

CHAPTER 43-51 PROFESSIONAL AND OCCUPATIONAL LICENSING

43-51-01. Definitions.

As used in this chapter, unless the context indicates otherwise:

1. "Board" means a board, commission, or other agency of state government created or identified in this title to regulate a particular occupation or profession and the education standards and practices board.
 - a. The term does not include the:
 - (1) State board of accountancy;
 - (2) State electrical board;
 - (3) North Dakota real estate appraiser qualifications and ethics board;
 - (4) State real estate commission;
 - (5) Secretary of state with respect to contractor licensing;
 - (6) North Dakota board of medicine; and
 - (7) State board of dental examiners.
 - b. The term includes any other agency of state government which is created or identified outside this title to regulate a particular occupation or profession if the agency elects, by administrative rule, to invoke the authority in this chapter.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
3. "Good standing" means a foreign practitioner holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice an occupation or profession which is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license which are comparable to the requirements imposed in this state to obtain and maintain a license to practice the same profession or occupation.
5. "Military member" means a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in this state in accordance with military orders or stationed in this state before a temporary assignment to duties outside of this state.
6. "Military spouse" means a foreign practitioner who is the spouse of a military member.
7. "Occupation or profession" means activity for which a license is required from a board or similar activity for which a license is required in another state or jurisdiction.

43-51-02. Location of practice of an occupation or profession.

The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.

43-51-03. Indirect practice without a license.

1. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through consultation with the person licensed by the board and if the foreign practitioner has no direct communication in this state with the individual receiving the services except in the presence of the individual who is licensed by the board. Both the foreign practitioner and the individual licensed by the board are responsible for the services provided under this subsection.

2. A foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the appropriate board if the services are provided through a remote means and are a continuation of an existing relationship between the foreign practitioner and the individual receiving the services which was formed in the state or jurisdiction in which the foreign practitioner is currently licensed.

43-51-04. Emergency practice without a license.

Upon prior written notice to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board, if the services are provided in response to a disaster or emergency declared by the appropriate authority in this state. The notice provided by a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. A notice provided under this section, if accompanied by sufficient documentation, is deemed to be accepted unless denied by the board. If a notice under this section is denied, the foreign practitioner immediately shall cease providing services under this section and may not resume providing services until after a successful appeal of the board's decision under chapter 28-32 or after an application for privileges under this section is reviewed and approved by the board.

43-51-05. Limited practice without a license.

Upon prior written application to the appropriate board, a foreign practitioner may provide services in this state which fall within the scope of practice designated by the foreign practitioner's license and by this title without obtaining a license from the board if the services are provided for no more than thirty full or partial days per year. The one-year period commences on the date the written application is approved by the board. An application from a foreign practitioner under this section must include verified documentation from the appropriate licensing authority which identifies the requirements for licensure in that jurisdiction and which confirms that the practitioner is licensed and in good standing in that jurisdiction and any other information requested by the board. The board may require payment of a fee of twenty-five dollars or other fee established by the board by administrative rule, not to exceed the higher of twenty-five dollars or one-tenth of the fee for an annual license from the board, as a condition of approving an application under this section.

43-51-06. Licensure without examination.

A board may issue a license, without examination, to any foreign practitioner who has practiced the occupation or profession for which the practitioner is licensed at least two years prior to submitting the application to the board, or for any shorter period of time provided in this title or established by the board by administrative rule, and who meets the other requirements for a license. A board is not prohibited from issuing a license under this section to a foreign practitioner if the state or jurisdiction in which the individual is licensed does not extend similar privileges to individuals licensed in this state. This section does not prohibit a board from requiring a foreign practitioner to take an examination regarding the laws of this state and the rules established by the board.

43-51-07. License compacts.

A board may establish, by administrative rule, conditions and procedures for foreign practitioners to practice in this state pursuant to written compacts or agreements between the board and one or more other states or jurisdictions or pursuant to any other method of license recognition that ensures the health, safety, and welfare of the public. Any compact or agreement by a board does not become binding on this state until implemented by administrative rules under this section.

43-51-08. Discipline.

A foreign practitioner's authority to practice an occupation or profession under this chapter is subject to denial, probation, suspension, revocation, or other form of discipline for the same grounds as individuals licensed by the appropriate board in this state. In addition to other grounds for disciplinary action authorized by law, a person who holds a license issued by a board may be subject to disciplinary action in this state for:

1. Failing to adequately review services provided by a foreign practitioner under this chapter;
2. Unauthorized practice of the person's occupation or profession in another state or jurisdiction, including the delivery of services by a licenseholder in this state to a recipient of services in another state or jurisdiction;
3. Acts occurring in another state or jurisdiction which could subject the person to disciplinary action if those acts occurred in this state; or
4. Acts occurring in another state or jurisdiction which could subject the person to disciplinary action if the person held a license in that state or jurisdiction.

A disciplinary action under this section against a foreign practitioner is subject to chapter 28-32.

43-51-09. Jurisdiction - Service of process.

A foreign practitioner who provides services in this state without a license as permitted in this chapter shall be deemed to have consented to the jurisdiction of this state and the appropriate board, to be bound by the laws of this state and the rules established by the appropriate board, and to have appointed the secretary of state as the foreign practitioner's agent upon whom process may be served in any action or proceeding against the practitioner arising out of the practitioner's activities in this state.

Service on the secretary of state of any process, notice, or demand is deemed personal service upon the foreign practitioner and must be made by filing with the secretary of state an original and two copies of the process, notice, or demand, with the filing fee of twenty-five dollars. A member of the legislative assembly or a state or county officer may not be charged for filing any process, notice, or demand for service. The secretary of state shall immediately forward a copy of the process, notice, or demand by registered mail, addressed to the foreign practitioner at the address provided by the filer.

43-51-10. Application with other laws.

This chapter applies notwithstanding any other limitation in state law on the practice of an occupation or profession. This chapter supplements and does not repeal the authority provided to each board. Nothing in this chapter prohibits a board from imposing conditions on foreign practitioners by administrative rule or compact which are more restrictive than those imposed in this chapter, if those restrictions are enacted to ensure the health, safety, and welfare of the public. Rules under this section may be adopted as emergency rules under chapter 28-32. Nothing in this chapter alters the scope of practice of a particular occupation or profession as defined by law.

43-51-10.1. Emergency rules - Emergencies or disasters.

If a disaster or emergency is declared in this state, a board may adopt emergency rules under chapter 28-32 which are contrary to title 43 if the rules are necessary to abate an imminent peril that threatens the health, safety, or welfare of the public. Rules adopted under this section are valid until thirty days after the end of the disaster or emergency declaration.

43-51-11. Members of military - License renewal.

1. A board shall adopt rules to provide for or shall grant on a case-by-case basis exceptions to the board's license renewal requirements in order to address renewal compliance hardships that may result from:
 - a. Activation of more than thirty days of a licensee who is a member of the national guard or a military member.

- b. Service in the theater or area of armed conflict by a licensee who is a military member.
2. For purposes of this section, the term board includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

43-51-11.1. Military spouses and military members - Licensure.

1. A board shall adopt rules regarding licensure of a military spouse or a military member or shall grant on a case-by-case basis exceptions to the board's licensing standards to allow a military spouse or military member to practice the occupation or profession in the state if upon application to the board:
 - a. The military spouse or military member demonstrates competency in the occupation or profession through methods or standards determined by the board; and
 - b. The board determines the issuance of the license will not substantially increase the risk of harm to the public. A board with authority to require an applicant to submit to a statewide and national criminal history record check under section 12-60-24 may order such a record check under this subdivision.
2. A board shall issue a provisional license or temporary permit to a military spouse or military member for which the licensure requirements under subsection 1 have been substantially met. A board may not charge a military spouse or military member any fees for a provisional license or temporary permit under this subsection. A provisional license or temporary permit issued under this subsection may not exceed two years and remains valid while the military spouse or military member is making progress toward satisfying the unmet licensure requirements. A military spouse or military member may practice under a provisional license or temporary permit issued under this subsection until any of the following occurs:
 - a. The board grants or denies the military spouse or military member a North Dakota license under subsection 1 or grants a North Dakota license under the traditional licensure method;
 - b. The provisional license or temporary permit expires;
 - c. The military spouse or military member fails to comply with the terms of the provisional license or temporary permit; or
 - d. The board revokes the provisional license or temporary permit based on a determination revocation is necessary to protect the health and safety of the residents of the state.
3. A board that may elect to subject the board to this chapter under subsection 1 of section 43-51-01 may issue a license, provisional license, or temporary permit to a military spouse or military member in the same manner as provided under subsections 1 and 2 regardless of whether the board has adopted rules to subject the board to this chapter.
4. A military spouse or military member issued a license under this section has the same rights and duties as a licensee issued a license under the traditional licensure method.
5. If within thirty days of receipt of a completed application under subsection 1 the board does not grant or deny a license under subsection 1 or does not issue a provisional license or temporary permit under subsection 2, the board automatically shall issue a provisional license or temporary permit. A provisional license or temporary permit issued under this subsection remains valid until the board grants or denies the application for licensure under subsection 1 or issues a provisional license or temporary permit under subsection 2.
6. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

43-51-11.2. Members of the military and military spouses - Licensure applications.

1. On each licensure application and renewal form, a board shall inquire and maintain a record of whether an applicant or licensee is a military member or military spouse. If an applicant self-identifies as and provides the board with satisfactory proof of being a military spouse or military member, the board immediately shall commence the process to issue a license, provisional license, or temporary permit under section 43-51-11.1.
2. Annually, on forms developed by the department of commerce, each board shall report to the department of commerce regarding military member and military spouse data.
3. For purposes of this section, the term "board" includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, North Dakota board of medicine, and state board of dental examiners.

43-51-12. Foreign practitioners - Emergency practice exemption.

Notwithstanding contrary provisions of law, a foreign practitioner may practice in a disaster or an emergency declared in this state, practice as a member of an organ harvesting team, or practice on board an ambulance as part of the ambulance treatment team.

43-51-13. Definition - Registration - Obtaining a license or permit.

1. For purposes of this section "occupational or professional certificate, permit, or license" means a certificate, permit, or license issued by or on behalf of the state by any of the state's licensing authorities or occupational or professional boards.
2. A business entity that has a registration requirement with the secretary of state only may seek to obtain an occupational or professional certificate, permit, or license required of the state after the registration is filed with the secretary of state.