

Introduced by

Senators J. Lee, Burckhard, Heckaman

Representatives Nathe, J. Nelson, Sanford

1 A BILL for an Act to create and enact chapter 43-63 of the North Dakota Century Code, relating
2 to uniform regulation of occupations and professions; to amend and reenact subsection 4 of
3 section 54-10-01 and section 54-10-27 of the North Dakota Century Code, relating to duties of
4 the state auditor; to provide a penalty; to provide for a legislative management study; and to
5 provide an effective date.

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

7 **SECTION 1.** Chapter 43-63 of the North Dakota Century Code is created and enacted as
8 follows:

9 **43-63-01. Definitions.**

10 As used in this chapter:

- 11 1. "Board" means a board, commission, or other agency of state government created or
12 identified in this title to regulate an occupation or profession.
- 13 2. "Foreign license" means a license, certificate, permit, or similar authorization to
14 practice an occupation or profession which is issued by a government agency in
15 another state or jurisdiction that imposes requirements for obtaining and maintaining a
16 license to practice the same occupation or profession.
- 17 3. "Foreign practitioner" means an individual who holds and maintains a foreign license
18 in good standing to engage in an occupation or profession in a state or jurisdiction
19 other than this state and who is not the subject of a pending disciplinary action in any
20 state or jurisdiction.
- 21 4. "Good standing" means a foreign practitioner holds a foreign license that is not issued
22 on a temporary or restricted basis, is not encumbered or on probation, and is not
23 suspended or revoked.

- 1 5. "Occupation or profession" means activity for which a license is required from a board
2 or similar activity for which a foreign license is required in another state or jurisdiction.

3 **43-63-02. Boards - Duties - Powers.**

4 Notwithstanding law to the contrary:

5 1. A board shall:

- 6 a. Adopt rules to implement this chapter.
7 b. Establish a fee schedule designed to fund the activities of the board.
8 c. Meet at the call of the presiding officer, but not fewer than twice per year.
9 d. Establish and implement a strategic plan to regulate occupations and professions
10 in the least restrictive manner appropriate to protect public health and safety.
11 e. Keep divided and may not commingle board funds and any professional
12 association funds submitted to the board.

13 2. A board may:

- 14 a. Establish continuing education requirements, which may include board-approval
15 requirements.
16 b. Provide professional education for licensees or individuals who may be interested
17 in pursuing the regulated occupation or profession.

18 **43-63-03. Board membership - Appointment - Terms.**

19 Notwithstanding law to the contrary:

20 1. The governor shall appoint the members of a board.

- 21 a. The regular term of a board member is three years and begins on August first
22 following the appointment. An individual may not serve more than two
23 consecutive full terms as a member on a board, after which an individual may not
24 be reappointed until the expiration of three years.
25 b. A board member serves at the pleasure of governor. Upon the expiration of a
26 term, a board member shall continue to serve until the governor makes an
27 appointment to fill that position.
28 c. In addition to any professional requirements, a board member must be at least
29 eighteen years old and must be a resident of this state.
30 d. Each board must have at least five and no more than thirteen voting members, at
31 least two of whom must serve as lay members.

- 1 2. Each member of a board, except for a state employee serving as ex officio member, is
2 entitled to receive from the board compensation of one hundred seventy-seven dollars
3 per day spent in actual attendance at board meetings and reimbursement for mileage
4 and travel expenses at the same rate as provided for state employees and officials.
5 3. Each member of a board shall maintain the qualifications for appointment for the
6 duration of the appointment.

7 **43-63-04. Regulation - Terms of licensure - Renewal.**

8 Notwithstanding law to the contrary:

- 9 1. A license issued by the board is valid through December thirty-first of the year of
10 issuance.
11 2. Annually, a licensee may renew a license upon:
12 a. Submitting fees for licensure renewal in an amount established by the board.
13 b. Submitting proof of completion of six hours of continuing education.
14 3. A licensee that does not renew a license timely may not practice in this state until the
15 license is renewed or reissued. Through March thirty-first of the year of licensure, a
16 professional may renew a license without incurring additional renewal expenses. After
17 March thirty-first of the year of licensure, a board may charge a late fee for licensure
18 renewal. If a professional fails to renew a license before the end of the year of
19 licensure, the board may require the professional to reapply for future licensure.

20 **43-63-05. Licensure of foreign practitioners.**

21 Notwithstanding law to the contrary, a board shall issue a license to an applicant who is a
22 foreign practitioner, unless the board determines the issuance of the license would jeopardize
23 the health and safety of the residents of this state. If the board determines licensure under this
24 section would jeopardize the health and safety of the residents of this state, the board may deny
25 the application or may issue a provisional license, issue a restricted license, or otherwise
26 authorize limited practice to protect the health and safety of the residents of this state.

27 **43-63-06. Board training.**

28 Annually, the attorney general shall conduct training for new board members. The training
29 must include information regarding open meetings and open records, lobbying, and conflicts of
30 interest. During the first year of each term a board member serves, the board member shall
31 attend this training.

1 **43-63-07. Board - Grievances.**

2 The governor, in consultation with the attorney general, shall establish a grievance
3 procedure for addressing a grievance against a board. The attorney general shall investigate
4 and work to resolve complaints regarding board conduct.

5 **43-63-08. Discipline - Penalty.**

6 Notwithstanding law to the contrary:

7 1. A board shall conduct a disciplinary proceeding in accordance with chapter 28-32.

8 2. A board may deny, limit, revoke, encumber, or suspend a license; may reprimand,
9 place on probation, or otherwise discipline a licensee; may deny admission to
10 licensure or examination; require evidence of evaluation or treatment; or issue a
11 nondisciplinary letter of concern to a licensee if the person:

12 a. Has been arrested for, charged with, convicted by a court of, or has entered a
13 plea of nolo contendere to a crime in any jurisdiction which relates adversely to
14 the practice of the occupation or profession and has not demonstrated sufficient
15 rehabilitation.

16 b. Has been the subject of a disciplinary action in a foreign jurisdiction relating to
17 the practice of the occupation or profession.

18 c. Has violated this chapter or rules adopted under this chapter.

19 d. Has engaged in a practice inconsistent with the person's occupational or
20 professional standards.

21 3. It is a class B misdemeanor for a person to willfully practice an occupation or
22 profession in violation of this chapter or employ a person to practice an occupation or
23 profession in violation of this chapter.

24 **SECTION 2. AMENDMENT.** Subsection 4 of section 54-10-01 of the North Dakota Century
25 Code is amended and reenacted as follows:

26 4. Perform or provide for performance audits of state agencies, including occupational
27 and professional boards, or the agencies' blended component units or discreetly
28 presented component units, as determined necessary by the state auditor or the
29 legislative audit and fiscal review committee. A performance audit must be done in
30 accordance with generally accepted auditing standards applicable to performance
31 audits. The state auditor may not hire a consultant to assist with conducting a

1 performance audit of a state agency or occupational or professional board without the
2 prior approval of the legislative audit and fiscal review committee. The state auditor
3 shall notify an agency or board of the need for a consultant before requesting approval
4 by the legislative audit and fiscal review committee. The agency ~~that is~~ or board
5 audited shall pay for the cost of any consultant approved.

6 **SECTION 3. AMENDMENT.** Section 54-10-27 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **54-10-27. Occupational and professional boards - Audits and reports.**

9 ~~The governing board of any~~

- 10 1. Biennially, the state auditor shall conduct annual audits of occupational or professional
11 ~~board shall provide for an audit once every two years by a certified public accountant~~
12 ~~or licensed public accountant. The accountant conducting the audit shall submit the~~
13 ~~audit report to the state auditor's office. If the report is in the form and style prescribed~~
14 ~~by the state auditor, the state auditor may not audit that board. An occupational or~~
15 ~~professional board may request the state auditor to conduct its audit, and if the state~~
16 ~~auditor agrees to conduct the audit, the boards.~~ The state auditor shall deposit the fees
17 charged to the occupational or professional board into the state auditor operating
18 account.
- 19 2. Instead of providing for an audit every two years, an occupational or professional
20 board that has less than two hundred thousand dollars of annual receipts may submit
21 an annual report to the state auditor. The report must contain the information required
22 by the state auditor. The state auditor also may make any additional examination or
23 audit determined necessary in addition to the annual report. ~~When~~If a report is not
24 filed, the state auditor may charge the occupational or professional board an amount
25 equal to the fair value of the additional examination or audit and any other services
26 rendered. The state auditor may charge an occupational or professional board a fee
27 not to exceed fifty dollars an hour for the costs of reviewing the annual report.
- 28 3. If an audit report or annual report shows the amount of the unobligated and
29 undesignated balance of a board's operating fund exceeds two hundred fifty thousand
30 dollars, the report must include a statement from the board regarding the board's
31 future plans for this excess amount.

1 **SECTION 4. LEGISLATIVE MANAGEMENT STUDY - OCCUPATIONAL AND**
2 **PROFESSIONAL REGULATION.** During the 2019-20 interim, the legislative management shall
3 consider studying the state's system for regulating occupations and professions, including
4 consideration of the powers, duties, and membership of occupational and professional boards;
5 licensure requirements; and disciplinary actions. The study must include reports from the job
6 service North Dakota workforce development council on the status of its study of the state's
7 occupational licensing system and consultation with occupational and professional boards. The
8 legislative management shall report its findings and recommendations, together with any
9 legislation required to implement the recommendations, to the sixty-seventh legislative
10 assembly.

11 **SECTION 5. EFFECTIVE DATE.** Sections 1, 2, and 3 of this Act become effective
12 January 1, 2022.