

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1299
(Representative Porter)
(Senator Krebsbach)

AN ACT to amend and reenact section 43-15-35 of the North Dakota Century Code, relating to postgraduate medical residency training program pharmacies; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-15-35 of the North Dakota Century Code is amended and reenacted as follows:

43-15-35. Requirements for permit to operate pharmacy - Exceptions.

1. The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof of all of the following:
 1. a. The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board.
 2. b. The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States pharmacopeia and national formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety.
 3. c. The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner.
 4. d. The management of the pharmacy is under the personal charge of a pharmacist duly licensed under the laws of this state.
 5. e. The applicant for such permit is qualified to conduct the pharmacy, and is a licensed pharmacist in good standing or is a partnership, each active member of which is a licensed pharmacist in good standing, or a corporation or an association, the majority stock in which is owned by licensed pharmacists in good standing; or a limited liability company, the majority membership interests in which is owned by licensed pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy.
 6. f. Suitable reference sources either in book or electronic data form, are available in the pharmacy or on-line, which might include the United States pharmacopeia and national formulary, the United States pharmacopeia dispensing information, facts and comparisons, micro medex, the ASHP American society of health-system pharmacists formulary, or other suitable references pertinent to the practice carried on in the licensed pharmacy.
2. The provisions of ~~subsection 5 shall~~ subdivision e of subsection 1 do not apply to the:
 - a. The holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permitholder ~~who that~~ discontinues operations under such permit or fails to renew such permit upon expiration ~~shall~~ is not thereafter be exempt

from the provisions of ~~subsection 5 subdivision e of subsection 1~~ as to the discontinued or lapsed permit. ~~The provisions of subsection 5 shall not apply to~~

- b. ~~A hospital pharmacies~~ pharmacy furnishing service only to patients in that hospital.
- c. The applicant for a permit to operate a pharmacy which is a hospital, if the pharmacy for which the hospital seeks a permit to operate is a retail pharmacy that is the sole provider of pharmacy services in the community and is a retail pharmacy that was in existence before the hospital took over operations. A hospital operating a pharmacy under this subdivision may operate the pharmacy at any location in the community.

SECTION 2. LEGISLATIVE COUNCIL STUDY - REGULATION AND LICENSING OF PHARMACISTS.

1. The legislative council shall consider studying, during the 2007-08 interim, the regulation and licensing of pharmacists in this state. The study must include an examination of:
 - a. The state board of pharmacy, the board's size, the manner of board membership appointment, and whether the board is representative of commercial and noncommercial pharmacists;
 - b. The state's demographics and the impact changing demographics in rural areas will have on the ability of small, locally owned pharmacies to remain economically viable and on the ability of rural residents to access low-cost pharmaceuticals and pharmacy and pharmacists' services;
 - c. The pharmacy ownership restrictions, the relevance of those restrictions in terms of marketplace competition, and the impact of those restrictions on the price and availability of pharmaceuticals and on pharmacy and pharmacists' services; and
 - d. The statutory interplay between the state board of pharmacy and the North Dakota pharmaceutical association and whether the regulatory function of the board conflicts with the advocacy function of the association.
2. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1299.

House Vote: Yeas 78 Nays 14 Absent 2

Senate Vote: Yeas 42 Nays 2 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State