Print a summary report for each session containing:
 - (a) Name of site;

- (b) Date of the session:
 - (c) Session number:
 - (d) Date and time of the report:
 - (e) Total gross proceeds:
 - (f) Total unplayed credits cashed out:
 - (g) Total unredeemed credits:
 - (h) Total prizes:
 - (i) Total unclaimed prizes; and
 - (j) Adjusted gross proceeds.
- (3) Print a transaction report for each session containing:
- (a) Receipt number:
 - (b) Time of transaction:
 - (c) Type of transaction (sale or redemption):
 - (d) Unique device identification number:
 - (e) Consecutive transaction number starting with one, for each device:
 - (f) Account (control) number:
 - (g) Credit amount:
 - (h) Wins amount:
 - (i) Bonus accrual amount, if applicable; and
 - (j) User ID of employee conducting transaction.

14. All communications between the device and the system shall be encrypted for security reasons. The wireless deployment shall employ a secure gateway to isolate the wireless environment from any other environment. The secure gateway shall be configured in a manner that prevents any wireless network component from gaining access to the internal network without first being scrutinized.

15. Electrical and mechanical components and design principles of the system may not subject a person to any physical hazard or cause electrical interference.
16. A surge protector that feeds all power to the equipment shall be installed to ensure the equipment shall not be adversely affected by surges or dips of plus or minus twenty percent of the supply voltage.
17. A battery backup shall be installed on the quick shot bingo site operating system and must be capable of maintaining the accuracy of all information required by this section for ninety days after power is discontinued from the system.
18. The operation of the quick shot bingo site operating system shall be impervious to influences from the outside of the system, including electromagnetic interference, electrostatic interference, and radio frequency interference.
19. The quick shot bingo site operating system shall not have any switches, jumpers, wire posts, or other means of manipulation that could affect the operation or outcome of a game.
20. Logical access to the quick shot bingo site operating system shall be restricted by user identifications and passwords.
21. A manufacturer of a quick shot bingo site operating system shall employ sufficient security safeguards in designing and manufacturing the system such that it may be verified that all proprietary software components are authentic copies of the approved software components and all functioning components of the system are operating with identical copies of approved software programs. The device must also have sufficient security safeguards so that any approved proprietary software are protected from alteration by unauthorized personnel. Security measures that may be employed to comply with these provisions are the use of dongles, digital signature comparison hardware and software, secure boot loaders, encryption, and password systems.
22. No quick shot bingo site operating system shall have a mechanism whereby an error will cause the game data to automatically clear. Game data shall be maintained at all times regardless of whether the system is being supplied with power. Game data shall be stored in such a way as to prevent loss of the data when replacing parts or modules during normal maintenance.
23. The quick shot bingo site operating system must have a backup and archive utility to allow the operator to save critical data should a system failure occur. This backup shall automatically run after the end of

each session or may be a manual process to be run at the operator's command after the end of each session.

24. The use of a random number generator may be used in the selection of bingo balls. The selection shall be statistically independent, pass recognized statistical tests, and be unpredictable.

History: Effective July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-10. Testing, approval, and recall.

1. A manufacturer of a pull tab dispensing device ~~or~~ bingo card marking device may, or quick shot bingo card marking device and related equipment shall not sell or provide a device to a distributor unless a model of the device has been approved by the attorney general.
2. A manufacturer of a dispensing device shall provide a device model, a copy of its construction blueprint, wiring schematics, circuit analysis, technical and operation manuals, random number generator or player button sequencing concept source and object code computer programs, proprietary operating software source and object code computer programs, and other information requested by the attorney general. A manufacturer of a bingo card marking device ~~or quick shot bingo card marking device and related equipment~~ shall provide a device model site system, quick shot bingo site operating system and marking device, technical and operations manual, proprietary operating software source and object code computer programs, random number generator, and other information requested by the attorney general. A manufacturer of a currency validator or credit redemption device for pull tab dispensing devices shall provide a copy of the source and object code computer programs and other information requested by the attorney general. A manufacturer ~~may~~ shall provide a copy of letters of approval and test reports of the dispensing device, bingo card marking device, quick shot bingo card marking device and related equipment, or currency validator from other states, federal jurisdictions, or independent testing laboratories.
3. The attorney general may require a manufacturer of a dispensing device, bingo card marking device, quick shot bingo card marking device and related equipment, or currency validator to transport a working model, and the information required by subsection 2 to the attorney general or designee for analysis, testing, and evaluation. A manufacturer shall pay all the costs and provide special equipment for the testing. The attorney general may require a manufacturer to pay the estimated costs, in advance. After the analysis, testing, and evaluation is done, the designee shall provide the results to the attorney general. An overpayment of costs must be refunded to a

manufacturer or the manufacturer shall pay any underpayment of costs. The attorney general shall provide the manufacturer with the results. Before approving a device's model, or quick shot bingo card marking device and related equipment, the attorney general may require a trial period.

4. If a manufacturer of a dispensing device, or quick shot bingo card marking device and related equipment, knows or determines that a model of device is defective or can be manipulated, the manufacturer shall immediately notify the attorney general and cease selling the device. The attorney general may require the manufacturer to recall or modify the device. Upon notification, a manufacturer shall initiate compliance with a recall or modification at the manufacturer's expense.
5. A quick shot bingo card marking device and related equipment shall have the ability to allow for an independent integrity check of the device's software from an outside source and is required for all control programs that may affect the integrity of the game.

History: Effective May 1, 1998; amended effective July 1, 2000; July 1, 2002; July 1, 2004; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

99-01.3-16-11. Sales invoice.

1. A manufacturer may not sell or provide to or accept from a distributor deals of pull tabs, paper bingo cards, bingo card marking devices, quick shot bingo card marking devices and related equipment, or pull tab dispensing devices without recording the transaction on a sales or credit invoice. The invoice must include:
 1. a. License number, business name, and address of the distributor;
 2. b. Business name and address to which the gaming equipment is shipped;
 3. c. Invoice number and date;
 4. d. Date shipped;
 5. e. Indication for a credit invoice;
 6. f. Quantity of deals of pull tabs and paper bingo cards;
 7. g. Description of each deal of pull tabs and bingo cards and paper bingo cards sold, including the name of the game and game serial number which may be listed on an addendum to a sales invoice. For a deal of pull tabs involving two-ply or three-ply cards

with perforated break-open tabs, the description must include the manufacturer's form number;

- 8: h. For paper bingo cards, quantity, primary color, type of collated booklet, serial number, size of series, and number of faces on a card; and
 - 9: i. Name, model, and serial number of a bingo card marking device or pull tab dispensing device;
 - j. Name, model, and control programs of a quick shot bingo site operating system;
 - k. Number of quick shot bingo card marking devices provided; and
 - l. For electronic bingo cards, quantity of bingo cards played.
2. A manufacturer shall file a copy of each sales invoice issued to an organization on behalf of a distributor for rent of a bingo card marking device, by the fifth business day following the month of the transaction.

History: Effective May 1, 1998; amended effective July 1, 2000; October 1, 2006; July 1, 2010; July 1, 2012.

General Authority: NDCC 53-06.1-01.1

Law Implemented: NDCC 53-06.1-01.1

TITLE 101

REAL ESTATE APPRAISER QUALIFICATIONS AND ETHICS BOARD

JULY 2012

**CHAPTER 101-02-01
APPLICATION AND FEES FOR APPRENTICE, LICENSURE, AND
CERTIFICATION**

Section

101-02-01-01	Application to Take the Examination
101-02-01-02	Application for Apprentice, Licensure, or Certification
101-02-01-02.1	Denial of Application
101-02-01-03	Filing Fees
101-02-01-04	Payment of Permit Fees
101-02-01-05	Replacement License or Certificate Fee [Repealed]

101-02-01-02.1. Denial of application. If an application is denied, the board will notify the applicant of the denial and specify the basis for the denial.

History: Effective July 1, 2012.

General Authority: NDCC 43-23.3-03

Law Implemented: NDCC 43-23.3-03

101-02-01-03. Filing fees. Fees will not be prorated.

1. The following annual application fees ~~must~~ will be charged:

a. Apprentice appraiser permit	\$225
	<u>\$100</u>
b. Licensed appraiser permit	\$225
	<u>\$400</u>
c. Certified <u>residential</u> appraiser permit	\$225
	<u>\$400</u>
d. Inactive status <u>Certified general appraiser permit</u>	\$ 50
	<u>\$400</u>
e. Late filing fee (per month)	\$50

2. The following annual renewal fees will be charged:

a. Apprentice, licensure, or certification <u>appraiser permit</u>	\$275 <u>\$350</u>
b. <u>Licensed appraiser permit</u>	<u>\$350 + national registry fee</u>
c. <u>Certified residential permit</u>	<u>\$350 + national registry fee</u>
d. <u>Certified general permit</u>	<u>\$350 + national registry fee</u>
e. <u>Inactive status</u>	<u>\$100</u>
f. <u>Late filing fee (per month)</u>	<u>\$100</u>

3. Other fees:

b. a. <u>Temporary practice permit-per contract</u>	<u>\$150</u>
e. b. <u>Approval of prelicensing or precertification educational courses</u>	<u>\$400</u> <u>\$150</u>
d. c. <u>Approval of continuing educational courses:</u>	
(1) <u>Courses two to eight hours in length</u>	<u>\$25</u> <u>\$50</u>
(2) <u>Courses over eight hours in length</u>	<u>\$50</u> <u>\$150</u>
e. d. <u>Appraiser list on disk</u>	<u>\$20</u> <u>\$25</u>
f. Appraiser list on labels	<u>\$20</u>
g. e. <u>Pocket card replacement</u>	<u>\$20</u> <u>\$25</u>
h. f. <u>Wall certificate replacement</u>	<u>\$20</u> <u>\$25</u>
g. <u>Change of name or address</u>	<u>\$25</u>

History: Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-20

Law Implemented: NDCC 43-23.3-05

CHAPTER 101-02-02

101-02-02-03. Apprentice appraiser.

1. **Definition.** An apprentice appraiser permit must be issued to an individual who successfully meets all of the board requirements for such a permit.
2. **~~Property appraisal limitations~~ Competency.** An apprentice appraiser permit is considered the entry level (training ground level) for a North Dakota appraiser. The apprentice appraiser shall assist either a licensed or a certified appraiser in appraisal work, provided the licensed or certified appraiser accepts full responsibility for the appraisal performed. The scope of practice for the apprentice appraiser is the appraisal of those properties that the supervising appraiser is permitted and qualified to appraise. The apprentice appraiser shall be subject to the uniform standards of professional appraisal practice.
3. **Examination.** ~~There is no examination required for the apprentice appraiser.~~ An applicant shall pass an open-book examination covering North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.
4. **Education.**
 - a. An applicant for an apprentice appraiser permit must have successfully completed seventy-five class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such, by the board. Coverage must include a minimum of all of the following:
 - (1) Thirty hours of basic appraisal principles.
 - (2) Thirty hours of basic appraisal procedures.
 - (3) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.
 - b. Class hours will be credited only for educational offerings with content that follows the required core curriculum.
 - c. A class hour is defined as sixty minutes, of which at least fifty minutes are instruction attended by the student.
 - d. Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.

- e. The prescribed number of class hours includes time for examinations.
- f. Uniform standards of professional appraisal practice qualifying education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.
- g. Credit for the class requirement may be obtained from the following:
 - (1) Colleges or universities.
 - (2) Community or junior colleges.
 - (3) Real estate appraisal or real estate-related organizations.
 - (4) State or federal agencies or commissions.
 - (5) Proprietary schools.
 - (6) Providers approved by the board.
 - (7) The appraisal foundation or its boards.
- h. ~~Qualifying education must have been obtained within the five-year period immediately preceding application for a permit. Credit toward qualifying education requirements may also be obtained by the completion of a graduate (master's or doctoral) degree in real estate from an accredited college or university approved by the American association of collegiate schools of business, or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board. Applicants for the apprentice level who are awarded graduate degrees from approved institutions are required to complete all additional education required for the credential in which the approved degree is judged to be deficient by the appraisal qualifications board.~~
- i. Forty All hours may be ~~from~~ by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:

- (1) Provide interaction between the student and the instructor. Interaction is a reciprocal environment in which the student has verbal or written communication with the instructor.
 - (2) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.
 - (3) Obtain course delivery mechanism approval from one of the following sources:
 - (a) Appraisal qualifications board-approved organizations providing approval of course design and delivery.
 - (b) A college that qualifies for content approval in paragraph 2 and that awards academic credit for the distance education course.
 - (c) A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.
 - (4) Require the student to successfully complete a written examination proctored by an official approved by the presenting college or university, or sponsoring organization.
 - (5) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.
 - (6) Be equivalent to at least fifteen class hours.
- j. Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.
- k. Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.

- (3) Address of appraised property.
 - (4) Description of work performed by the apprentice and scope of the review and supervision of the supervising appraiser.
 - (5) Number of work hours points per assignment.
 - (6) Signature and state license or certification number of the supervising appraiser.
- d. ~~The apprentice appraiser is permitted to have more than one supervising appraiser.~~
 - e. Separate appraisal logs must be maintained for each supervising appraiser.
 - f. The apprentice appraiser is entitled to obtain copies of appraisal reports the apprentice appraiser prepared.
7. **Supervisor responsibilities.** ~~The supervising appraiser is responsible for the training, guidance, and direct supervision of the apprentice appraiser. A licensed or certified appraiser who wishes to supervise an apprentice must register with the board on a form prescribed by the board. Registration of a supervising appraiser is effective the day the registration forms from both the supervising appraiser and from the apprentice appraiser are received and approved. These forms can be obtained by contacting the board office.~~
- a. The apprentice and supervising appraiser shall notify the board in writing within ten days of terminating supervision.
 - b. The apprentice appraiser is permitted to have more than one supervising appraiser.
 - c. The supervising appraiser must either have or must complete an open-book examination covering North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.
- a: d. The supervising appraiser is responsible for the training, guidance, and direct supervision of the apprentice appraiser. Training, guidance, and direct supervision ~~of the apprentice appraiser~~ means:
- (1) Each supervising appraiser must accept responsibility for the appraisal report by signing and certifying that the report complies with generally accepted appraisal procedures and is in compliance with the uniform standards of professional appraisal practice.

- (2) Each supervising appraiser must review and sign the apprentice appraisal reports.
 - (3) Each supervising appraiser must personally inspect each appraised property interior and exterior with the apprentice appraiser on at least the first twenty-five appraisal assignments requiring inspection and until the supervising appraiser determines the apprentice appraiser is competent in accordance with the competency provision of the uniform standards of professional appraisal practice for the property type. A separate log must be maintained for these twenty-five appraisals.
- e. A supervising appraiser may be disciplined if the board determines that the supervisor has failed to directly supervise an apprentice appraiser.
 - b- f. A supervising appraiser must have a license or certified permit in good standing and not subject to any disciplinary action within the last two years.
 - e- g. A supervising appraiser is limited to supervising no more than three apprentice appraisers at one time.
 - d- h. A supervising appraiser shall keep copies of appraisal reports for a period of five years or at least two years after final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

History: Effective October 1, 1992; amended effective October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03

Law Implemented: NDCC 43-23.3-03, 43-23.3-06, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

101-02-02-05. Licensed appraiser.

1. **Definitions.** A licensed appraiser permit must be issued to an individual who successfully meets all of the board requirements for such a permit.
2. **~~Property appraisal limitations~~ Competency.** The licensed appraiser is allowed to appraise noncomplex, one-to-four family residential properties that have a transaction value of up to one million dollars and complex one-to-four family residential properties that have a transaction value of up to two hundred fifty thousand dollars. In addition, a licensed appraiser is allowed to appraise noncomplex, nonresidential properties, that have a transaction value of up to two hundred fifty thousand dollars. The licensed appraiser is bound by

the competency provisions of the uniform standards of professional appraisal practice.

3. **Examination.** An applicant for a licensed appraiser permit must have successfully completed the board-approved uniform licensing examination or its equivalent. Successful completion of the examination is valid for a period of twenty-four months. The licensure permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the examination as a licensed appraiser must furnish proof to the board that the applicant has successfully completed the applicable education required by subsection 4.
4. **Education.** An applicant for a licensed appraiser permit ~~who completes education after December 31, 2007, or applies after July 1, 2009, must apply under~~ shall meet all of the following education requirements:
 - a. ~~An applicant for a licensed appraiser permit who meets the education requirements before January 1, 2008, and makes application by July 1, 2009, must successfully complete ninety classroom hours of real estate appraisal education. Fifteen of the ninety hours must include the successful completion of the national uniform standards of professional appraisal practice course, or its equivalent. Equivalency must be determined through the appraisal qualifications board course approval program or by an alternate method established by the appraisal qualifications board. Sixty of the ninety hours must be comprised of appraisal-specific education related to the valuation of real estate, and fifteen hours may be comprised of appraisal-related subject matter, as approved as such, by the board.~~
 - (1) ~~A classroom hour is defined as fifty minutes out of each sixty-minute segment.~~
 - (2) ~~Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to that educational offering.~~
 - (3) ~~Open-book examinations are not acceptable in qualifying education courses.~~
 - (4) ~~Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by an appraisal qualifications board certified instructor.~~
 - (5) ~~Credit for the classroom requirement may be obtained from the following:~~

- ~~(a) Colleges or universities.~~
 - ~~(b) Community or junior colleges.~~
 - ~~(c) Real estate appraisal or real estate-related organizations.~~
 - ~~(d) State or federal agencies or commissions.~~
 - ~~(e) Proprietary schools.~~
 - ~~(f) Other providers approved by the board.~~
- ~~(6) There is no time limit regarding when qualifying education credit must have been obtained.~~
- ~~(7) Various appraisal courses may be credited toward the ninety classroom hour education requirement. Applicants must demonstrate that their education involved substantially equivalent coverage of the topics listed below, with particular emphasis on the appraisal of one to four unit residential properties.~~
- ~~(a) Influences on real estate value:
 - ~~{1} Physical and environmental.~~
 - ~~{2} Economic.~~
 - ~~{3} Governmental and legal.~~
 - ~~{4} Social.~~~~
 - ~~(b) Legal considerations in appraisal:
 - ~~{1} Real estate versus real property.~~
 - ~~{2} Real property versus personal property.~~
 - ~~{3} Limitations on real estate ownership.~~
 - ~~{4} Legal rights and interests.~~
 - ~~{5} Forms of property ownership.~~
 - ~~{6} Legal descriptions.~~
 - ~~{7} Transfer of title.~~~~

(c) ~~Types of value:~~

[1] ~~Market value or value in exchange:~~

[2] ~~Price:~~

[3] ~~Cost:~~

[4] ~~Investment value:~~

[5] ~~Value in use:~~

[6] ~~Assessed value:~~

[7] ~~Insurable value:~~

(d) ~~Economic principles:~~

[1] ~~Anticipation:~~

[2] ~~Balance:~~

[3] ~~Change:~~

[4] ~~Competition:~~

[5] ~~Conformity:~~

[6] ~~Contribution:~~

[7] ~~Increasing and decreasing returns:~~

[8] ~~Substitution:~~

[9] ~~Supply and demand:~~

[10] ~~Surplus and productivity:~~

(e) ~~Real estate markets and analysis:~~

[1] ~~Characteristics of real estate markets:~~

[2] ~~Absorption analysis:~~

[3] ~~Role of money and capital markets:~~

[4] ~~Real estate financing:~~

(f) ~~Valuation process:~~

- [1] Definition of the problem.
 - [2] Collection and analysis of data.
 - [3] Analysis of highest and best use.
 - [4] Application and limitations of each approach to value.
 - [5] Reconciliation and final value estimate.
 - [6] The appraisal report.
- (g) Property description:
- [1] Site description.
 - [2] Improvement description.
 - [3] Basic construction and design.
- (h) Highest and best use analysis:
- [1] Four tests.
 - [2] Vacant site or as if vacant.
 - [3] As improved.
 - [4] Interim use.
- (i) Appraisal statistical concepts:
- [1] Mean.
 - [2] Median.
 - [3] Mode.
 - [4] Range.
 - [5] Standard deviation.
- (j) Sales comparison approach:
- [1] Research and selection of comparables.
 - [2] Elements of comparison.

- [3] Adjustment process.
- [4] Application of sales comparison approach.
- (k) Site value:
 - [1] Sales comparison.
 - [2] Land residual.
 - [3] Allocation.
 - [4] Extraction.
 - [5] Plottage and assemblage.
- (l) Cost approach:
 - [1] Steps in cost approach.
 - [2] Application of the cost approach.
- (m) Income approach:
 - [1] Gross rent multiplier analysis.
 - [2] Estimation of income and expenses.
 - [3] Operating expense ratios.
- (n) Valuation of partial interests:
 - [1] Life estates.
 - [2] Undivided interests in commonly held property.
 - [3] Easements.
 - [4] Timeshares.
 - [5] Cooperatives.
 - [6] Leased fee estate.
 - [7] Leasehold estate.
- (o) Appraisal standards and ethics.

- (8) ~~Forty hours may be distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes on-line learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must:~~
- ~~(a) Provide interaction between the student and the instructor.~~
 - ~~(b) Meet one of the following requirements:
 - ~~{1} The course is presented by a college or university, accredited by the commission on colleges or a regional accreditation association, which offers distance education programs in other disciplines.~~
 - ~~{2} The course is approved for design and delivery mechanism by the international distance education certification center and for content by the appraiser qualifications board or the board.~~~~
 - ~~(c) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization.~~
 - ~~(d) Meet the requirements for qualifying education established by the appraiser qualifications board.~~
 - ~~(e) Be equivalent to at least fifteen classroom hours.~~
- (9) ~~Credit awarded for the classroom hour requirement when an individual seeks a different classification than that held may also be awarded for the continuing education requirement of the classification held.~~
- (10) ~~Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser's knowledge is increased.~~
- (11) ~~Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.~~

b.

- (4) a. One hundred fifty class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such, by the board. Coverage must include a minimum of all of the following:
- (a) (1) Thirty hours of basic appraisal principles.
 - (b) (2) Thirty hours of basic appraisal procedures.
 - (c) (3) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.
 - (d) (4) Fifteen hours of residential market analysis and highest and best use.
 - (e) (5) Fifteen hours of residential appraiser site valuation and cost approach.
 - (f) (6) Fifteen hours of residential sales comparison and income approaches.
 - (g) (7) Fifteen hours of residential report writing and case studies.
- (2) b. Class hours will be credited only for educational offerings with content that follows the required core curriculum.
- (3) c. A class hour is defined as sixty minutes, of which at least fifty minutes are instruction attended by the student.
- (4) d. Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.
- (5) e. The prescribed number of class hours includes time for examinations.
- (6) f. Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.
- (7) g. Credit for the class hour requirement may be obtained from the following:
- (a) (1) Colleges or universities.
 - (b) (2) Community or junior colleges.

- (e) (3) Real estate appraisal or real estate-related organizations.
 - (d) (4) State or federal agencies or commissions.
 - (e) (5) Proprietary schools.
 - (f) (6) Providers approved by the board.
 - (g) (7) The appraisal foundation or its boards.
- (8) h. There is no time limit regarding when qualifying education credit must have been obtained.
- (9) i. ~~Seventy-five~~ All hours may be ~~from~~ by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:
- (a) (1) Provide interaction between the student and the instructor. Interaction is a reciprocal environment when the student has verbal or written communication with the instruction.
 - (b) (2) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation, or the board.
- {1} (a) Obtain course delivery mechanism approval from one of the following sources:
- {a} [1] Appraisal qualifications board-approved organizations providing approval of course design and delivery.
 - {b} [2] A college that qualifies for content approval in ~~subparagraph b~~ paragraph 2 that awards academic credit for the distance education course.

- [e] [3] A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporate interactivity.
- [2] (b) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization.
- [3] (c) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.
- [4] (d) Be equivalent to at least fifteen class hours.
- (10) j. Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.
- (11) k. Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.
- (12) l. Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.
- m. Credit toward qualifying education requirements may also be obtained by the completion of a graduate (master's or doctoral) degree in real estate from an accredited college or university approved by the American association of collegiate schools of business, or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board. Applicants for the licensed level who are awarded graduate degrees from approved institutions are required to complete all additional education required for the credential in which the approved degree is judged to be deficient by the appraisal qualifications board.
- (13) n. The applicant must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.
- (14) o. Experience may not be substituted for education.

5. **Experience.** A licensed appraiser must have the equivalent of two thousand hours of credible appraisal experience prior to obtaining the licensing permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value, defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at ~~a value~~ an opinion and ~~correctly~~ reporting the ~~value data, analysis, and~~ opinion in compliance with the uniform standards of professional appraisal practice. The applicant for licensure must submit a log from which the board will select for review a minimum of three summary or self-contained residential appraisal reports. All three of the reports must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the licensed level.
- a. Adequate experience will be determined on a point system by the actual hours spent on an assignment, subject to a maximum established by the board.
- (1) ~~The point system awards points~~ Maximum hours are based on the types of appraisals performed, and the types of properties appraised, and the number of appraisals performed by the individual.
- (2) Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.
- (a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting the opinion of value in compliance with the uniform standards of professional appraisal practice.
- (b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used

by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.

- (c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.

(3) Types of property appraised may include the following:

- (a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.
- (b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.
- (c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.
- (d) Commercial single-tenant may include office building, retail store, restaurant, service station, bank, and day care center.
- (e) Commercial multitenant may include office building, shopping center, and hotel.

- (f) Industrial may include warehouse and manufacturing plant.
 - (g) Institutional may include rest home, nursing home, hospital, school, church, and government building.
- (4) ~~Points~~ The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure and certification. A copy of this form can be obtained by contacting the board office.
- b. ~~A total of two hundred forty points is equivalent to the two thousand-hour requirement. These two hundred forty points (~~ The two thousand hours of experience~~) must be obtained using at least one year of appraisal practice gained over a period of at least twelve months.~~
 - c. There is no other time limit regarding when qualifying experience may be obtained.
 - d. Hours may be treated as cumulative in order to achieve the necessary two thousand hours (~~two hundred forty points~~) of appraisal experience.
 - e. Acceptable appraisal experience includes, but is not limited to, the following:
 - (1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.
 - (a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable standards of the uniform standards of professional appraisal practice.
 - (b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis, must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency

in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.

(c) A market analysis typically performed by a real estate broker or sales person should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.

(d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.

(2) No more than ~~seventy-five points~~ two hundred hours of the total experience credit may be in related areas. Related experience includes consulting.

f. Documentation in the form of reports ~~or certifications, and~~ file memoranda must be provided to support the experience claimed. If reports ~~or~~ and file memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.

g. The verification for the two thousand hours (~~two hundred forty points~~) of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:

(1) Type of property.

(2) Date of report.

(3) Address of appraised property.

(4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.

(5) Number of ~~work~~ hours (~~points~~) per assignment.

(6) The signature and permit number of the supervising appraiser, if applicable.

- (7) Separate appraisal logs maintained for each supervising appraiser, if applicable.
- h. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.
- i. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.
 - (1) A practicum course must include the generally applicable methods of appraisal practice for the credential category. Content includes all of the following:
 - (a) Requiring the student to produce credible appraisals that utilize an actual subject property.
 - (b) Performing market research containing sales analysis.
 - (c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.
 - (2) Assignments must require problem-solving skills for a variety of property types for the credential category.
 - (3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.
- j. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions.
- k. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for licensure may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. A maximum of two reports

may be submitted for review. The board will not initiate a complaint for violations identified in this review.

History: Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-09

Law Implemented: NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

101-02-02-05.1. Certified residential appraiser.

1. **Permit.** A certified residential appraiser permit must be issued to an individual who successfully meets all of the board requirements for such a permit.
2. **Property appraisal limitations Competency.** The certified residential appraiser may appraise one-family to four-family family residential properties without regard to value or complexity. In addition, a certified residential appraiser may appraise noncomplex, nonresidential properties, that have a transaction value of up to two hundred fifty thousand dollars. The certified residential appraiser is bound by the competency provision of the uniform standards of professional appraisal practice.
3. **Examination.** An applicant for a certified residential appraiser permit must have successfully completed the board-approved uniform state-certified residential examination or its equivalent. Successful completion of the examination is valid for a period of twenty-four months. The certified residential permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the examination as a certified residential appraiser must furnish proof to the board that the applicant has successfully completed the applicable education required by subsection 4.
4. **Education.** An applicant for a certified residential appraiser who ~~completes education after December 31, 2007, or applies after July 1, 2009, must apply under permit shall meet~~ all of the following education requirements:
 - a. ~~An applicant for a certified residential appraiser permit who meets the education requirements before January 1, 2008, and makes application by July 1, 2009, must successfully complete one hundred twenty hours of real estate appraisal education. Fifteen of the one hundred twenty hours must include the successful completion of the national uniform standards of professional appraisal practice course or its equivalent. Equivalency must be determined through the appraisal qualifications board of the appraisal foundation course approval program or by an alternate~~

~~method established by the appraisal qualifications board of the appraisal foundation. Ninety of the one hundred twenty hours must be comprised of appraisal-specific education related to the valuation of real estate and fifteen hours may be comprised of appraisal-related subject matter as approved as such by the board.~~

- ~~(1) A classroom hour is defined as fifty minutes out of each sixty-minute segment.~~
- ~~(2) Credit toward the classroom hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to that educational offering.~~
- ~~(3) Open-book examinations are not acceptable in qualifying education courses.~~
- ~~(4) Uniform standards of professional appraisal practice education credit shall only be awarded when the classroom is instructed by an appraisal qualifications board-certified instructor.~~
- ~~(5) Credit for the classroom requirement may be obtained from the following:
 - ~~(a) Colleges or universities.~~
 - ~~(b) Community or junior colleges.~~
 - ~~(c) Real estate appraisal or real estate-related organizations.~~
 - ~~(d) State or federal agencies or commissions.~~
 - ~~(e) Proprietary schools.~~
 - ~~(f) Other providers approved by the board.~~~~
- ~~(6) There is no time limit regarding when qualifying education credit must have been obtained.~~
- ~~(7) Various appraisal courses may be credited toward the one hundred twenty classroom hour education requirement. Applicants must demonstrate that their education involved substantially equivalent coverage of the topics listed below, with particular emphasis on the appraisal of one-unit to four-unit residential properties.
 - ~~(a) Influences on real estate value.~~~~

- [1] Physical and environmental.
 - [2] Economic.
 - [3] Governmental and legal.
 - [4] Social.
- (b) Legal considerations in appraisal.
- [1] Real estate versus real property.
 - [2] Real property versus personal property.
 - [3] Limitations on real estate ownership.
 - [4] Legal rights and interests.
 - [5] Forms of property ownership.
 - [6] Legal descriptions.
 - [7] Transfer of title.
- (c) Types of value.
- [1] Market value or value in exchange.
 - [2] Price.
 - [3] Cost.
 - [4] Investment value.
 - [5] Value in use.
 - [6] Assessed value.
 - [7] Insurable value.
- (d) Economic principles.
- [1] Anticipation.
 - [2] Balance.
 - [3] Change.
 - [4] Competition.

- {5} Conformity.
- {6} Contribution.
- {7} Increasing and decreasing returns.
- {8} Opportunity cost.
- {9} Substitution.
- {10} Supply and demand.
- {11} Surplus and productivity.
- (e) Real estate markets and analysis:
 - {1} Characteristics of real estate markets.
 - {2} Absorption analysis.
 - {3} Role of money and capital markets.
 - {4} Real estate financing.
- (f) Valuation process:
 - {1} Definition of the problem.
 - {2} Collection and analysis of data.
 - {3} Analysis of highest and best use.
 - {4} Application and limitations of each approach to value.
 - {5} Reconciliation and final value estimate.
 - {6} The appraisal report.
- (g) Property description:
 - {1} Site description.
 - {2} Improvement description.
 - {3} Basic construction and design.
- (h) Highest and best use analysis.

- [1] Four tests:
- [2] Vacant site or as if vacant:
- [3] As improved:
- [4] Interim use:
- (i) Appraisal mathematics and statistics:
 - [1] Compound interest concepts:
 - [2] Statistical concepts used in appraisal:
- (j) Sales comparison approach:
 - [1] Research and selection of comparables:
 - [2] Elements of comparison:
 - [3] Adjustment process:
 - [4] Application of sales comparison approach:
- (k) Site value:
 - [1] Sales comparison:
 - [2] Land residual:
 - [3] Allocation:
 - [4] Extraction:
 - [5] Plottage and assemblage:
- (l) Cost approach:
 - [1] Steps in cost approach:
 - [2] Application of the cost approach:
- (m) Income approach:
 - [1] Estimation of income and expenses:
 - [2] Operating expense ratios:
 - [3] Direct capitalization:

- [4] ~~Gross-rent multiplier analysis.~~
- (n) ~~Valuation of partial interests.~~
 - [1] ~~Life estates.~~
 - [2] ~~Undivided interests in commonly held property.~~
 - [3] ~~Easements.~~
 - [4] ~~Timeshares.~~
 - [5] ~~Cooperatives.~~
 - [6] ~~Leased fee estate.~~
 - [7] ~~Leasehold estate.~~
- (o) ~~Appraisal standards and ethics.~~
- (p) ~~Narrative report writing.~~
- (8) ~~Sixty hours may be for distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:~~
 - (a) ~~Provide interaction between the student and the instructor.~~
 - (b) ~~Meet one of the following requirements:~~
 - [1] ~~The course is presented by a college or university, accredited by the commission on colleges or a regional accreditation association, which offers distance education programs in other disciplines.~~
 - [2] ~~The course is approved for design and delivery mechanism by the international distance education certification center and for content by the appraiser qualifications board or the board.~~
 - (c) ~~Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization.~~

~~(d) Meet the requirements for qualifying education established by the appraiser qualifications board.~~

~~(e) Be equivalent to at least fifteen classroom hours.~~

~~(9) Credit awarded for the classroom hour requirement when an individual seeks a different classification than that held may also be awarded for the continuing education requirement of the classification held.~~

~~(10) Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser's knowledge is increased.~~

~~(11) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable by the board without additional state review.~~

b:

~~(1) a.~~ An associate degree, or higher from an accredited college or university.

~~(1)~~ In lieu of the associate degree, an applicant for the certified residential permit shall successfully complete a minimum of ~~twenty-one~~ three semester credit hours in all each of the following collegiate level subject matter courses from an accredited college, junior college, community college, or university:

(a) English composition.

(b) Principles of economics (micro or macro).

(c) Finance.

(d) Algebra, geometry, or higher mathematics.

(e) Statistics.

~~(f) Introduction to computers, word processing and spreadsheets.~~ Computer science.

(g) Business or real estate law.

All courses used in lieu of the required degree must have been completed at a college or university that is an accredited degree-granting institution. The accreditation must have been obtained from the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the United States secretary of education. If the college or university accepts the college-level examination program, and issues a transcript for the examinations, showing its approval, it will be considered as credit for the college course. For college-level courses taken in a quarterly system, one quarter credit hour is equivalent to two-thirds semester credit hour.

(2) College-level education completed at a foreign college or university will be acceptable provided the education has been evaluated and deemed equivalent by one of the following:

(a) An accredited degree-granting domestic college or university.

(b) The American association of collegiate registrars and admissions officers.

(c) A foreign degree credential evaluation service company that is a member of the national association of credential evaluation services.

(d) A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues a credential in another discipline.

(2) b. Two In addition to an associate degree or higher, an applicant for certified residential must complete two hundred class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation and approved as such by the board.

(a) (1) Coverage must include a minimum of all of the following:

{1} (a) Thirty hours of basic appraisal principles.

{2} (b) Thirty hours of basic appraisal procedures.

- ~~[3]~~ (c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.
 - ~~[4]~~ (d) Fifteen hours of residential market analysis and highest and best use.
 - ~~[5]~~ (e) Fifteen hours of residential appraiser site valuation and cost approach.
 - (f) Thirty hours of sales comparison and income approaches.
 - ~~[6]~~ (g) Fifteen hours of residential report writing and case studies.
 - ~~[7]~~ (h) Fifteen hours of statistics, modeling, and finance.
 - ~~[8]~~ (i) Fifteen hours of advanced residential applications and case studies.
 - ~~[9]~~ (j) ~~Fifteen~~ Twenty hours of appraisal subject matter electives.
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- ~~(b)~~ (2) Class hours will be credited only for educational offerings with content that follows the required core curriculum.
 - ~~(c)~~ (3) A class hour is defined as sixty minutes, of which at least fifty minutes are for instruction attended by the student.
 - ~~(d)~~ (4) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.
 - ~~(e)~~ (5) The prescribed number of class hours includes time for examinations.
 - ~~(f)~~ (6) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.
 - ~~(g)~~ (7) Credit for the class requirement may be obtained from the following:
 - ~~[1]~~ (a) Colleges or universities.
 - ~~[2]~~ (b) Community or junior colleges.

- ~~{3}~~ (c) Real estate appraisal or real estate-related organizations.
 - ~~{4}~~ (d) State or federal agencies or commissions.
 - ~~{5}~~ (e) Proprietary schools.
 - ~~{6}~~ (f) Providers approved by the board.
 - ~~{7}~~ (g) The appraisal foundation or its boards.
- ~~(h)~~ (8) There is no time limit regarding when qualifying education credit must have been obtained.
- ~~(i)~~ (9) ~~One hundred~~ All hours may be ~~from~~ by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:
- ~~{1}~~ (a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.
 - ~~{2}~~ (b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.
 - ~~{3}~~ (c) Obtain course delivery mechanism approval from one of the following sources:
 - ~~{a}~~ [1] Appraisal qualifications board-approved organizations providing approval of course design and delivery.
 - ~~{b}~~ [2] A college that qualifies for content approval in subparagraph b and that awards academic credit for the distance education course.

- [e] [3] A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.
- [4] (d) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization.
- [5] (e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.
- [6] (f) Be equivalent to at least fifteen class hours.
- (f) (10) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.
- (*) (11) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.
- (+) (12) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.
- (13) Credit toward qualifying education requirements may also be obtained by the completion of a graduate degree in real estate from an accredited college or university approved by the American association of collegiate schools of business or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.
- (14) Applicants for the certified residential level who are awarded graduate degrees from approved institutions are required to complete all additional education required for the credential in which the approved degree is judged to be deficient by the appraisal qualifications board.

~~(m)~~ (15) The applicant must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(n)~~ (16) Experience may not be substituted for education.

5. **Experience.** A certified residential appraiser must have the equivalent of two thousand five hundred hours of credible appraisal experience prior to obtaining the certified residential appraiser certification permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value, defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at an opinion and ~~correctly~~ reporting the data, analysis, and opinion in compliance with the uniform standards of professional appraisal practice. The applicant for certified residential appraiser must submit a log from which the board will select for review a minimum of three summary or self-contained ~~one-family to four-family residential~~ appraisal reports. ~~One report~~ Collectively the reports must include and demonstrate competence and a working knowledge of all three approaches to value. The reports submitted must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified residential level.

a. Adequate experience will be determined ~~on a point system by~~ the actual hours spent on an assignment, subject to a maximum established by the board.

(1) ~~The point system awards points~~ Maximum hours awarded are based on the types of appraisals performed, and the types of properties appraised, ~~and the number of appraisals performed by the individual.~~

(2) Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.

(a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting

the opinion of value in compliance with the uniform standards of professional appraisal practice.

(b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.

(c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process, including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.

(3) Types of property appraised may include the following:

(a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.

(b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.

- (c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.
 - (d) Commercial single-tenant may include office building, retail store, restaurant, service station, bank, and day care center.
 - (e) Commercial multitenant may include office building, shopping center, and hotel.
 - (f) Industrial may include warehouse and manufacturing plant.
 - (g) Institutional may include rest home, nursing home, hospital, school, church, and government building.
- (4) ~~Points~~ The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure and certification. A copy of this form can be obtained by contacting the board office.
- b. ~~A total of three hundred points is equivalent to the two thousand five hundred-hour requirement. These three hundred points (~~ The two thousand five hundred hours of experience ~~) must be obtained using at least two years of appraisal practice gained over a period of at least twenty-four months.~~
 - c. There is ~~not~~ no other time limit regarding when qualifying experience may be obtained.
 - d. Hours may be treated as cumulative in order to achieve the necessary two thousand five hundred hours ~~(three hundred points)~~ of appraisal experience.
 - e. Acceptable appraisal experience includes the following:
 - (1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.
 - (a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing

under applicable uniform standards of professional appraisal practice standards.

- (b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.
 - (c) A market analysis typically performed by a real estate broker or salesperson should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, and the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.
 - (d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.
- (2) No more than ~~seventy-five points~~ two hundred fifty hours of the total experience credit may be in related areas. Related experience includes consulting.
- f. Documentation in the form of reports ~~or~~ certifications, and file memoranda must be provided to support the experience claimed. If reports ~~or~~ and memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.
9. The verification for the two thousand five hundred hours (~~three hundred points~~) of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:
- (1) Type of property.
 - (2) Date of report.

- (3) Address of appraised property.
 - (4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.
 - (5) Number of work hours (~~points~~) per assignment.
 - (6) The signature and permit number of the supervising appraiser, if applicable.
 - (7) Separate appraisal logs maintained for each supervising appraiser, if applicable.
- h. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.
- i. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.
- (1) A practicum course must include the generally applicable methods of appraisal practice for the credential category. Content includes all of the following:
 - (a) Requiring the student to produce credible appraisals that utilize an actual subject property.
 - (b) Performing market research containing sales analysis.
 - (c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.
 - (2) Assignments must require problem-solving skills for a variety of property types for the credential category.
 - (3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.
- j. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions.

- k. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for certified residential may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. A maximum of two reports may be submitted for review. The board will not initiate a complaint for violations identified in this review.

History: Effective January 1, 2008; amended effective July 1, 2012.

General Authority: NDCC 43-23.3-03

Law Implemented: NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43.23.3-09, 43-23.3-17, 43-23.3-18

101-02-02-06. Certified general appraiser.

1. **Definitions.** A certified general appraiser permit must be issued to an individual who successfully meets all of the board requirements for such a permit.
2. **Property appraisal limitations. Competency.** The certified general appraiser may appraise all types of properties. The certified general appraiser is bound by the competency provision of the uniform standards of professional appraisal practice.
3. **Examination.** An applicant for a certified general appraiser permit must have successfully completed the board approved uniform state certification examination or its equivalent. Successful completion of the examination is valid for a period of twenty-four months. The certified general permit must be obtained within twenty-four months of successful completion of the examination or the examination must be retaken. An applicant for the examination as a certified appraiser must furnish proof to the board that the applicant has successfully completed the applicable education required by subsection 4.
4. **Education.** An applicant for a certified general appraiser who ~~completes education after December 31, 2007, or applies after July 1, 2009, must apply under permit shall meet~~ all of the following education requirements:
 - a. ~~An applicant for a certified general appraiser permit who meets the education requirements before January 1, 2008, and makes application by July 1, 2009, must successfully complete one hundred eighty hours of real estate appraisal education. Fifteen of the one hundred eighty hours must include the successful completion of the national uniform standards of professional appraisal practice course, or its equivalent. Equivalency shall be determined through the appraisal qualifications board course approval program or by an alternate method established by the appraisal qualifications board. One hundred fifty hours of the one hundred eighty hours must be comprised of appraisal-specific~~

~~education related to the valuation of real estate, and fifteen hours may be comprised of appraisal-related subject matter, as approved as such, by the board.~~

- ~~(1) A classroom hour is defined as fifty minutes out of each sixty-minute segment.~~
- ~~(2) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen hours, and the individual successfully completes an examination pertinent to that educational offering.~~
- ~~(3) Open-book examinations are not acceptable in qualifying education courses.~~
- ~~(4) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by an appraisal qualifications board-certified instructor.~~
- ~~(5) Credit for the classroom requirement may be obtained from the following:
 - ~~(a) Colleges or universities.~~
 - ~~(b) Community or junior colleges.~~
 - ~~(c) Real estate appraisal or real estate-related organizations.~~
 - ~~(d) State or federal agencies or commission.~~
 - ~~(e) Proprietary schools.~~
 - ~~(f) Other providers approved by the state certification or licensing board.~~~~
- ~~(6) There is no time limit regarding when qualifying education credit must have been obtained.~~
- ~~(7) Various appraisal courses may be credited toward the one hundred eighty classroom hour education requirement. Applicants must demonstrate that their education involved substantially equivalent coverage of topics listed below with particular emphasis on the appraisal of nonresidential properties. Residential is defined as one-to-four residential units.
 - ~~(a) Influence on real estate value.~~~~

[1] Physical and environmental.

[2] Economic.

[3] Governmental and legal.

[4] Social.

(b) Legal considerations in appraisal.

[1] Real estate versus real property.

[2] Real property versus personal property.

[3] Limitations on real estate ownership.

[4] Legal rights and interests.

[5] Forms of property ownership.

[6] Legal descriptions.

[7] Transfer of title.

(c) Types of value.

[1] Market value or value in exchange.

[2] Price.

[3] Cost.

[4] Investment value.

[5] Value in use.

[6] Assessed value.

[7] Insurable value.

(d) Economic principles.

[1] Anticipation.

[2] Balance.

[3] Change.

[4] Competition.

- [5] Conformity.
- [6] Contribution.
- [7] Increasing and decreasing returns.
- [8] Substitution.
- [9] Supply and demand.
- [10] Surplus and productivity.
- (e) Real estate markets and analysis:
 - [1] Characteristics of real estate markets.
 - [2] Absorption analysis.
 - [3] Role of money and capital markets.
 - [4] Real estate financing.
- (f) Valuation process:
 - [1] Definition of the problem.
 - [2] Collection and analysis of data.
 - [3] Analysis of highest and best use.
 - [4] Application and limitations of each approach to value.
 - [5] Reconciliation and final value estimate.
 - [6] The appraisal report.
- (g) Property description:
 - [1] Site description.
 - [2] Improvement description.
 - [3] Basic construction and design.
- (h) Highest and best use analysis:
 - [1] Four tests.

- [2] Vacant site or as if vacant.
- [3] As improved.
- [4] Interim use.
- (i) Appraisal mathematics and statistics:
 - [1] Compound interest concepts.
 - [2] Statistical concepts used in appraisal.
- (j) Sales comparison approach:
 - [1] Research and selection of comparables.
 - [2] Elements of comparison.
 - [3] Adjustment process.
 - [4] Application of sales comparison approach.
- (k) Site value:
 - [1] Sales comparison.
 - [2] Land residual.
 - [3] Allocation.
 - [4] Extraction.
 - [5] Plottage and assemblage.
- (l) Cost approach:
 - [1] Steps in cost approach.
 - [2] Application of the cost approach.
- (m) Income approach:
 - [1] Estimation of income and expenses.
 - [2] Operating ratios.
 - [3] Direct capitalization.
 - [4] Gross rent multiplier analysis.

- (n) ~~Valuation of partial interests:~~
 - ~~{1} Life estates.~~
 - ~~{2} Undivided interests in commonly held property.~~
 - ~~{3} Easements.~~
 - ~~{4} Timeshares.~~
 - ~~{5} Cooperatives.~~
 - ~~{6} Leased fee estate.~~
 - ~~{7} Leasehold estate.~~
- ~~(o) Appraisal standards and ethics.~~
- ~~(p) Narrative report writing.~~
- (8) ~~Eighty hours may be distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes, but is not limited to, online learning internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must:~~
 - ~~(a) Provide interaction between the student and the instructor.~~
 - ~~(b) Meet one of the following requirements:~~
 - ~~{1} The course is presented by a college or university, accredited by the commission on colleges or a regional accreditation association, that offers distance education programs in other disciplines.~~
 - ~~{2} The course is approved for design and delivery mechanism by the international distance education certification center, and for content by the appraiser qualifications board or the board.~~
 - ~~(c) Require the student to successfully complete a written examination proctored by an official approved by the presenting college, university, or sponsoring organization.~~

~~(d) Meet the requirements for qualifying education established by the appraisal qualifications board.~~

~~(e) Be equivalent to at least fifteen classroom hours.~~

~~(9) Credit awarded for the classroom hour requirement when an individual seeks a different classification than that held may also be awarded for the continuing education requirement of the classification held.~~

~~(10) Courses taken in satisfying the qualifying education requirements should not be repetitive in nature. Each course credited toward the required number of qualifying education hours should represent a progression in which the appraiser's knowledge is increased.~~

~~(11) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable by the board without additional state review.~~

b.

~~(1) a.~~ A bachelor's degree or higher from an accredited college or university.

~~(1)~~ In lieu of the bachelor's degree, an applicant for the certified general permit shall successfully complete a minimum of thirty three semester credit hours in all each of the following collegiate level subject matter courses ~~from an accredited college, junior college, community college, or university:~~

(a) English composition.

(b) Micro economics.

(c) Macro economics.

(d) Finance.

(e) Algebra, geometry, or higher mathematics.

(f) Statistics.

~~(g) Introduction to computers, word processing and spreadsheets. Computer science.~~

(h) Business or real estate law.

- (i) Two elective courses in accounting, geography, agriculture economics, business management, or real estate.

All courses used in lieu of the required degree must have been completed at a college or university that is an accredited degree-granting institution. The accreditation must have been obtained from the commission on colleges, a regional or national accreditation association, or an accrediting agency that is recognized by the United States secretary of education. If the college or university accepts the college-level examination program, and issues a transcript for the examination, showing its approval, it will be considered as credit for the college course. For college-level courses taken in a quarterly system, one quarter credit hour is equivalent to two-thirds semester credit hour.

- (2) College-level education completed at a foreign college or university will be acceptable provided the education has been evaluated and deemed equivalent by one of the following:

- (a) An accredited degree-granting domestic college or university.
- (b) The American association of collegiate registrars and admissions officers.
- (c) A foreign degree credential evaluation service company that is a member of the national association of credential evaluation services.
- (d) A foreign degree credential valuation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline.

- (2) b. Three In addition to a bachelor's degree or higher, an applicant for certified general must complete three hundred class hours in subjects related to real estate appraisal which cover the required core curriculum as established by the appraisal qualifications board of the appraisal foundation, and approved as such, by the board.

- (a) (1) Coverage must include a minimum of all of the following:

- {1} (a) Thirty hours of basic appraisal principles.

- {2} (b) Thirty hours of basic appraisal procedures.

- ~~{3}~~ (c) The fifteen-hour national uniform standards of appraisal practice course or its equivalent.
 - ~~{4}~~ (d) Thirty hours of general appraiser market analysis and highest and best use.
 - ~~{5}~~ (e) Fifteen hours of statistics, modeling, and finance.
 - ~~{6}~~ (f) Thirty hours of general appraiser sales comparison approach.
 - ~~{7}~~ (g) Thirty hours general appraiser site valuation and cost approach.
 - ~~{8}~~ (h) Sixty hours of general appraiser income approach.
 - ~~{9}~~ (i) Thirty hours of general appraiser report writing and case studies.
 - ~~{10}~~ (j) Thirty hours of appraisal subject matter electives.
- ~~(b)~~ (2) Class hours will be credited only for educational offerings with content that follows the required core curriculum.
 - ~~(c)~~ (3) A class hour is defined as sixty minutes, of which at least fifty minutes are for instruction attended by the student.
 - ~~(d)~~ (4) Credit toward the class hour requirement may only be granted when the length of the educational offering is at least fifteen hours, and the individual successfully completes a closed-book examination pertinent to that educational offering.
 - ~~(e)~~ (5) The prescribed number of class hours includes time for examinations.
 - ~~(f)~~ (6) Uniform standards of professional appraisal practice education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.
 - ~~(g)~~ (7) Credit for the class requirement may be obtained from the following:
 - ~~{1}~~ (a) Colleges or universities.
 - ~~{2}~~ (b) Community or junior colleges.

- ~~[3]~~ (c) Real estate appraisal or real estate-related organizations.
 - ~~[4]~~ (d) State or federal agencies or commissions.
 - ~~[5]~~ (e) Proprietary schools.
 - ~~[6]~~ (f) Providers approved by the board.
 - ~~[7]~~ (g) The appraisal foundation or its boards.
- ~~(h)~~ (8) There is no time limit regarding when qualifying education credit must have been obtained.
- (i) (9) ~~One hundred fifty~~ All hours may be from by distance education. Distance education is an educational process in which the student and instructor are geographically separated. Distance education includes online learning, internet-based instruction, CD-ROM instruction, correspondence courses, and videoconferencing. An acceptable distance education course must meet all of the following requirements:
- ~~[1]~~ (a) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.
 - ~~[2]~~ (b) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.
 - ~~[3]~~ (c) Obtain course delivery mechanism approval from one of the following sources:
 - ~~[a]~~ [1] Appraisal qualifications board-approved organizations providing approval of course design and delivery.

- [b] [2] A college that qualifies for content approval in ~~item 2~~ subparagraph b that awards academic credit for the distance education course.
- [c] [3] A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.
- [4] (d) Require the student to successfully complete a written examination proctored by an official approved by the presenting, college, university, or sponsoring organization.
- [5] (e) Meet the requirements for qualifying education established by the appraisal qualifications board of the appraisal foundation.
- [6] (f) Be equivalent to at least fifteen class hours.
- (j) (10) Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be acceptable to the board without additional state review.
- (k) (11) Courses taken to satisfy the qualifying education requirements must not be repetitive. Uniform standards of professional appraisal practice courses taken in different years are not repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.
- (l) (12) Courses taken for the class hour requirement when an individual seeks a different classification than that held may also be counted for the continuing education requirement of the classification held.
- (13) Credit toward qualifying education requirements may also be obtained by the completion of a graduate degree in real estate from an accredited college or university approved by the American association of collegiate schools of business or a regional or national accreditation agency recognized by the United States secretary of education, provided that the college or university has had its curriculum reviewed and approved by the appraisal qualifications board.
- (14) Applicants for the certified general level who are awarded graduate degrees from approved institutions are required to complete all additional education required for the credential

in which the approved degree is judged to be deficient by the appraisal qualifications board.

~~(m)~~ (15) The applicant must be familiar with North Dakota Century Code chapter 43-23.3 and North Dakota Administrative Code title 101.

~~(n)~~ (16) Experience may not be substituted for education.

5. **Experience.** A certified general appraiser must have the equivalent of three thousand hours of credible appraisal experience prior to obtaining the certified general appraiser certification permit. The experience requirements must be satisfied by time spent on the appraisal process. The appraisal process consists of analyzing factors that affect value, defining the problem, gathering and analyzing data, applying the appropriate analysis and methodology, and arriving at an opinion and ~~correctly~~ reporting the data, analysis, and opinion in compliance with the uniform standards of professional appraisal practice. The applicant for certification must submit a log from which the board will select for review a minimum of three summary or self-contained nonresidential appraisal reports. ~~One report~~ Collectively the reports must include and demonstrate competence and a working knowledge of all three approaches to value. The reports submitted must meet the current uniform standards of professional appraisal practice as of the effective date of the appraisal and must reflect that the applicant has an acceptable level of competency and understanding of the principles, practices, and procedures consistent with the body of knowledge for the certified general level.

a. Adequate experience will be determined ~~on a point system by~~ the actual hours spent on an assignment, subject to a maximum established by the board.

(1) ~~The point system awards points~~ Maximum hours awarded are based on the types of appraisals performed, and the types of properties appraised, and the number of appraisals performed by the individual.

(2) Types of appraisals performed include standard appraisal, review appraisal, and condemnation appraisal.

(a) A standard appraisal is the process of developing an appraisal using those methods commonly accepted by real estate appraisers as constituting the appraisal process and preparing a written appraisal report or file memorandum describing the appraisal and reporting the estimate of value. The appraisal process consists of an analysis of factors that affect value, definition of the problem, gathering and analyzing data, applying

the appropriate value approaches and methodology, arriving at an opinion of value, and correctly reporting the opinion of value in compliance with the uniform standards of professional appraisal practice.

- (b) A review appraisal is the process of critically reviewing an appraisal report prepared by another appraiser and preparing a separate written report or file memorandum setting forth the results of the review process. The review appraiser reviews the report and forms an opinion as to the adequacy of the report, the appropriateness of the methods used by the appraiser, and the reasonableness of the appraiser's conclusions. A review appraiser may or may not perform a field review. A field review includes inspecting the subject and comparables to verify data, to determine the appropriateness of the comparables selected and adjustments made, and to assist in determining the reasonableness of the value estimate. Review appraisal experience must conform to standard three of the uniform standards of professional appraisal practice. Review appraisal experience should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under applicable uniform standards of professional appraisal practice standards.
- (c) A condemnation appraisal is an appraisal of real property for condemnation purposes, including situations where a partial taking is involved and the appraiser must develop both a before taking value estimate and an after taking value estimate. The appraiser uses those methods commonly accepted by real estate appraisers as constituting the appraisal process including a field inspection and preparation of a written appraisal report or file memorandum describing the appraisal and reporting the before and after value estimates.

(3) Types of property appraised may include the following:

- (a) Land may include farms of one hundred acres [40.47 hectares] or more in size, undeveloped tracts, residential multifamily sites, commercial sites, industrial sites, and land in transition.
- (b) Residential multifamily, five-12 units may include apartments, condominiums, townhouses, and mobile home parks.

- (c) Residential multifamily, thirteen-plus units may include apartments, condominiums, townhouses, and mobile home parks.
 - (d) Commercial single-tenant may include office building, retail store, restaurant, service station, bank, and day care center.
 - (e) Commercial multitenant may include office building, shopping center, and hotel.
 - (f) Industrial may include warehouse and manufacturing plant.
 - (g) Institutional may include rest home, nursing home, hospital, school, church, and government building.
- (4) Points The number of allowable hours assigned for each appraisal type are assigned by the board and are included on the application for licensure or certification. A copy of this form can be obtained by contacting the board office.
- b. ~~A total of three hundred sixty points is equivalent to three thousand-hour requirement. These three hundred sixty points (~~The ~~three thousand hours of experience)~~ must be obtained using at least two and one-half years of appraisal practice gained over a period of at least thirty months.
 - c. There is no other time limit regarding when qualifying experience may be obtained.
 - d. Hours may be treated as cumulative in order to achieve the necessary three thousand hours (~~three hundred sixty points~~) of appraisal experience.
 - e. Acceptable appraisal experience includes the following:
 - (1) Fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting (excludes related fields such as real estate lending), highest and best use analysis, and feasibility analysis or study.
 - (a) Mass appraisal experience must conform to standard six of the uniform standards of professional appraisal practice. Mass appraisal experience claimed by the applicant should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing

under applicable uniform standards of professional appraisal practice standards.

- (b) Review of real estate appraisals or real property consulting services, including market analysis, cash flow and investment analysis, and feasibility analysis must conform to standards three, four, and five of the uniform standards of professional appraisal practice. Experience involving these functions should be given credit to the extent that it demonstrates proficiency in appraisal principles, techniques, or skills used by appraisers practicing under standard one of the uniform standards of professional appraisal practice.
 - (c) A market analysis typically performed by a real estate broker or sales person should be awarded experience credit when the analysis is prepared in conformity with standards one and two of the uniform standards of professional appraisal practice, the individual can demonstrate that the individual is using techniques and methods consistent with those used by appraisers to value property and the individual is effectively utilizing the appraisal process.
 - (d) Real property appraisal experience should be awarded for appraisals of real estate components, estates, or interests unless the appraiser has not complied with standards one, two, and six of the uniform standards of professional appraisal practice.
- (2) No more than ~~seventy-five points~~ three hundred hours of the total experience credit may be in related areas. Related experience includes consulting.
- f. Documentation in the form of reports ~~or~~ certifications, and file memoranda must be provided to support the experience claimed. If reports ~~or~~ and file memoranda are unavailable for good cause, the board may accept other evidence of compliance with the uniform standards of professional appraisal practice.
9. The verification for the three thousand hours (~~three hundred sixty points~~) of experience credit claimed by an applicant shall be on forms prescribed by the board which shall include all of the following:
- (1) Type of property.
 - (2) Date of report.

- (3) Address of appraised property.
 - (4) Description of work performed by the applicant and scope of the review and supervision of the supervising appraiser.
 - (5) Number of work hours (~~points~~) per assignment.
 - (6) The signature and permit number of the supervising appraiser, if applicable.
 - (7) Separate appraisal logs maintained for each supervising appraiser, if applicable.
- h. The applicant must have at least fifty percent (~~one thousand five hundred hours~~) of nonresidential appraisal experience. Residential is defined as one-unit to four-unit residential units.
 - i. There need not be a client in order for an appraisal to qualify for experience. Appraisals made without clients can fulfill up to fifty percent of the total experience requirement.
 - j. Case studies or practicum courses that are approved by the board or through the appraisal qualifications board of the appraisal foundation course approval program can satisfy the nonclient experience requirement.
 - (1) A practicum course must include the generally applicable methods of appraisal practice for the credential category. Content includes all of the following:
 - (a) Requiring the student to produce credible appraisals that utilize an actual subject property.
 - (b) Performing market research containing sales analysis.
 - (c) Applying and reporting the applicable appraisal approaches in conformity with the uniform standards of professional appraisal practice.
 - (2) Assignments must require problem-solving skills for a variety of property types for the credential category.
 - (3) Experience credit shall be granted for the actual class hours of instruction and hours of documented research and analysis as awarded from the practicum course approval process.
- k. All experience must be obtained after January 30, 1989, and must be uniform standards of professional appraisal practice compliant, where the appraiser demonstrates proficiency in

appraisal principles, methodology, procedures (development), and reporting conclusions.

- I. After accumulating a minimum of fifty percent of the required appraisal experience, an applicant for certified general may voluntarily submit work product to the board to be reviewed by a board reviewer for educational purposes only. A maximum of two reports may be submitted for review during the experience portion of the certification process. The board will not initiate a complaint for violations identified in this review.

History: Effective October 1, 1992; amended effective January 1, 1995; October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-09

Law Implemented: NDCC 43-23.3-03, 43-23.3-06, 43-23.3-07, 43-23.3-08, 43-23.3-09, 43-23.3-17, 43-23.3-18

101-02-02-07. Inactive status.

1. A licensed or certified appraiser may be assigned to inactive status upon written request.
2. A licensed or certified appraiser on inactive status may not directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as a licensed or certified appraiser.
3. A licensed or certified appraiser on inactive status must renew a permit as required by North Dakota Century Code section 43-23.3-12 and section 101-02-04-01.—A, except a licensed or certified appraiser on inactive status is not required to complete the continuing education required by North Dakota Century Code sections 43-23.3-12 and 43-23.3-19 and North Dakota Administrative Code section 101-04-01-01.
4. A licensed or certified appraiser on inactive status may be removed from inactive status upon written request and proof of completion of all the continuing education that would have been required if the licensed or certified appraiser was not on inactive status, including the most recent edition of the seven-hour national uniform standards of professional appraisal practice update course or its equivalent.

History: Effective October 1, 1992; amended effective January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-12

Law Implemented: NDCC 43-23.3-12, 43-23.3-19, 43-23.3-20

**CHAPTER 101-02-02.1
NONRESIDENT AND TEMPORARY PERMITS**

Section

101-02-02.1-01	Issuance of Permits to Applicants Licensed or Certified by Another State
101-02-02.1-02	Temporary Permit
101-02-02.1-03	Nonresident Consent to Service of Process [Repealed]
101-02-02.1-04	Denial of an Application

101-02-02.1-01. Issuance of permits to applicants licensed or certified by another state.

1. The board ~~may~~ shall issue a permit to an applicant who is licensed or certified in good standing by another state if the other state's requirements to be licensed or certified are at least substantially equivalent to the requirements imposed by this state, and if grounds for denial of the applications under North Dakota Century Code section 43-23.3-18 do not exist. If an applicant was licensed or certified by another state by reciprocity or a similar process, the requirements of the state in which the applicant was originally licensed or certified must be at least substantially equivalent to the requirements imposed by this state.
2. To qualify, the applicant must meet all of the following requirements:
 - 1- a. Submit an application on a form provided by the board.
 - 2- b. Certify that the applicant is licensed or certified in good standing in another state.
 - 3- c. Certify that disciplinary proceedings are not pending against the applicant in any jurisdiction.
 - 4- d. Provide documentation of the requirements of the state in which the applicant was originally licensed or certified.
 - e. Provide verification that work product was reviewed and approved as part of licensure or certification. If the applicant is or has been a supervisor or a trainee who has had work product reviewed and approved, this would also be considered verification.
 - 5- f. Pay the application fee.
3. The board may request work product from an applicant if one of the following grounds exists:

- a. The applicant cannot provide verification that work product has been reviewed and approved as part of the licensure or certification.
- b. The applicant has a history of disciplinary action.

History: Effective January 1, 1995; amended effective October 1, 1998; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-11

Law Implemented: NDCC 43-23.3-04.1

101-02-02.1-02. Temporary permit.

- 1. A nonresident of this state who has submitted an irrevocable consent to service of process may obtain a temporary permit to perform a contract relating to the appraisal of real estate in this state.
- 2. To qualify, the applicant must meet all of the following requirements:
 - 1. a. Submit an application on a form provided by the board.
 - 2. b. Certify that the applicant is licensed or certified in good standing in another state.
 - 3. c. Certify that disciplinary proceedings are not pending against the applicant in any jurisdiction.
 - 4. d. Submit a copy of the contract for appraisal services.
 - 5. e. Sign an irrevocable consent to service of process form.
 - 6. f. Pay the application fee.
- 3. A temporary permit issued under this section is expressly limited to the grant of authority to perform the appraisal work required by the contract for appraisal services.
- 4. An applicant may not complete more than six assignments per year.
- 5. Each temporary permit expires upon the completion of the appraisal work required by the contract for appraisal services.

History: Effective January 1, 1995; amended effective October 1, 1998; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-11

Law Implemented: NDCC 43-23.3-11

101-02-02.1-04. Denial of an application. If an application is denied, the board will notify the applicant of the denial and specify the basis for the denial.

History: Effective July 1, 2012.

General Authority: NDCC 43-23-03

Law Implemented: NDCC 43-23-03

**CHAPTER 101-02-04
RENEWAL**

Section

101-02-04-01	Permit Renewal
101-02-04-02	Denial of an Application

101-02-04-01. Permit renewal.

1. All permits expire on December thirty-first of each year.
2. A holder of an appraiser permit desiring the renewal of such permit shall, during the month preceding the expiration date of such permit, apply for same in writing upon a form approved by the board and shall forward the required fee. Forms are available upon request to the board.
- ~~2.~~ 3. Permits may be renewed up to ninety days after the date of expiration, with payment of late fee. The applicant who does not file a renewal application by the ninety-day deadline is subject to all requirements governing new applicants.
- ~~3.~~ 4. A person who, in any way, acts as an apprentice licensed, or certified appraiser while that individual's permit is expired will be subject to disciplinary action and penalties as described in North Dakota Century Code chapter 43-23.3.

History: Effective October 1, 1992; amended effective February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03

Law Implemented: NDCC 43-23.3-12, 43-23.3-23

101-02-04-02. Denial of an application. If an application is denied, the board will notify the applicant of the denial and specify the basis for the denial.

History: Effective July 1, 2012.

General Authority: NDCC 43-23-03

Law Implemented: NDCC 43-23-03

CHAPTER 101-03-01

101-03-01-01. Copies of uniform standards of professional appraisal practice. Copies of the uniform standards of professional appraisal practice are available ~~upon request to the board~~ for purchase through the appraisal foundation.

History: Effective October 1, 1992; amended effective January 1, 1995; July 1, 2012.

General Authority: NDCC 43-23.3-03

Law Implemented: NDCC ~~43-23.3-08~~, 43-23.3-18

**CHAPTER 101-03.1-01
UNPROFESSIONAL CONDUCT**

Section	
101-03.1-01-01	Unprofessional Conduct
101-03.1-01-02	Reporting Requirements
101-03.1-01-03	Conflict of Interest
101-03.1-01-04	Application of Standards

101-03.1-01-01. Unprofessional conduct. Any of the following acts and omissions constitute a violation of the standards of professional appraisal practice and are grounds for disciplinary action or denial of an application:

1. Violation or attempted violation of North Dakota Century Code chapter 43-23.3 or the rules adopted by the board.
2. Failure to comply with the standards of professional appraisal practice and ethical rules specified by the uniform standards of professional appraisal practice and all other standards and ethical requirements adopted by the appraisal foundation.
3. Engaging in the business of real estate appraising under an assumed or fictitious name.
4. Paying a finder's fee or referral fee to any person in connection with the appraisal of real estate, but an intracompany payment for business development is not unethical.
5. Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualification.
6. Violation of the confidential nature of individual, business, or governmental records to which a permittee gained access through employment or engagement as an appraiser.
7. Performance of appraisal services beyond the permittee's level of competence.
8. Having been disciplined in another state, territory, or country relating to a permit or the authorization to practice as an appraiser.
9. Negligence, refusal, or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal.
10. Failing as a licensed or certified appraiser to actively and personally supervise an apprentice appraiser or any person not licensed or certified under the provisions of North Dakota Century Code chapter 43-23.3

who assists the licensed or certified appraiser in performing real estate appraisals.

11. Having become permanently or temporarily unfit to engage in appraisal activity because of physical, mental, emotional, or other causes. Suspension of a permit in cases where the permittee is temporarily unfit to conduct appraisal activity shall only be for the period of unfitness.
12. Commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual's activities as an appraiser or otherwise.
13. Engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.
14. Filing a frivolous complaint against a permitted appraiser.

History: Effective January 1, 1995; amended effective February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-03, 43-23.3-22

Law Implemented: NDCC 43-23.3-18, 43-23.3-22

101-03.1-01-04. Application of standards. The requirements of the uniform standards of professional appraisal practices shall not apply to the board, its agents, and employees when receiving appraisals as part of the application or disciplinary processes.

History: Effective July 1, 2012.

General Authority: NDCC 43-23-03

Law Implemented: NDCC 43-23-22

CHAPTER 101-04-01

101-04-01-01. Continuing education requirements.

1. **Purpose.** The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases that individual's skill, knowledge, and competency in real estate appraising.
2. **Requirements.** All apprentice, licensed, and certified permittees must meet a minimum level of continuing education. This minimum level has been set at twenty-eight hours over a two-year education renewal period. Of the twenty-eight hours, appraisers must complete the seven-hour national uniform standards of professional appraisal practice update course, or its equivalent, every two years. Equivalency must be determined through the appraisal qualifications board course approval program or by an alternate method approved by the appraisal qualifications board. Fourteen hours of the twenty-eight hours must include appraisal-specific education related to the valuation of real estate, and seven hours may be comprised of appraisal-related subject matter, approved as such by the board.
 - a. The necessary twenty-eight hours may be obtained at any time during the two-year renewal period, except for the required national uniform standards of professional appraisal practice requirement.
 - b. Verification of the necessary twenty-eight hours must be submitted by the end of the two-year renewal period.
 - c. Uniform standards of professional practice (USPAP) continuing education credit shall only be awarded when the class is instructed by at least one appraisal qualifications board-certified instructor who is state-certified.
 - d. All continuing education courses taken in this state must be approved by the board.
 - e. Courses taken out of this state may be approved for credit, provided the state in which the course was taken has approved the course for appraiser education.
 - f. A course which has not had prior approval may be approved on an individual basis.
 - g. All continuing education must be taken in blocks of at least two hours.
 - h. A classroom hour is defined as fifty minutes out of each sixty-minute segment.

- i. With the exception of distance education, no examination is required for continuing education courses.
- j. Credit for the class requirement may be obtained from the following:
 - (1) Colleges or universities.
 - (2) Community or junior colleges.
 - (3) Real estate appraisal or real estate-related organizations.
 - (4) State or federal agencies or commissions.
 - (5) Proprietary schools.
 - (6) Other providers approved by the board.
- k. Credit may be granted for education offerings which are consistent with the purpose of continuing education stated in subsection 1 and cover real estate-related appraisal topics such as:
 - (1) Ad valorem taxation.
 - (2) Arbitration and dispute resolution.
 - (3) Courses related to practice of real estate appraisal or consulting.
 - (4) Development cost estimating.
 - (5) Ethics and standards of professional practice.
 - (6) Land use planning and zoning.
 - (7) Management, leasing, and timesharing.
 - (8) Property development and partial interests.
 - (9) Real estate law, easements, and legal interests.
 - (10) Real estate litigation, damages, and condemnation.
 - (11) Real estate financing and investment.
 - (12) Real estate appraisal-related computer applications.
 - (13) Real estate securities and syndications.

- l.** A professional real estate appraisal organization meeting may be granted credit, provided it is a formal education program of learning which contributes to the real estate appraisal profession.
- m.** Three hours of continuing education credit, per continuing education cycle, may be granted for attendance at a face-to-face meeting of the board of at least three hours. The attendee must attend the meeting in its entirety.
- nn. n.** Real estate appraisal-related field trips may be granted credit. However, transit time to or from the field trip location should not be included when awarding credit if instruction does not occur.
- oo. o.** Up to one-half of an individual's continuing education credit may be granted for participation, other than as a student in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Teaching of a course with the same, or substantially the same subject content may be claimed only once for credit within a two-year renewal cycle.
- pp. p.** Continuing education credit may be granted for distance education. Distance education is defined as any educational process based on the geographical separation of instructor and student. Distance education includes CD-ROM instruction, online learning, internet-based instruction, correspondence courses, and videoconferencing. Acceptable distance education courses must meet all of the following requirements:

 - (1) Provide interaction between the student and the instructor. Interaction is a reciprocal environment where the student has verbal or written communication with the instructor.
 - (2) Be approved for content by the board, the appraisal qualifications board of the appraisal foundation, or an accredited college, community college, or university, that offers distance education programs and is approved or accredited by the commission on colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the United States secretary of education. Nonacademic credit college courses provided by a college shall be approved by the appraisal qualifications board of the appraisal foundation or the board.
 - (3) Be approved for delivery mechanism by one of the following sources:

- (a) Appraiser qualifications board-approved organizations providing approval of course design and delivery.
 - (b) A college that qualifies for content approval in paragraph 2 and that awards academic credit for the distance education course.
 - (c) A qualifying college for content approval with a distance education delivery program that approves the course design and delivery that incorporates interactivity.
- (4) Be equivalent to a minimum of two classroom hours in length and meet the requirements for real estate appraisal-related courses established by the appraiser qualifications board.
- (5) If intended for use as continuing education, include at least one of the following:
- (a) The student successfully completes a written examination proctored by an official approved by the presenting college or university or by the sponsoring organization.
 - (b) The student successfully completes the course mechanisms required to demonstrate knowledge of the subject matter.
- p. q.** A course with the same or substantially the same subject content may be claimed only once for credit within a two-year renewal cycle.
- q. r.** Excess hours of education earned in one renewal period cannot be carried over to the next renewal period.
- r. s.** Courses that have received approval by the appraiser qualifications board of the appraisal foundation through the appraiser qualifications course approval program may be accepted by the board without additional state review.
- s. t.** Courses that are taken as a result of a disciplinary action may not be credited toward continuing education.
- t. u.** Courses taken for the class hour requirement when an individual seeks a different classification than that held may be simultaneously counted for the continuing education requirement of the classification held.
- u. v.** Appraisers are required to complete continuing education for a partial year in a continuing education cycle as follows:

- (1) For continuing education cycle periods of one hundred eighty-five days or more, fourteen hours of continuing education are required.
- (2) For continuing education cycle periods of less than one hundred eighty-five days, no continuing education is required.

History: Effective October 1, 1992; amended effective October 1, 1998; February 1, 2003; January 1, 2008; July 1, 2012.

General Authority: NDCC 43-23.3-12, 43-23.3-19

Law Implemented: NDCC 43-23.3

