

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1433

Introduced by

Representatives Kasper, Becker, B. Koppelman, Rohr, Strinden, Vigesaa

Senators Clemens, Davison, Dever, J. Lee, Oehlke

1 A BILL for an Act to create and enact a new section to chapter 23-16 and a new section to
2 chapter 26.1-47 of the North Dakota Century Code, relating to maintenance of certification for
3 physicians; and to declare an emergency.

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

5 **SECTION 1.** A new section to chapter 23-16 of the North Dakota Century Code is created
6 and enacted as follows:

7 **Maintenance of certification.**

8 1. As used in this section:

- 9 a. "Continuing medical education" means continued postgraduate medical
10 education required by the North Dakota board of medicine intended to educate
11 medical professionals about new developments in the medical field.
- 12 b. "Maintenance of certification" means a process requiring periodic recertification
13 examinations or other activities to maintain specialty medical board certification.
14 Recertification may be provided by a medical professional organization, such as
15 one or more of the medical specialty boards of the American board of medical
16 specialties, the American osteopathic association, the national board of
17 physicians and surgeons, or any other board a credentialing entity recognizes.
- 18 c. "Physician" means a physician licensed under chapter 43-17.
- 19 d. "Specialty medical board certification" means certification by a board specializing
20 in one particular area of medicine and having requirements in addition to those
21 the North Dakota board of medicine requires to practice medicine.

22 2. Except as provided in subsection 5, a physician may not be denied staff privileges or
23 employment by a facility licensed under this chapter based solely on the physician's
24 decision to not participate in maintenance of certification.

- 1 3. This section does not prevent a facility's credentialing committee from requiring a
2 physician meet continuing medical education requirements as set by the physician's
3 licensing board.
- 4 4. This section does not prohibit a facility licensed under this chapter from requiring a
5 physician to undergo remedial or corrective courses or training as may be required by
6 a quality improvement committee.
- 7 5. A facility licensed under this chapter may differentiate between physicians based on a
8 physician's maintenance of certification if:
- 9 a. The facility's designation, certification, or accreditation is contingent on the facility
10 requiring a specific maintenance of certification by physicians seeking staff
11 privileges or credentialing at the facility and the differentiation is limited to those
12 physicians whose maintenance of certification is required for the facility's
13 designation, certification, or accreditation; or
- 14 b. The voting physician members of the facility's organized medical staff vote to
15 authorize the differentiation and the facility's governing body approves the vote.
- 16 (1) The facility may establish terms applicable to the facility's differentiation,
17 including appropriate grandfathering provisions, and allowing the
18 differentiation to be rescinded at any time by a vote of the voting physician
19 members of the facility's organized medical staff.
- 20 (2) This section may not be construed to require a new vote by the facility's
21 medical staff.
- 22 (3) Notwithstanding paragraph 2, this section may not be construed to abrogate
23 or supersede the ability of an organized medical staff and governing board
24 of an individual facility to determine the facility's credentialing and privileging
25 criteria with respect to board certification and the maintenance of
26 certification requirements.
- 27 6. A facility licensed under this chapter may not consider maintenance of certification
28 participation or status as a standard of care consideration in the course of a quality
29 improvement assessment.

30 **SECTION 2.** A new section to chapter 26.1-47 of the North Dakota Century Code is created
31 and enacted as follows:

1 **Maintenance of certification.**

2 1. As used in this section, the terms "continuing medical education", "maintenance of
3 certification", "physician", and "specialty medical board certification" have the same
4 meaning as provided under section 1 of this Act.

5 2. A health care insurer may not deny reimbursement to or prevent a physician from
6 being a preferred provider based solely on a physician's decision to not participate in
7 maintenance of certification, including basing a physician's network participation on
8 any form of maintenance of certification participation or status.

9 3. A health care insurer may not discriminate with respect to reimbursement levels based
10 solely on a physician's decision to not participate in any form of maintenance of
11 certification.

12 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.