

Introduced by

Representatives J. Nelson, Boe, Weisz, Westlind

Senators Bekkedahl, Robinson, Rust

1 A BILL for an Act to create and enact a new section to chapter 43-62 of the North Dakota  
2 Century Code, relating to a licensure grandfathering provision; and to amend and reenact  
3 sections 43-62-01, 43-62-04, 43-62-09, 43-62-14, 43-62-15, 43-62-17, and 43-62-19 of the  
4 North Dakota Century Code, relating to the regulation and licensure of medical imaging and  
5 radiation therapy practitioners.

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

7 **SECTION 1. AMENDMENT.** Section 43-62-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **43-62-01. Definitions.**

- 10 1. "Board" means the North Dakota medical imaging and radiation therapy board of  
11 examiners.
- 12 2. ~~"Certification organization" means a national certification organization that specializes~~  
13 ~~in the certification and registration of certification of medical imaging and radiation~~  
14 ~~therapy technical personnel and which has programs accredited by the national~~  
15 ~~commission for certifying agencies, American national standards institute or the~~  
16 ~~international organization for standardization, or other accreditation organization~~  
17 ~~recognized by the board.~~
- 18 3. "Licensed practitioner" means a licensed physician, physician assistant, advanced  
19 practice registered nurse, surgeon, certified registered nurse anesthetist, chiropractor,  
20 dentist, or podiatrist.
- 21 4.3. "Licensee" means an individual licensed by the board to perform medical imaging or  
22 radiation therapy procedures and operate medical imaging or radiation therapy  
23 equipment, ~~including a nuclear medicine technologist, radiation therapist,~~  
24 ~~radiographer, radiologist assistant, or sonographer.~~

1     ~~5.4.~~ "Medical imaging" means the performance of ~~anya~~ diagnostic or interventional  
2            procedure or operation of medical imaging equipment as described in this chapter and  
3            intended for use in the diagnosis or visualization of disease or other medical  
4            conditions in human beings, ~~including fluoroscopy, nuclear medicine, sonography, or~~  
5            ~~x-rays.~~

6     ~~6.5.~~ "Medical physicist" means an individual who is certified by the American board of  
7            radiology, American board of medical physics, American board of science in nuclear  
8            medicine, or Canadian college of physics in medicine in radiological physics or one of  
9            the subspecialties of radiological physics.

10    6. "Registration organization" means a national organization that specializes in the  
11       registration of medical imaging and radiation therapy personnel, including the  
12       American registry of radiologic technologists, international society for clinical  
13       densitometry, nuclear medicine technology certification board, certification board of  
14       radiology practitioner assistants, American registry for diagnostic medical sonography,  
15       cardiovascular credentialing international, or other organization that specializes in the  
16       registration of medical imaging and radiation therapy personnel recognized by the  
17       board.

18    7. "Radiation therapy" means the performance of any procedure or operation of radiation  
19        therapy equipment as described in this chapter and intended for use in the treatment  
20        of disease or other medical conditions in human beings.

21    8. "Radiation therapist" means a nonphysician licensed by the board to perform radiation  
22        therapy procedures and operate radiation therapy equipment.

23        **SECTION 2. AMENDMENT.** Section 43-62-04 of the North Dakota Century Code is  
24        amended and reenacted as follows:

25        **43-62-04. North Dakota medical imaging and radiation therapy board of examiners.**

- 26        1. The governor shall appoint a state board of medical imaging and radiation therapy  
27        medical examiners consisting of nine members including:
- 28        a. Five medical imaging or radiation therapy professionals, one each from the areas  
29        of radiography, radiation therapy, nuclear medicine technology, sonography, and  
30        medical imaging or radiation therapy education;
  - 31        b. One radiologist;

- 1 c. One medical physicist;
- 2 d. One physician from a rural area; and
- 3 e. One public member.
- 4 2. Each medical imaging or radiation therapy member of the board must:
  - 5 a. Be a practicing medical imaging or radiation therapy licensee of integrity and
  - 6 ability.
  - 7 b. Be a resident of this state and currently licensed in ~~the member's medical~~
  - 8 ~~imaging or radiation therapy modality in this state~~ by the board.
  - 9 c. ~~Be currently certified by a nationally recognized certification organization in the~~
  - 10 ~~member's medical imaging or radiation therapy modality.~~
  - 11 d. Have been engaged in the active practice of the medical imaging or radiation
  - 12 therapy profession within this state for a period of at least five years.
- 13 3. Each public member of the board must:
  - 14 a. Be a resident of this state.
  - 15 b. Be at least twenty-one years of age.
  - 16 c. Not be affiliated with any group or profession that provides or regulates health
  - 17 care.
- 18 4. The radiologist, medical physicist, and physician members of the board must:
  - 19 a. Be a practicing radiologist, medical physicist, or physician of integrity and ability.
  - 20 b. Be a resident of and be licensed to practice as a physician or registered as a
  - 21 medical physicist in this state.
- 22 5. An individual appointed to the board shall qualify by taking the oath required of civil
- 23 officers.

24 **SECTION 3. AMENDMENT.** Section 43-62-09 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **43-62-09. Powers of the board.**

27 In addition to any other ~~powers~~duties, the board may:

- 28 1. Administer this chapter.
- 29 2. ~~Issue interpretations of this chapter.~~

- 1        ~~3.~~    Adopt rules as may be necessary to carry out this chapter. After collaborating and  
2            consulting with North Dakota medical imaging or radiation therapy organizations,  
3            licensees, the North Dakota hospital association, and other affected parties.
- 4        ~~4.3.~~    Employ and fix the compensation of personnel the board determines necessary to  
5            carry into effect this chapter and incur other expenses necessary to effectuate this  
6            chapter.
- 7        ~~5.4.~~    Issue, renew, deny, suspend, or revoke licenses and carry out any disciplinary actions  
8            authorized by this chapter.
- 9        ~~6.5.~~    Set fees for licensure, license renewal, and other services deemed necessary to carry  
10           out the purposes of this chapter.
- 11       ~~7.6.~~    Conduct investigations for the purpose of determining whether violations of this  
12           chapter or grounds for disciplining licensees exist.
- 13       ~~8.~~      Develop standards and adopt rules for the improvement of the administration of  
14           medical imaging or radiation therapy procedures in this state.
- 15       ~~9.~~      Employ or contract with one or more certification organizations known to provide  
16           acceptable examinations leading to certification of technical personnel performing  
17           medical imaging or radiation therapy procedures.
- 18       ~~10.7.~~    Impose sanctions, deny licensure, levy fines, or seek appropriate civil or criminal  
19           penalties against anyone who violates or attempts to violate examination security,  
20           anyone who obtains or attempts to obtain licensure by fraud or deception, or anyone  
21           who knowingly assists in that type of activity.
- 22       ~~11.8.~~    Require information on an applicant's or licensee's fitness, qualifications, and previous  
23           professional record and performance from recognized data sources, licensing and  
24           disciplinary authorities of other jurisdictions, ~~certification~~registration organizations,  
25           professional education and training institutions, liability insurers, health care  
26           institutions, and law enforcement agencies be reported to the board. The board or its  
27           investigative panels may require an applicant for licensure or a licensee who is the  
28           subject of a disciplinary investigation to submit to a statewide and nationwide criminal  
29           history record check. The nationwide criminal history record check must be conducted  
30           in the manner provided by section 12-60-24. All costs associated with the criminal  
31           history record check are the responsibility of the licensee or applicant.

1   ~~42.9.~~   Require the self-reporting by an applicant or a licensee of any information the board  
2           determines may indicate possible deficiencies in practice, performance, fitness, or  
3           qualifications.

4   ~~43.10.~~   Establish a mechanism for dealing with a licensee who abuses or is dependent upon  
5           or addicted to alcohol or other addictive chemical substances, and enter an agreement  
6           with a professional organization possessing relevant procedures and techniques the  
7           board has evaluated and approved for the organization's cooperation or participation.

8   ~~44.11.~~   Issue a cease and desist order, obtain a court order, or an injunction to halt unlicensed  
9           practice, a violation of this chapter, or a violation of the rules of the board.

10 ~~45.12.~~   Issue a conditional, restricted, or otherwise circumscribed license as the board  
11           determines necessary.

12       **SECTION 4.** A new section to chapter 43-62 of the North Dakota Century Code is created  
13 and enacted as follows:

14       **Grandfathered licensees.**

15       Notwithstanding sections 43-62-14 and 43-62-15, the board shall issue a license to an  
16 applicant who, as of December 31, 2015, was employed in this state to perform medical  
17 imaging or radiation therapy procedures on live humans for diagnostic or therapeutic purposes.  
18 A licensee holding a license issued under this section may perform the medical imaging and  
19 radiation therapy modalities the licensee was employed to perform as of December 31, 2015.

20       **SECTION 5. AMENDMENT.** Section 43-62-14 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22       **43-62-14. License requirements.**

- 23       1. The board may issue a license to any applicant who has submitted satisfactory  
24       evidence, verified by oath or affirmation, that the applicant:
- 25       a. At the time of the application is at least eighteen years of age.
  - 26       b. ~~Has successfully completed a four-year course of study in a secondary school~~  
27       ~~approved by the state board of higher education or passed an approved~~  
28       ~~equivalency test~~ Is currently registered with a registration organization.
- 29       2. ~~In addition to the requirements of subsection 1, an individual seeking to obtain a~~  
30       ~~license for a specific modality of medical imaging or radiation therapy shall comply~~  
31       ~~with the following requirements:~~

- 1           a. ~~Provide satisfactory completion of a course of study in radiography, radiation-~~  
2           ~~therapy, nuclear medicine technology, radiologist assistant, or sonography, or its~~  
3           ~~equivalent to be determined by the board. The curriculum for each course of~~  
4           ~~study may not be less stringent than the standards approved by the joint review~~  
5           ~~committee on education in radiologic technology, joint review committee on~~  
6           ~~nuclear medicine technology, commission on accreditation of allied health~~  
7           ~~education programs, or any other appropriate accreditation agency approved by~~  
8           ~~the board, provided the standards are not in conflict with board policy.~~
- 9           b. ~~Pass a certification examination established or approved by the board given by a~~  
10           ~~certification organization recognized by the board.~~
- 11           c. ~~Show evidence of compliance with continuing education or recertification~~  
12           ~~requirements required for registration of certification by a certification~~  
13           ~~organization recognized by the board.~~
- 14           3. The board, upon application and payment of proper fees, may grant a license to an  
15           individual who has been licensed, certified, or registered to perform or administer  
16           medical imaging or radiation therapy procedures in another jurisdiction if that  
17           jurisdiction's standards of licensure are substantially equivalent to those provided in  
18           this chapter in accordance with rules adopted by the board.

19           **SECTION 6. AMENDMENT.** Section 43-62-15 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **43-62-15. Scope of practice.**

- 22           1. ~~The board shall establish licensure standards for the following medical imaging and~~  
23           ~~radiation therapy modalities:~~
  - 24           a. ~~Nuclear medicine technologist.~~
  - 25           b. ~~Radiation therapist.~~
  - 26           c. ~~Radiographer.~~
  - 27           d. ~~Radiologist assistant.~~
  - 28           e. ~~Sonographer.~~
- 29           2. An individual holding a license under this chapter may perform medical imaging or  
30           radiation therapy procedures on humans for diagnostic or therapeutic purposes only by written,  
31           facsimile, electronic, or verbal prescription of an individual authorized by this state to prescribe

1 medical imaging or radiation therapy procedures and under the supervision of a licensed  
2 practitioner.

3 ~~3. An individual holding a license under this chapter may perform medical imaging and~~  
4 ~~radiation therapy procedures on humans for diagnostic or therapeutic purposes only~~  
5 ~~within the scope of that license as specified under the rules adopted by the board.~~

6 **SECTION 7. AMENDMENT.** Section 43-62-17 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **43-62-17. Renewal.**

- 9 1. A license issued under this chapter must be renewed before January second every  
10 two years. The license must be renewed upon the payment of a renewal fee if the  
11 licensee is not in violation of this chapter and has complied with ~~any continuing~~  
12 ~~education~~the requirements adopted by rule of the board~~this chapter.~~
- 13 2. The board shall notify a licensee at least thirty days in advance of the expiration of the  
14 licensee's license. The licensee shall inform the board of any change of the licensee's  
15 address. Each licensee is responsible for renewing the licensee's license before the  
16 expiration date. A license that is not renewed automatically lapses.
- 17 3. The board may provide for the late renewal of an automatically lapsed license upon  
18 the payment of a reinstatement fee.

19 **SECTION 8. AMENDMENT.** Section 43-62-19 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **43-62-19. Grounds for disciplinary action.**

22 Disciplinary action may be imposed against a licensee upon any of the following grounds:

- 23 1. The use of any false, fraudulent, or forged statement or document, or the use of any  
24 fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the  
25 licensing requirements.
- 26 2. The conviction of any misdemeanor determined by the board to have a direct bearing  
27 upon an individual's ability to serve the public as a licensee or of any felony. A license  
28 may not be withheld contrary to chapter 12.1-33.
- 29 3. Habitual use of alcohol or drugs.
- 30 4. Physical or mental disability materially affecting the ability to perform the duties of a  
31 medical imaging or radiation therapy professional in a competent manner.

Sixty-fifth  
Legislative Assembly

- 1           5.    The performance of any dishonorable, unethical, or unprofessional conduct likely to  
2            deceive, defraud, or harm the public.
- 3           6.    Aiding or abetting the performance of medical imaging or radiation therapy by an  
4            unlicensed, incompetent, or impaired individual.
- 5           7.    The violation of any provision of this chapter or any rule of the board, or any action,  
6            stipulation, limitation, condition, or agreement imposed by the board or its investigative  
7            panels.
- 8           8.    The performance of medical imaging or radiation therapy under a false or assumed  
9            name.
- 10          9.    The willful or negligent violation of the confidentiality between medical imaging or  
11          radiation therapy professional and patient, except as required by law.
- 12          10.   Gross negligence in the performance of medical imaging or radiation therapy.
- 13          11.   Sexual abuse, misconduct, or exploitation related to the licensee's performance of  
14          medical imaging or radiation therapy.
- 15          12.   The use of any false, fraudulent, or deceptive statement in any document connected  
16          with the performance of medical imaging or radiation therapy.
- 17          13.   The failure to maintain in good standing, ~~including completion of continuing education  
18          or recertification requirements, a certification from a nationally recognized certification  
19          organization recognized by the board for the medical imaging or radiation therapy  
20          modality for which a license has been issued by the board~~ registration with a  
21          registration organization.
- 22          14.   The imposition by another state, jurisdiction, or certification organization recognized by  
23          the board of disciplinary action against a license, ~~certification~~registration, or other  
24          authorization to perform medical imaging or radiation therapy based upon acts or  
25          conduct by the medical imaging or radiation therapy professional which would  
26          constitute grounds for disciplinary action under this section. A certified copy of the  
27          record of the action taken by the other state, jurisdiction, or ~~certification~~registration  
28          organization is conclusive evidence of that action.
- 29          15.   The failure to furnish the board or the investigative panel or investigators or  
30          representatives of the board or investigative panel information legally requested by the



- 1 board or the investigative panel. The board shall keep a record of its proceedings in a
- 2 disciplinary action or refusal to issue a license, together with the evidence offered.