

Introduced by

Representative Keiser

1 A BILL for an Act to amend and reenact subsection 1 of section 23-34-04 and section 43-17-31
2 of the North Dakota Century Code, relating to grounds for disciplinary action by the medical
3 board.

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

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

7 1. A peer review organization shall report to an investigative panel of the North Dakota
8 board of medicine any information that indicates a probable violation of ~~subsection 4,~~
9 ~~5, 16, or 17~~ subdivision d, e, p, or q of subsection 1 of section 43-17-31.

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

12 **43-17-31. Grounds for disciplinary action.**

13 1. Disciplinary action may be imposed against a physician upon any of the following
14 grounds:

15 ~~1.~~ a. The use of any false, fraudulent, or forged statement or document, or the use of
16 any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of
17 the licensing requirements.

18 ~~2.~~ b. The making of false or misleading statements about the physician's skill or the
19 efficacy of any medicine, treatment, or remedy.

20 ~~3.~~ c. The conviction of any misdemeanor determined by the board to have a direct
21 bearing upon a person's ability to serve the public as a practitioner of medicine or
22 any felony. A license may not be withheld contrary to the provisions of
23 chapter 12.1-33.

24 ~~4.~~ d. Habitual use of alcohol or drugs.

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- 1 5. e. Physical or mental disability materially affecting the ability to perform the duties of
2 a physician in a competent manner.
- 3 6. f. The performance of any dishonorable, unethical, or unprofessional conduct likely
4 to deceive, defraud, or harm the public.
- 5 7. g. Obtaining any fee by fraud, deceit, or misrepresentation.
- 6 8. h. Aiding or abetting the practice of medicine by an unlicensed, incompetent, or
7 impaired person.
- 8 9. i. The violation of any provision of a medical practice act or the rules and
9 regulations of the board, or any action, stipulation, condition, or agreement
10 imposed by the board or its investigative panels.
- 11 10. j. The practice of medicine under a false or assumed name.
- 12 11. k. The advertising for the practice of medicine in an untrue or deceptive manner.
- 13 12. l. The representation to a patient that a manifestly incurable condition, sickness,
14 disease, or injury can be cured.
- 15 13. m. The willful or negligent violation of the confidentiality between physician and
16 patient, except as required by law.
- 17 14. n. The failure of a doctor of osteopathy to designate that person's school of practice
18 in the professional use of that person's name by such terms as "osteopathic
19 physician and surgeon", "doctor of osteopathy", "D.O.", or similar terms.
- 20 15. o. Gross negligence in the practice of medicine.
- 21 16. p. Sexual abuse, misconduct, or exploitation related to the licensee's practice of
22 medicine.
- 23 17. q. The prescription, sale, administration, distribution, or gift of any drug legally
24 classified as a controlled substance or as an addictive or dangerous drug for
25 other than medically accepted therapeutic purposes.
- 26 18. r. The payment or receipt, directly or indirectly, of any fee, commission, rebate, or
27 other compensation for medical services not actually or personally rendered, or
28 for patient referrals; this prohibition does not affect the lawful distributions of
29 professional partnerships, corporations, limited liability companies, or
30 associations.
- 31 19. s. The failure to comply with the reporting requirements of section 43-17.1-05.1.

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- 1 20. t. The failure to transfer medical records to another physician or to supply copies of
2 those records to the patient or to the patient's representative when requested to
3 do so by the patient or the patient's designated representative, except if the
4 disclosure is otherwise limited or prohibited by law. A reasonable charge for
5 record copies may be assessed.
- 6 21. u. A continued pattern of inappropriate care as a physician, including unnecessary
7 surgery.
- 8 22. v. The use of any false, fraudulent, or deceptive statement in any document
9 connected with the practice of medicine.
- 10 23. w. The prescribing, selling, administering, distributing, or giving to oneself or to one's
11 spouse or child any drug legally classified as a controlled substance or
12 recognized as an addictive or dangerous drug.
- 13 24. x. The violation of any state or federal statute or regulation relating to controlled
14 substances.
- 15 25. y. The imposition by another state or jurisdiction of disciplinary action against a
16 license or other authorization to practice medicine based upon acts or conduct by
17 the physician that would constitute grounds for disciplinary action as set forth in
18 this section. A certified copy of the record of the action taken by the other state or
19 jurisdiction is conclusive evidence of that action.
- 20 26. z. The lack of appropriate documentation in medical records for diagnosis, testing,
21 and treatment of patients.
- 22 27. aa. The failure to properly monitor a physician assistant, a fluoroscopy technologist,
23 or an emergency medical technician.
- 24 28. bb. The failure to furnish the board or the investigative panel, their investigators, or
25 representatives information legally requested by the board or the investigative
26 panel.
- 27 29. cc. The performance of an abortion on a pregnant woman prior to determining if the
28 unborn child the pregnant woman is carrying has a detectable heartbeat, as
29 provided in subsection 1 of section 14-02.1-05.1.
- 30 dd. Noncompliance with the physician health program established under chapter
31 43-17.3.

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- 1 2. The board shall keep a record of all of its proceedings in the matter of suspending,
- 2 revoking, or refusing licenses together with the evidence offered.