

**Sixty-sixth Legislative Assembly of North Dakota  
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1433  
(Representatives Kasper, Becker, B. Koppelman, Rohr, Strinden, Vigesaa)  
(Senators Clemens, Davison, Dever, J. Lee, Oehlke)

AN ACT to create and enact a new section to chapter 23-16 and a new section to chapter 26.1-47 of the North Dakota Century Code, relating to maintenance of certification for physicians; and to declare an emergency.

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

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

**Maintenance of certification.**

1. As used in this section:
  - a. "Continuing medical education" means continued postgraduate medical education required by the North Dakota board of medicine intended to educate medical professionals about new developments in the medical field.
  - b. "Maintenance of certification" means a process requiring periodic recertification examinations or other activities to maintain specialty medical board certification. Recertification may be provided by a medical professional organization, such as one or more of the medical specialty boards of the American board of medical specialties, the American osteopathic association, the national board of physicians and surgeons, or any other board a credentialing entity recognizes.
  - c. "Physician" means a physician licensed under chapter 43-17.
  - d. "Specialty medical board certification" means certification by a board specializing in one particular area of medicine and having requirements in addition to those the North Dakota board of medicine requires to practice medicine.
2. Except as provided in subsection 5, a physician may not be denied staff privileges or employment by a facility licensed under this chapter based solely on the physician's decision to not participate in maintenance of certification.
3. This section does not prevent a facility's credentialing committee from requiring a physician meet continuing medical education requirements as set by the physician's licensing board.
4. This section does not prohibit a facility licensed under this chapter from requiring a physician to undergo remedial or corrective courses or training as may be required by a quality improvement committee.
5. A facility licensed under this chapter may differentiate between physicians based on a physician's maintenance of certification if:
  - a. The facility's designation, certification, or accreditation is contingent on the facility requiring a specific maintenance of certification by physicians seeking staff privileges or credentialing at the facility and the differentiation is limited to those physicians whose maintenance of certification is required for the facility's designation, certification, or accreditation; or

- b. The voting physician members of the facility's organized medical staff vote to authorize the differentiation and the facility's governing body approves the vote.
  - (1) The facility may establish terms applicable to the facility's differentiation, including appropriate grandfathering provisions, and allowing the differentiation to be rescinded at any time by a vote of the voting physician members of the facility's organized medical staff.
  - (2) This section may not be construed to require a new vote by the facility's medical staff.
  - (3) Notwithstanding paragraph 2, this section may not be construed to abrogate or supersede the ability of an organized medical staff and governing board of an individual facility to determine the facility's credentialing and privileging criteria with respect to board certification and the maintenance of certification requirements.
- 6. A facility licensed under this chapter may not consider maintenance of certification participation or status as a standard of care consideration in the course of a quality improvement assessment.

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

**Maintenance of certification.**

- 1. As used in this section, the terms "continuing medical education", "maintenance of certification", "physician", and "specialty medical board certification" have the same meaning as provided under section 1 of this Act.
- 2. A health care insurer may not deny reimbursement to or prevent a physician from being a preferred provider based solely on a physician's decision to not participate in maintenance of certification, including basing a physician's network participation on any form of maintenance of certification participation or status.
- 3. A health care insurer may not discriminate with respect to reimbursement levels based solely on a physician's decision to not participate in any form of maintenance of certification.

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

\_\_\_\_\_  
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 Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1433 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote:        Yeas 92                      Nays 0                      Absent 2

\_\_\_\_\_  
Speaker of the House

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Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote:        Yeas 46                      Nays 0                      Absent 1

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President of the Senate

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2019.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2019,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State