Sixty-eighth Legislative Assembly of North Dakota

SENATE BILL NO. 2184

Introduced by

Senators Lee, Burckhard, K. Roers

Representatives Mitskog, Weisz

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century

2 Code, relating to uniform regulation of occupations and professions; to amend and reenact

3 subsection 2 of section 54-10-01 and section 54-10-27 of the North Dakota Century Code,

4 relating to the duties of the state auditor; to provide a penalty; to provide for a legislative

5 management study; and to provide an effective date.

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

7 **SECTION 1.** A new chapter to title 43 of the North Dakota Century Code is created and

8 enacted as follows:

9 **Definitions.**

10 <u>As used in this chapter:</u>

- <u>"Board" means a board, commission, or other agency of state government created or</u>
 <u>identified in this title to regulate an occupation or profession.</u>
- <u>"Foreign license" means a license, certificate, permit, or similar authorization to</u>
 practice an occupation or profession which is issued by a government agency in
- another state or jurisdiction that imposes requirements for obtaining and maintaining a
 license to practice the same occupation or profession.
- 17 <u>3.</u> <u>"Foreign practitioner" means an individual who holds and maintains a foreign license</u>
- 18 in good standing to engage in an occupation or profession in a state or jurisdiction
- <u>other than this state and who is not the subject of a pending disciplinary action in any</u>
 <u>state or jurisdiction.</u>
- 21 <u>4.</u> <u>"Good standing" means a foreign practitioner holds a foreign license that is not issued</u>

22 <u>on a temporary or restricted basis, is not encumbered or on probation, and is not</u>

23 <u>suspended or revoked.</u>

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1	<u>5.</u>	<u>"Occ</u>	cupation or profession" means activity for which a license is required from a board	
2		<u>or si</u>	milar activity for which a foreign license is required in another state or jurisdiction.	
3	<u>Boa</u>	<u>rds - Duties - Powers.</u>		
4	<u>Notv</u>	vithst	anding law to the contrary:	
5	<u>1.</u>	<u>A bc</u>	pard shall:	
6		<u>a.</u>	Adopt rules to implement this chapter.	
7		<u>b.</u>	Establish a fee schedule designed to fund the activities of the board.	
8	<u>2.</u>	<u>A bo</u>	pard may:	
9		<u>a.</u>	Establish continuing education requirements, which may include board-approval	
10			requirements.	
11		<u>b.</u>	Provide education for licensees or individuals who may be interested in pursuing	
12			the regulated occupation or profession.	
13	<u>Boa</u>	rd m	<u>embership - Appointment - Terms.</u>	
14	<u>Notv</u>	vithst	anding law to the contrary:	
15	<u>1.</u>	<u>The</u>	governor shall appoint the members of a board.	
16		<u>a.</u>	The regular term of a board member is three years and begins on August first	
17			following the appointment. An individual may not serve more than two	
18			consecutive full terms as a member on a board, after which an individual may not	
19			be reappointed until the expiration of three years.	
20		<u>b.</u>	A board member serves at the pleasure of the governor. Upon the expiration of a	
21			term, a board member shall continue to serve until the governor makes an	
22			appointment to fill that position.	
23		<u>C.</u>	In addition to any practitioner requirements, a board member must be at least	
24			eighteen years old and must be a resident of this state.	
25		<u>d.</u>	Each board must have at least five and no more than thirteen voting members, at	
26			least two of whom shall serve as lay members.	
27	<u>2.</u>	Eac	h member of a board, except for a state employee serving as an ex officio	
28		men	nber, is entitled to receive from the board compensation of one hundred	
29		seventy-seven dollars per day spent in actual attendance at board meetings and		
30		reimbursement for mileage and travel expenses at the same rate as provided for state		
31		employees and officials.		

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1	<u>3.</u>	Each member of a board shall maintain the qualifications for appointment for the			
2		duration of the appointment.			
3	<u>Reg</u>	ulation - Terms of licensure - Renewal.			
4	<u>Not</u>	withstanding law to the contrary:			
5	<u>1.</u>	Other than an initial license, which may be valid for a shorter period, a license issued			
6		by the board is valid for one year from the date of issuance.			
7	<u>2.</u>	Annually, a licensee may renew a license upon submitting:			
8		a. Fees for licensure renewal in an amount established by the board.			
9		b. Proof of completion of continuing education as required by the board.			
10	<u>3.</u>	A licensee who does not renew a license timely may not practice in this state until the			
11		license is renewed or reissued. Within three months following the date of licensure			
12		renewal, a practitioner may renew a license without incurring additional renewal			
13		expenses. After three months following the date of licensure renewal, a board may			
14		charge a late fee for licensure renewal. If a practitioner fails to renew a license before			
15		the end of the year of licensure, the board may require the practitioner to reapply for			
16		future licensure.			
17	Lice	ensure of foreign practitioners - Compacts.			
18	<u>1.</u>	Notwithstanding law to the contrary, a board shall issue a license to an applicant who			
19		is a foreign practitioner, unless the board determines the issuance of the license would			
20		jeopardize the health and safety of the residents of this state. If the board determines			
21		licensure under this section would jeopardize the health and safety of the residents of			
22		this state, the board may deny the application or may issue a provisional license, issue			
23		a restricted license, or otherwise authorize limited practice to protect the health and			
24		safety of the residents of this state.			
25	<u>2.</u>	Notwithstanding contrary law under this chapter, a board may issue a license to an			
26		applicant through an adopted compact.			
27	Disc	cipline - Penalty.			
28	<u>Not</u>	ptwithstanding law to the contrary:			
29	<u>1.</u>	A board shall conduct a disciplinary proceeding in accordance with chapter 28-32.			
30	<u>2.</u>	A board may deny, limit, revoke, encumber, or suspend a license; may reprimand,			
31		place on probation, or otherwise discipline a licensee; may deny admission to			

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1		lice	nsure or examination; require evidence of evaluation or treatment; or issue a
2	nondisciplinary letter of concern to a licensee if the person:		
3		<u>a.</u>	Has been arrested for, charged with, convicted by a court of, or has entered a
4			plea of nolo contendere to a crime in any jurisdiction which relates adversely to
5			the practice of the occupation or profession and has not demonstrated sufficient
6			rehabilitation.
7		<u>b.</u>	Has been the subject of a disciplinary action in a foreign jurisdiction relating to
8			the practice of the occupation or profession.
9		<u>C.</u>	Has violated this chapter or rules adopted under this chapter.
10		<u>d.</u>	Has engaged in a practice inconsistent with the person's occupational or
11			professional standards.
12	<u>3.</u>	<u>It is</u>	a class B misdemeanor for a person to willfully practice an occupation or
13		pro	fession in violation of this chapter or to willfully employ a person to practice an
14		000	cupation or profession in violation of this chapter.
15	SEC	стю	N 2. AMENDMENT. Subsection 2 of section 54-10-01 of the North Dakota Century
16	Code is	ame	nded and reenacted as follows:
17	2.	The	e state auditor may:
18		a.	Conduct any work required by the federal government.
19		b.	Within the resources available to the state auditor, perform or provide for
20			performance audits of state agencies, including occupational and professional
21			boards, as determined necessary by the state auditor.
22		C.	Audit the International Peace Garden at the request of the board of directors of
23			the International Peace Garden.
24		d.	Contract with a private certified public accountant or other qualified professional
25			to conduct or assist with an audit, review, or other work the state auditor is
26			authorized to perform or provide for under this section or section 54-10-27.
27			Before entering any contract, the state auditor shall present information to the
28			legislative audit and fiscal review committee on the need for the contract and its
29			estimated cost and duration. Except for performance audits conducted under
30			subdivision d of subsection 1 or subdivision b of this subsection and except for
31			audits of occupational or professional boards, the state auditor shall execute the

1		contract and any executive branch agency, including higher education
2		institutions, shall pay the fees of the contractor. For performance audits
3		conducted under subdivision d of subsection 1 or subdivision b of this subsection,
4		the state auditor may charge a state agency <u>or board</u> for the cost of a contract
5		relating to an audit, subject to approval by the legislative assembly or the
6		legislative audit and fiscal review committee if the legislative assembly is not in
7		session. When considering a request, the legislative audit and fiscal review
8		committee shall consider the effect of the audit cost on the agency <u>or board</u> being
9		audited, the necessity of the contract, and the potential benefit to the state
10		resulting from the contract. The state auditor shall notify the affected agency <u>or</u>
11		board of the potential cost before requesting approval from the legislative
12		assembly or the legislative audit and fiscal review committee.
13	SEC	CTION 3. AMENDMENT. Section 54-10-27 of the North Dakota Century Code is
14	amende	d and reenacted as follows:
15	54-1	10-27. Occupational and professional boards - Audits and reports.
16	The	governing board of any
17	<u>1.</u>	Biennially, the state auditor shall conduct annual audits of occupational or professional
18		board shall provide for an audit once every two years by a certified public accountant-
19		or licensed public accountant. The accountant conducting the audit shall submit the
20		audit report to the state auditor's office. If the report is in the form and style prescribed
21		by the state auditor, the state auditor may not audit that board. An occupational or-
22		professional board may request the state auditor to conduct its audit, and if the state-
23		auditor agrees to conduct the audit, theboards. The state auditor shall deposit the fees
24		charged to the occupational or professional board into the state auditor operating
25		account.
26	<u>2.</u>	Instead of providing for an audit every two years, an occupational or professional
27		board that has less than two hundred thousand dollars of annual receipts may submit
28		an annual report to the state auditor. The report must contain the information required
29		by the state auditor. The state auditor also may make any additional examination or
30		audit determined necessary in addition to the annual report. When a report is not filed,
31		the state auditor may charge the occupational or professional board an amount equal
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1		to the fair value of the additional examination or audit and any other services
2		rendered. The state auditor may charge an occupational or professional board a fee
3		not to exceed eighty-six dollars an hour for the costs of reviewing the annual report.
4	<u>3.</u>	If an audit report or annual report shows the amount of the unobligated and
5		undesignated balance of a board's operating fund exceeds two hundred fifty thousand
6		dollars, the report must include a statement from the board regarding the board's
7		plans for handling this excess amount.
8	SEC	CTION 4. LEGISLATIVE MANAGEMENT STUDY - OCCUPATIONAL AND
9	PROFE	SSIONAL REGULATION. During the 2023-24 interim, the legislative management shall
10	conside	r studying the state's system for regulating occupations and professions, including
11	conside	ration of the powers, duties, and membership of occupational and professional boards;
12	licensur	e requirements; and disciplinary actions. The study must include consultation with
13	occupat	ional and professional boards. The study may include consideration of apprenticeships,
14	internsh	ips, and board collaboration with primary and secondary education. The legislative
15	manage	ment shall report its findings and recommendations, together with any legislation
16	required	to implement the recommendations, to the sixty-ninth legislative assembly.
17	SEC	CTION 5. EFFECTIVE DATE. Sections 1, 2, and 3 of this Act become effective
18	January	1, 2026.