

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 380

April 2021

**Prepared by the Legislative Council staff
for the
Administrative Rules Committee**

TABLE OF CONTENTS

State Board of Dental Examiners.....	1
Insurance, Commissioner of.....	47
Occupational Therapy Practice, Board of.....	69
Public Instruction, Superintendent of.....	87
Social Work Examiners, Board of.....	103

TITLE 20
STATE BOARD OF DENTAL EXAMINERS

APRIL 2021

CHAPTER 20-01-02

20-01-02-01. Definitions.

Unless specifically stated otherwise, the following definitions are applicable throughout this title:

1. "Advertising" means any public communication, made in any form or manner, about a licensee's professional service or qualifications, for the purpose of soliciting business.

2. ~~"Anxiolysis" means diminution or elimination of anxiety.~~

~~3.~~ "Basic full upper and lower denture" means replacement of all natural dentition with artificial teeth. This replacement includes satisfactory tissue adaptation, satisfactory function, and satisfactory aesthetics. Materials used in these replacements must be nonirritating in character and meet all the standards set by the national institute of health and the bureau of standards and testing agencies of the American dental association for materials to be used in or in contact with the human body.

4.3. "Board certified" means the dentist has been certified in a specialty area in which there is a certifying body approved by the commission on dental accreditation of the American dental association.

5.4. "Board eligible" means the dentist has successfully completed a duly accredited training program or in the case of a dentist in practice at the time of the adoption of these rules has experience equivalent to such a training program in an area of dental practice in which there is a certifying body approved by the commission on dental accreditation of the American dental association.

6.5. "Bona fide specialties" means the specialties of dental public health, endodontics, oral and maxillofacial pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, dental anesthesiology, oral medicine, and prosthodontics. The licensee has successfully completed a qualifying postdoctoral educational program and holds a current certification by a qualifying specialty board or organization as set forth in section 20-02-01-01.

7.6. "Cardiopulmonary resuscitation course" means the American heart association's health care provider course, the American red cross professional rescuer course, or an equivalent course.

8.7. "Certified dental assistant" means a dental assistant who meets the education or experience prerequisites, or both, established by the dental assisting national board and passes the dental assisting national board's certified dental assistant examination, is currently cardiopulmonary resuscitation-certified, and continues to maintain the credential by meeting

the dental assisting national board requirements. A certified dental assistant must be registered by the board as a qualified dental assistant or registered dental assistant to provide ~~any~~ expanded duties.

~~9-8.~~ "Code of ethics" means the ~~January 2009~~ November 2020 version of the American dental association's principles of ethics and code of professional conduct.

~~10.~~ "~~Combination inhalation—enteral conscious sedation~~" (~~combined conscious sedation~~) means ~~conscious sedation using inhalation and enteral agents.~~

~~When the intent is anxiolysis only, and the appropriate dosage of agents is administered, then the definition of enteral or combined inhalation-enteral conscious sedation (combined conscious sedation), or both, does not apply.~~

~~Nitrous oxide/oxygen when used in combination or with sedative agents may produce anxiolysis, conscious or deep sedation, or general anesthesia.~~

~~11-9.~~ "Complete evaluation" means an examination, review of medical and dental history, the formulation of a diagnosis, and the establishment of a written treatment plan, documented in a written record to be maintained in the dentist's office or other treatment facility or institution.

~~12.~~ "~~Conscious sedation~~" means ~~depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command and that is produced by a pharmacological or nonpharmacological method or a combination thereof. The drugs or technique, or both, should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of conscious sedation.~~

~~13-10.~~ "Contiguous supervision" means that the dentist whose patient is being treated and has personally authorized the procedures to be performed. The supervising dentist is continuously onsite and physically present in the treatment facility while the procedures are performed by the qualified dental anesthesia auxiliary staff member and capable of responding immediately in the event of an emergency. The term does not require a supervising dentist to be physically present in the operatory.

~~14-11.~~ "Clinical continuing education" means information that relates to the examination and treatment of patients.

~~12.~~ "Coronal polishing" is the mechanical polishing of clinical crowns using a rubber cup or brush only and not to include use of any instrumentation.

~~15.~~ "~~Deep sedation~~" is ~~an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to respond purposefully to physical stimulation or verbal command, and is produced by pharmacological or nonpharmacological method, or combination thereof.~~

~~16-13.~~ "Direct supervision" means the dentist is physically present in the dental office or treatment facility, personally diagnoses the condition to be treated, personally authorizes the procedures and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant, and before dismissal of the patient, evaluates the performance of the dental hygienist or dental assistant.

~~17-14.~~ "Direct visual supervision" means ~~supervision by a~~ the dentist ~~by~~ is physically present to issue a verbal command ~~and~~ under direct line of sight.

- ~~18-15.~~ "Evaluation" means the act or process by a dentist of assessing and determining the patient's oral health status, the progress of dental therapy, or the performance of the dental hygienist or dental assistant.
- ~~19.~~ ~~"General anesthesia" means an induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command, and is produced by a pharmacological or nonpharmacological method, or a combination thereof.~~
- ~~20-16.~~ "Final scan by digital capture" means the digital or analog image, compilation of images approved and submitted by the supervising dentist for a diagnosis, or the construction of casts which is captured by the digital scanning of any hard or soft tissue-bearing area, whether intraorally or extraorally for the purpose of fabricating a prescriptive device.
- ~~17.~~ "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in an occupation or profession in a state or jurisdiction other than this state and who is not the subject of a pending disciplinary action in any state or jurisdiction.
- ~~18.~~ "Good standing" means a foreign practitioner who holds a current license that is not issued on a temporary or restricted basis, is not encumbered or on probation, and is not suspended or revoked.
- ~~19.~~ "General supervision" means the dentist has authorized the procedures and they are carried out in accordance with the dentist's diagnosis, if necessary, and treatment plan. The dentist is not required to be in the treatment facility. A new patient who has not been examined by the authorizing dentist may be seen by a dental hygienist authorized to provide duties under general supervision. Limitations are contained in North Dakota Century Code section 43-20-03.
- ~~21-20.~~ "Inactive status" means the licensee shall not engage in the practice of dentistry or dental hygiene in the state of North Dakota. The license that is placed on inactive status remains on that status until such time as the license is reinstated.
- ~~22-21.~~ "Indirect supervision" means that a dentist is physically present in the dental office or treatment facility, has personally diagnosed the condition to be treated, authorizes the procedures, and remains in the dental office or treatment facility while the procedures are being performed by the dental hygienist or dental assistant.
- ~~23-22.~~ "Local anesthesia" means the elimination of sensations in one part of the body by regional injection of drugs without causing the loss of consciousness.
- ~~23.~~ "Military spouse" is a foreign practitioner who is the spouse of a member of the armed forces of the United States or a reserve component of the armed forces of the United States stationed in North Dakota in accordance with military orders or stationed in North Dakota before a temporary assignment to duties outside of North Dakota.
24. "Oral assessment" means the evaluation of data pertaining to the patient's condition to help identify dental problems leading to a professional treatment plan. The final diagnosis of disease or treatment plan is the sole responsibility of the supervising or collaborative dentist.
25. "Oral hygiene treatment planning" is a component of a comprehensive treatment plan developed by the hygienist or dentist to provide the hygienist a framework for addressing the preventative, educational, and clinical treatment needs of the patient.
26. "Patient of record" means a patient who has undergone a complete dental evaluation ~~performed by a licensed dentist,~~ has had a medical and dental history completed and evaluated by a dentist, or a patient who has been examined, and has had oral conditions

diagnosed and a written plan developed by the licensed dentist, or dental hygiene treatment authorized by a dentist, and the patient has compensated the dentist or dental facility for a procedure.

27. "Primary practice site" means the office location that is to be considered the main location of the dental practice. This office location would be listed first on the biennial registration.

28. "Qualified dental assistant" means a dental assistant who has been employed and trained as a dental assistant and has received at least ~~six~~three hundred ~~fifty~~ hours of on-the-job training, has completed a board-approved infection control seminar and passed the x-ray and infection control portions of the dental assisting national board examination, and has applied to the board and paid the certificate fee and met any other requirements of section 20-03-01-05.

29. "Qualified dental staff member" means an individual trained and competent in the use of monitoring and emergency equipment capable of assisting with procedures and emergency incidents that may occur as a result of the sedation or secondary to an unexpected medical complication.

30. "Registered dental assistant" means a dental assistant who is a graduate of a dental assistant program accredited by the commission on dental accreditation of the American dental association or a substantially equivalent curriculum approved by the board or has been certified by the dental assistant national board, and has applied to the board and paid the registration fee and met any other requirements of section 20-03-01-05.

31. "Remedial education" means an educational intervention prescribed by the board that is designed to restore an identified practice deficiency of a licensee. Remediation may include successful demonstration by the licensee that the learned knowledge and skills have been incorporated into the licensee's practice.

~~30-32.~~ "Satellite office" means an office, building, or location used at any time by a dentist for the practice of dentistry other than the office listed on the dentist's biennial registration certificate.

33. "Screening" means an inspection used for the early identification of individuals at potentially high risk for a specific condition or disorder and can indicate a need for further evaluation or preliminary intervention. A screening is neither diagnostic nor a definitive indication of a specific condition and does not involve making diagnoses that lead to treatment plans.

34. "Self-study", for the purposes of continuing education requirements, means the licensee engages in obtaining education without direct supervision, without attendance in a classroom setting, or without a proctor during online education. A certificate of completion must be obtained as proof of education.

35. "Telehealth" means the federal Health Insurance Portability and Accountability Act compliant practice of providing health care to a patient of record, using electronic technology or secure communication technologies between a licensee in one location and a patient in another location.

36. "Webinar", for the purposes of continuing education requirements, means the licensee engages in a live web-based seminar or presentation using video conferencing software. A webinar is interactive and has the ability to give, receive, and discuss information in real-time. A certificate of completion indicating "webinar", or other evidence of attendance must be maintained as proof of education.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10; 43-28-06

Law Implemented: NDCC 43-20, 43-28

CHAPTER 20-02-01 GENERAL REQUIREMENTS

Section

20-02-01-01	Advertising
20-02-01-02	Office Emergency
20-02-01-03	Nitrous Oxide [Repealed]
20-02-01-03.1	Additional Requirements for Licensure by Examination
20-02-01-03.2	Additional Requirements for Licensure by Credential Review
20-02-01-03.3	Additional Requirements for Applications
20-02-01-03.4	Clinical Competency Examination Retakes
20-02-01-04	Temporary License to Practice Dentistry
20-02-01-04.1	Restricted License to Practice Dentistry [Repealed]
20-02-01-04.2	Volunteer License to Practice Dentistry
20-02-01-04.3	Inactive Status - License Reinstatement
20-02-01-05	Permit for Anesthesia Use <u>Anesthesia and Sedation Permit Requirements</u>
20-02-01-06	Continuing Dental Education for Dentists
20-02-01-07	Removable Dental Prostheses Owner Identification
20-02-01-08	Discontinuance of Practice - Retirement - Discontinuance of Treatment
20-02-01-09	Retention of Patient <u>Records</u>
20-02-01-10	Authorization of Laboratory Services
20-02-01-11	Permit for the Use of Dermal Fillers and Botulinum Toxin for Dental Use
20-02-01-12	Dental Prescribers and Use of the Prescription Drug Monitoring Program
20-02-01-13	Exceptions to the Review Requirement

20-02-01-01. Advertising.

1. Advertising by dentists is permitted to disseminate information for the purpose of providing the public a sufficient basis upon which to make an informed selection of dentists. In the interest of protecting the public health, safety, and welfare, advertising which is false, deceptive, or misleading is prohibited.

2. All advertising must contain the legal name of the dentist, or a reasonable variation thereof. In the case of a partnership or corporation, the name used in the advertisement may be the true name of the partnership or corporation. The advertisement must also contain the location, or locations, of the dentist, partnership, or corporation. It is false or misleading for a dentist to hold themselves out to the public as a specialist, or any variation of that term, in a practice area unless the dentist:
 - a. Has completed a qualifying postdoctoral educational program in that area as set forth in subsection 3; or
 - b. Holds a current certification by a qualifying specialty board or organization as set forth in subsection 3.

3. A dentist engaged in general practice who wishes to announce the services available in the dentist's practice is permitted to announce the availability of those services as long as the dentist avoids using language that expresses or implies that the dentist is a specialist. If a dentist, other than a specialist, wishes to advertise a limitation of practice, such advertisement must state that the limited practice is being conducted by a general dentist. A dentist who is a specialist may announce the dentist's bona fide specialty provided that the dentist has successfully completed ~~an~~ a qualifying postdoctoral educational program accredited by ~~the commission on accreditation of dental and dental auxiliary educational programs~~ an agency recognized by the United States department of education, of full-time study two or more years in length, ~~as specified by the commission on dental accreditation of the American dental association~~ resulting in a master of science degree or certificate from an accredited program or

be a diplomate of a nationally recognized certifying board. Such a dentist may announce that the dentist's practice is limited to the special area of dental practice in which the dentist has or wishes to announce. In determining whether an organization is a qualifying specialty board or organization, the board shall consider the following standards:

- a. Whether the organization requires completion of an educational program with didactic, clinical, and experiential requirements appropriate for the specialty or subspecialty field of dentistry in which the dentist seeks certification, and the collective didactic, clinical, and experiential requirements are similar in scope and complexity to a qualifying postdoctoral educational program. Programs that require solely experiential training, continuing education classes, on-the-job training, or payment to the specialty board may not constitute a qualifying specialty board or organization;
 - b. Whether the organization requires all dentists seeking certification to pass a written or oral examination, or both, that tests the applicant's knowledge and skill in the specialty or subspecialty area of dentistry and includes a psychometric evaluation for validation;
 - c. Whether the organization has written rules on maintenance of certification and requires periodic recertification;
 - d. Whether the organization has written bylaws and a code of ethics to guide the practice of its members;
 - e. Whether the organization has staff to respond to consumer and regulatory inquiries; and
 - f. Whether the organization is recognized by another entity whose primary purpose is to evaluate and assess dental specialty boards and organizations.
4. A dentist who advertises on radio or television must retain a recorded copy of such advertising for a period of one year following the termination of the use of such advertising, and is responsible to make recorded copies of such advertising available to the North Dakota state board of dental examiners within thirty days following a request from the board for such copies.
 5. No dentist may advertise the dentist, the dentist's staff, the dentist's services, or the dentist's method or methods of delivery of dental services to be superior to those of any other licensed dentist, unless such claim or claims can be substantiated by the advertiser, upon whom rests the burden of proof.
 6. This section may not be construed to prohibit a dentist who does not qualify to hold themselves out to the public as a specialist under subsection 3 from restricting the dental practice to one or more specific areas of dentistry or from advertising the availability of dental services, provided that such advertisements do not include the term "specialist," or any variation of that term, and must state that the services advertised are to be provided by a general dentist. No advertising by a dentist may contain representations or other information contrary to the provisions of North Dakota Century Code section 43-28-18 or North Dakota Administrative Code title 20.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-03. Nitrous oxide.

Repealed effective April 1, 2021.

~~—A duly licensed dentist may use nitrous oxide for treating patients only when the following conditions are met:~~

- ~~1. Documentation has been provided by the dentist to the board that verifies completion of fourteen hours of instruction or continuing professional education dealing specifically with the use of nitrous oxide. In the absence of documentation of classroom training, the dentist must provide proof acceptable to the board that demonstrates three years of practical experience in the use of nitrous oxide.~~
- ~~2. A dentist who induces a patient into a state of psychosedation or relative analgesia using nitrous oxide shall ensure that the patient will be continually and personally monitored by a dentist. A dentist may delegate the monitoring tasks to a licensed dental hygienist or a registered dental assistant utilizing indirect supervision only after the patient has been stabilized at the desired level of conscious sedation or relative analgesia by the action of the dentist. The licensed dental hygienist or registered dental assistant who is assigned the monitoring task shall remain in the treatment room with the patient at all times. A dental hygienist or a dental assistant may not initiate the administration of nitrous oxide to a patient. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the dentist.~~
- ~~3. The dentist must provide and document training for the dental hygienist or registered dental assistant in the proper and safe operation of the analgesia machine being used prior to the registered dental hygienist or registered dental assistant monitoring the patient. Training shall include emergency procedures to be employed if required.~~

~~**History:** Effective February 1, 1992; amended effective May 1, 1996; April 1, 2000; October 1, 2007; January 1, 2011; April 1, 2015.~~

~~**General Authority:** NDCC 43-20-10, 43-28-06~~

~~**Law Implemented:** NDCC 43-20-03, 43-20-10, 43-20-12, 43-20-13, 43-28-06~~

20-02-01-03.1. Additional requirements for licensure by examination.

The board may grant a license to practice dentistry to an applicant who has met the requirements of North Dakota Century Code section 43-28-10.1 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examinations or the national dental examining board of Canada within five years of application.
2. The applicant has passed, within five years of application, a clinical competency examination approved by the board. Required components shall include a **patient-based** periodontal component, ~~a patient-based restorative component~~posterior composite or amalgam restoration, a class three restorative procedure, and an endodontic component, and after April 1, 2021, a fixed prosthetic component.
3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-10.1

20-02-01-04.2. Volunteer license to practice dentistry.

A patient who is seen by a dentist who holds a volunteer license to practice dentistry shall not be considered a patient of record of the volunteer dentist. The dentist is not obligated to treat the patient outside of the volunteer practice setting. Between meetings of the board, the executive director of the board may review the volunteer license application and grant a provisional license if all the requirements are met. A volunteer license to practice dentistry in North Dakota, renewable annually by application to the board, may be granted when the following conditions are met:

1. The applicant was formerly licensed and actively practicing in the state of North Dakota or another jurisdiction for at least three of the five years immediately preceding application, where the requirements are at least substantially equivalent to those of this state; or
 - a. The applicant is the resident of a board-approved specialty program; or
 - b. The board determines that the applicant is qualified and satisfies the criteria specified under North Dakota Century Code section 43-28-10.1.
2. The applicant agrees to provide primary health services without remuneration directly or indirectly in a board-approved setting.
3. The applicant holds a current cardiopulmonary resuscitation course certification.
4. The applicant has completed continuing education requirements of the board.
5. The applicant has made application for a volunteer dental license in a manner prescribed by the board.
6. The board may collect from the applicant the nonrefundable application and license fee prescribed by the board.
7. The board may apply such restrictions as it deems appropriate to limit the scope of the practice of dentistry under the authority of the volunteer license.

History: Effective April 1, 2000; amended effective January 1, 2011; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-04.3. Inactive status - License reinstatement.

A dentist may, upon payment of the fee determined by the board, place the dentist's license on inactive status. A dentist on inactive status shall be excused from the payment of renewal fees, except inactive status renewal fees, and continuing education. A dentist on inactive status shall not practice in North Dakota. To reinstate a license on inactive status, the dentist shall apply on the form as prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-02-01-03.1, within five years of application or provides evidence of the clinical practice of dentistry within the previous five years. The board may, within the board's discretion, waive this requirement.
2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed thirty-two hours of continuing education in accordance with section 20-02-01-06 within two years of application.

4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-28-18 do not exist.

History: Effective April 1, 2006; amended effective January 1, 2011; July 1, 2017; [April 1, 2021](#).

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-17

20-02-01-05. Permit for anesthesia use Anesthesia and sedation permit requirements.

~~1. The rules in this chapter are adopted for the purpose of defining standards for the administration of anesthesia and sedation by dentists or a dentist who collaborates with a qualified and licensed anesthesia or sedation provider. The standards specified in this chapter shall apply equally to general anesthesia, deep sedation, moderate (conscious) sedation, or a combination of any of these with inhalation, but do not apply to sedation administered through inhalation alone. A dentist licensed under North Dakota Century Code chapter 43-28 and practicing in North Dakota may not use any form of sedation if the intent is beyond anxiolysis on any patient unless such dentist has a permit, currently in effect, issued by the board, and renewable biennially thereafter, authorizing the use of such general anesthesia, deep sedation, or moderate (conscious) sedation, or minimal sedation when used in combination with inhalation.~~

~~2. An applicant may not be issued a permit initially as required in subsection 1 unless:~~

- ~~a. The board of dental examiners approves the applicant's facility and any other facility, clinic, or mobile dental clinic where anesthesia services are provided after an inspection conducted by an individual or individuals designated by the dental examiners;~~
- ~~b. The board of dental examiners is satisfied that the applicant is in compliance with the American dental association's most recent policy statement: the use of sedation and general anesthesia by dentists;~~
- ~~c. The initial application includes payment of a fee in the amount determined by the dental examiners; and~~
- ~~d. If the application appears to be in order, the board may issue a temporary permit prior to the site evaluation. The temporary permit may be revoked if the applicant fails the site inspection or if the applicant fails to cooperate with the timely scheduling of the site inspection.~~

~~3. The board of dental examiners may renew such permit biennially, provided:~~

- ~~a. Requirements of the permit application have been met;~~
- ~~b. Application for renewal and renewal fee is received by the dental examiners before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees as determined by the board shall apply; and~~
- ~~c. An onsite evaluation of the dentist's facility may be conducted by an individual designated by the board of dental examiners, and the board of dental examiners must approve the results of each such evaluation. Each facility where anesthesia is administered must be evaluated.~~

~~4. A North Dakota licensed anesthesia or sedation provider authorized by the board shall reevaluate the credentials, facilities, equipment, personnel, and procedures of a permit holder~~

within every five years following a successful initial application or renewal. Drugs and techniques used must carry a margin of safety wide enough to render the unintended loss of consciousness unlikely, factoring in titration and the patient's age, weight, and ability to metabolize drugs. The qualified dentist must have the training, skills, drugs, and equipment immediately available in order to rapidly identify and manage an adverse occurrence until either emergency medical assistance arrives or the patient returns to the intended level of sedation or full recovery without airway, respiratory, or cardiovascular complications.

1. For purposes of this chapter, the following definitions apply:

a. "Aldrete score" means a measurement of recovery after anesthesia that includes gauging consciousness, activity, respiration, and blood pressure.

Aldrete Scoring Guidelines				
Activity	Respiration	Circulation	Consciousness	Oxygenation
2 Able to move four extremities voluntarily on command and/or returned to preprocedure level	2 Patient can cough and deep breathe on command and/or respirations unlabored, oxygen saturation at preprocedure level	2 Blood pressure and heart rate +/- 20 percent of pre sedation level and/or asymptomatic alteration	2 Fully awake (able to answer questions) or at preprocedure level	2 Able to maintain oxygen saturation greater than 92 percent or at preprocedure level Pink or normal skin color
1 Able to move two extremities voluntarily on command and/or moves weakly, unable to stand	1 Dyspnea or limited breathing or requires oxygen greater than baseline level to maintain adequate saturation	1 Blood pressure and heart rate +/- 20 to 50 percent of pre-anesthetic level or mildly symptomatic alteration that requires fluid bolus, intervention or dopamine at less than ten micrograms per kilogram per minute for heart failure patients	1 Arousable on calling (arousable only to calling)	1 Needs oxygen to maintain adequate oxygenation Pale, dusky, blotchy, jaundiced, or other
0 Unable to move	0 Apneic or requires airway support	0 Blood pressure and heart rate greater than 50 percent +/- pre sedation levels and/or requires pharmacological intervention, or dopamine at greater than ten micrograms per kilogram per minute for heart failure patients	0 Unresponsive	0 Oxygen saturation less than 90 percent adult, less than 92 percent peds even with oxygen support. Cyanotic
Target 2	Target 2	Target 1-2	Target 1-2	Target 2
A score of less than 8, re-evaluate q 15 minutes/greater than 8 discharge to recovery or greater than or equal to discharge home				

- b. "Capnography" means a process to determine the presence and percent of carbon dioxide in a patient's breath through the use of a carbon dioxide monitor, the noninvasive measurement of the partial pressure of carbon dioxide in exhaled breath expressed as the carbon dioxide concentration over time and is graphically represented. Carbon dioxide measured at the airway can be displayed as a function of time (carbon dioxide concentration over time) or exhaled tidal volume (carbon dioxide concentration over volume).
- c. "Dental anesthesia assistant" means an individual who has successfully completed a board-approved dental anesthesia assistant education and training course and is authorized by permit to provide dental anesthesia assistant duties under the supervision of a dentist authorized by permit to provide parenteral sedation pursuant to sections 20-03-01-01.1 and 20-04-01-01.
- d. "Direct supervision of moderate sedation or general anesthesia" means the anesthesia or sedation permitholder is in the immediate presence of a patient while sedated or anesthesia is being administered to that patient and:
- (1) A patient under general anesthesia is considered "sedated" for that period of time beginning with the first administration of general anesthetic agents until that time when the patient is again conscious with a full return of protective reflexes, including the ability to respond purposely to physical stimulation or verbal command, or both when no additional agents will be administered, the dental procedures have been completed, and after the maximum effects of all agents have been experienced by the patient.
 - (2) A patient under moderate sedation is considered "sedated" for that period of time beginning with the first administration of sedation agents until that time when no additional agents will be administered, the dental procedures have been completed, and after the effects of previous dosing have been fully appreciated by the patient. The dentist is relieved of supervising the patient when the patient is considered to have recovered.
 - (3) A patient is deemed to be "recovering from" sedation or general anesthesia from the time the patient is no longer "sedated" as defined in paragraph 1 or 2 until the dentist has evaluated the patient and has determined the patient is responsive, alert, has stable vital signs, and is ambulatory or capable of being safely transported. A qualified dental staff member may monitor the recovering patient under indirect supervision.
- e. "General anesthesia" means a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to maintain ventilator function is often impaired. Patients often require assistance in maintaining patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.
- f. "Incremental dosing" means administration of multiple doses of a drug until a desired effect is reached.
- g. "Maximum recommended dose" means the maximum United States food and drug administration recommended dose of a drug, as printed in the food and drug administration-approved labeling for unmonitored home use.

- h. "Minimal sedation" means a drug-induced depression of consciousness, which retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected. Minimal sedation may be achieved by the administration of a single drug administered in a single or divided dose not to exceed the maximum recommended dose. A permit is not required for minimal sedation.
- i. "Moderate sedation" means a drug-induced depression of consciousness during which a patient responds purposefully to verbal commands either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Administration of sedative drugs exceeding the maximum recommended dose for unmonitored home use during a single appointment and use of nitrous oxide inhalation therapy, or use of more than one enteral drug administered, with or without concomitant use of nitrous oxide is considered moderate sedation.
- j. "Nitrous oxide inhalation analgesia" means a technique in which the inhalation of nitrous oxide enables treatment to be carried out and in which purposeful verbal contact with the patient can be maintained or the patient responds appropriately to light tactile stimulation throughout the administration of nitrous oxide inhalation analgesia, and the drugs and techniques used have a margin of safety wide enough to render unintended loss of consciousness extremely unlikely.
- k. "Parenteral moderate sedation" means the intravenous, intramuscular, intranasal, subcutaneous, sublingual, submucosal, transdermal, or rectal administration of pharmacological agents with the intent to obtain a depressed level of consciousness that meets the definition of moderate sedation.
- l. "Patient monitoring of minimal sedation" means a dentist or qualified dental staff member responsible for patient monitoring is continuously in the presence of the patient in the office, operatory, and recovery area before administration or if the patient self-administered the sedative agent immediately upon arrival, and throughout recovery until the patient is discharged by the dentist.
- m. "Patient monitoring of moderate sedation or general anesthesia" means a qualified dentist, anesthesiologist, or certified registered nurse anesthetist, must remain in the operatory room to monitor the patient continuously until the patient meets the criteria pursuant to this section for recovery. When active treatment concludes and the patient recovers to a minimally sedated level, a qualified dental staff member may be directed by the dentist to remain with the patient. The dentist may not leave the facility until the patient meets the criteria for discharge and is discharged from the facility.
- n. "Pediatric patient" means a dental patient twelve years of age or younger.
- o. "Supplemental dosing" means during minimal sedation, supplemental dosing is a single additional dose of the initial drug that is necessary for prolonged procedures.
- p. "Time-oriented anesthesia record" means documentation at appropriate intervals of drugs, doses, and physiologic data obtained during patient monitoring.
- q. "Titration" means administration of incremental doses of an intravenous or inhalation drug until a desired effect is reached.
- r. "Topical anesthesia" means the elimination of sensation, especially pain, in one part of the body by skin or mucous membrane surface application of a drug.

s. "Transdermal or transmucosal" means a technique of administration in which the drug is administered by patch or iontophoresis.

2. Administration of nitrous oxide inhalation analgesia - Requirements. The following standards apply to the administration of nitrous oxide inhalation analgesia:

a. Inhalation equipment must have a fail-safe system that is appropriately checked and calibrated. The equipment also must have either a functioning device that prohibits the delivery of less than thirty percent oxygen or an appropriately calibrated and functioning in-line oxygen analyzer with audible alarm. A scavenging system must be available if gases other than oxygen or air are used.

b. Patient dental records must include the concentration administered and duration of administration.

c. A dentist may not delegate monitoring of nitrous oxide inhalation analgesia once the patient has ingested an enteral drug for the purpose of minimal sedation.

d. Prior to authorizing a dental hygienist or registered dental assistant to administer nitrous oxide inhalation analgesia, the dentist must have provided and documented training in the proper and safe operation of the nitrous oxide inhalation analgesia equipment.

e. A patient receiving nitrous oxide inhalation analgesia must be monitored continually by a dental hygienist or a registered dental assistant. A dental hygienist or a registered dental assistant may terminate or reduce the amount of nitrous oxide previously administered by the nitrous oxide inhalation analgesia provider.

f. The board may issue a permit authorizing the administration of nitrous oxide inhalation to a dentist or dental hygienist or registered dental assistant when the following requirements are met:

(1) Evidence of successful completion of a twelve-hour, board-approved course of training or course provided by a program accredited by an accrediting body recognized by the United States department of education, and either:

(a) Completed the course within thirteen months prior to application; or

(b) Completed the course more than thirteen months prior to application, has legally administered nitrous oxide inhalation analgesia for a period of time during the three years preceding application, and provides written documentation from a dentist who has employed or supervised the applicant, attesting to the current clinical proficiency of the applicant to administer nitrous oxide inhalation analgesia.

(2) Evidence of current certification in basic life support by the American heart association for the health care provider, or an equivalent program approved by the board.

3. Administration of minimal sedation. A dentist administering minimal sedation shall maintain basic life support certification and comply with the following standards:

a. An appropriate sedative record must be maintained and must contain the names and time of all drugs administered, including local anesthetics and nitrous oxide. The time and condition of the patient at discharge from the treatment area and facility requires documentation.

b. Medications used to produce minimal sedation are limited to a single enteral drug, administered either singly or in divided doses, by the enteral route to achieve the desired clinical effect, not to exceed the maximum recommended dose in a single appointment. The administration of enteral drugs exceeding the maximum recommended dose during a single appointment is considered to be moderate sedation.

c. A supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The total aggregate dose may not exceed one and one-half times the maximum recommended dose on the day of treatment.

d. Combining two or more enteral drugs, excluding nitrous oxide, prescribing or administering drugs that are not recommended for unmonitored home use, or administering any parenteral drug constitutes moderate sedation and requires that the dentist must hold a moderate sedation permit.

e. Excluding minimal sedation by inhalation therapy alone, premedation vitals, including blood pressure and heart rate must be obtained and recorded. Facilities and equipment must include:

(1) Suction equipment capable of aspirating gastric contents from the mouth and pharynx;

(2) Portable oxygen delivery system, including full face masks and a bag-valve-mask combination with appropriate connectors capable of delivering positive pressure, oxygen enriched ventilation to the patient;

(3) Blood pressure cuff (or sphygmomanometer) of appropriate size;

(4) Automated external defibrillator or defibrillator;

(5) Stethoscope or equivalent monitoring device; and

(6) The following emergency drugs must be available and maintained:

(a) Bronchodilator;

(b) Sugar (or glucose);

(c) Aspirin;

(d) Antihistaminic;

(e) Coronary artery vasodilator; and

(f) Anti-anaphylactic agent.

f. A dentist shall ensure any advertisements related to the availability of antianxiety premedication, or minimal sedation clearly reflect the level of sedation provided and are not misleading.

4. Administration of moderate sedation. Before administering moderate sedation, a dentist licensed under North Dakota Century Code chapter 43-28 must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit must meet the following educational requirements:

a. Successfully completed a comprehensive sixty-hour predoctoral dental school, postgraduate education or continuing education in moderate sedation with a participant-

faculty ratio of not more than four-to-one. The course must include courses in enteral and parenteral moderate sedation plus individual management of twenty live patient clinical case experiences by the intravenous route and provide certification of competence in rescuing patients from a deeper level of sedation than intended, including managing the airway, intravascular or intraosseous access, and reversal medications. The formal training program must be sponsored by or affiliated with a university, teaching hospital, or other facility approved by the board or provided by a curriculum of an accredited dental school and have a provision by course director or faculty of additional clinical experience if participant competency has not been achieved in allotted time.

- b. The course must be directed by a dentist or physician qualified by experience and training with a minimum of three years of experience, including formal postdoctoral training in anxiety and pain control. The course director must possess a current permit or license to administer moderate sedation and general anesthesia in at least one state.
- c. A dentist utilizing moderate sedation must maintain current certification in advanced cardiac life support if treating adult patients or pediatric advanced life support if treating patients twelve years of age or less and maintain cardiopulmonary resuscitation for health professionals.
- d. A permitholder may not administer or employ any agents that have a narrow margin for maintaining consciousness, including ultra-short acting barbiturates, propofol, ketamine, or similarly acting drugs, agents, or techniques, or any combination thereof that likely would render a patient deeply sedated, generally anesthetized, or otherwise not meeting the conditions of moderate sedation.
- e. During moderate sedation the adequacy of ventilation must be evaluated by continual observation of qualitative clinical signs and monitoring for the presence of exhaled carbon dioxide unless precluded or invalidated by the nature of the patient, procedure, or equipment.
- f. This section does not apply to a dentist who has maintained a parenteral sedation permit in North Dakota and has been administering parenteral sedation in a dental office prior to April 1, 2021.

5. Moderate sedation site evaluations. A licensed dentist utilizing moderate sedation is required to have an evaluation of the location where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within sixty days of the approval of the initial permit application. A North Dakota licensed anesthesia or sedation provider authorized by the board shall re-evaluate the credentials, facilities, equipment, personnel, and procedures of a permitholder within every five years following a successful initial application or renewal. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a site's ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation. Requirements of the site evaluation are as follows:

- a. Submit a completed permit application and permit application fee on a form provided by the board;
- b. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies appropriate for the age of the patient during the provision of moderate sedation by the permitholder or physician anesthesiologist or certified registered nurse anesthetist or other qualified sedation provider:

- (1) Emergency drugs as required by the board.
- (2) Positive pressure oxygen and supplemental oxygen delivery system.
- (3) Stethoscope.
- (4) Suction equipment, including tonsillar or pharyngeal and emergency backup medical suction device.
- (5) Oropharyngeal and nasopharyngeal airways.
- (6) Pulse oximeter.
- (7) Auxiliary lighting.
- (8) Blood pressure monitor with an automated time determined capability and method for recording the data.
- (9) Cardiac defibrillator or automated external defibrillator.
- (10) Capnography.
- (11) Electrocardiogram.

- c. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents, including at least one qualified dental staff member.
- d. Maintains a current permit to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration.

6. Administration of general anesthesia. A dentist must have a permit issued by the board and renewable biennially thereafter. An applicant for an initial permit shall submit a completed application and application fee on a form provided by the board and meet the following educational requirements:

- a. Within the three years before submitting the permit application, provide evidence the applicant successfully has completed an advanced education program accredited by the commission on dental accreditation that provides training in general anesthesia and formal training in airway management, and completed a minimum of one year of advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program approved by the board; or
- b. Be, within the three years before submitting the permit application, a diplomate of the American board of oral and maxillofacial surgeons or eligible for examination by the American board of oral and maxillofacial surgeons, a fellow of the American association of oral and maxillofacial surgeons, a fellow of the American dental society of anesthesiology, a diplomate of the national dental board of anesthesiology, or a diplomate of the American dental board of anesthesiology or eligible for examination by the American dental board of anesthesiology; or
- c. For an applicant who completed the requirements of subdivision a or b more than three years before submitting the permit application, provide on a form provided by the board, a written affidavit affirming that the applicant has administered general anesthesia to a minimum of twenty-five patients within the year before submitting the permit application or seventy-five patients within the last five years before submitting the permit application and the following documentation:

- (1) A copy of the general anesthesia permit in effect in another jurisdiction or certification of military training in general anesthesia from the applicant's commanding officer; and
- (2) On a form provided by the board, a written affidavit affirming the completion of thirty-two hours of continuing education pertaining to oral and maxillofacial surgery or general anesthesia taken within three years prior to application.

d. Successfully completed the site evaluation required by this chapter.

7. General anesthesia site evaluations. A licensed dentist authorized to administer general anesthesia is required to have an evaluation of the location where sedation or anesthesia services are rendered initially and every five years thereafter and shall maintain a properly equipped facility. An initial inspection must be completed within sixty days of the approval of the initial permit application. After review of the application by the anesthesia committee, privileges to provide anesthesia services may be temporarily granted to the applicant. Prior to the final granting of approval to administer general anesthesia or moderate sedation; however, office inspection and evaluation must be scheduled for each location where sedation will be administered. The purpose of the evaluation is to assess the patient's anesthetic risk and assess a site's ability to provide emergency care; therefore, the site evaluation emphasizes recognition and management of emergencies and complications associated with office administration of sedation.

a. The dentist's facility must meet the requirements of this chapter and maintain the following properly operating equipment and supplies appropriate for the age of the patient during the provision of anesthesia and sedation by the permit holder, a physician anesthesiologist, a dental anesthesiologist, certified registered nurse anesthetist, or other qualified sedation provider:

- (1) Emergency drugs;
- (2) Electrocardiograph monitor;
- (3) Pulse oximeter;
- (4) Cardiac defibrillator or automated external defibrillator;
- (5) Positive pressure oxygen and supplemental oxygen;
- (6) Suction equipment, including endotracheal, tonsillar, or pharyngeal and emergency backup medical suction device;
- (7) Laryngoscope, multiple blades, backup batteries, and backup bulbs;
- (8) Endotracheal tubes and appropriate connectors;
- (9) Magill forceps;
- (10) Oropharyngeal and nasopharyngeal airways;
- (11) Auxiliary lighting;
- (12) End-tidal carbon dioxide monitor;
- (13) Stethoscope; and
- (14) Blood pressure monitoring device with an automated time determined capability and method for recording the data;

- b. Pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until an Aldrete score greater than or equal to eight is met.
- c. During general anesthesia where volatile inhalation agents or succinylcholine is used, temperature must be continually monitored.
- d. Maintain patient charts to include preoperative and postoperative vital signs, drugs administered, dosage administered, time-oriented anesthesia record, and monitors used.
- e. Maintains a staff of supervised personnel capable of handling procedures, complications, and emergency incidents. A qualified dental staff member involved in administering and monitoring general anesthesia or moderate sedation shall hold a current course completion confirmation in advanced cardiac life support if treating adult patients or pediatric advanced life support if treating patients twelve years of age or younger.
- f. Hold a current registration to prescribe and administer controlled substances in this state issued by the United States drug enforcement administration.
- g. Provide confirmation of completing coursework within the two years prior to submitting the permit application in one or more of the following:
 - (1) Advanced cardiac life support from the American heart association or another agency that follows the same procedures, standards, and techniques for training as the American heart association;
 - (2) Pediatric advanced life support in a practice treating pediatric patients.

8. Other anesthesia providers. A dentist who is not authorized by permit to provide anesthesia or sedation services and who intends to use the services of a certified registered nurse anesthetist, anesthesiologist, or another dentist authorized by permit to administer moderate sedation or general anesthesia, shall notify the board prior to sedation services being provided and arrange a site evaluation with the board-appointed anesthesia professional. The sedation provider is responsible for discharge assessment. The treating dentist shall run a mock code biannually with the sedation team and maintain a record of the mock code schedule and attendance. The anesthesia provider and the treating dentist shall remain at the facility until the sedated patient is discharged. The treating dentist shall maintain advanced cardiovascular life support certification if treating adult patients and pediatric advanced life support certification if children under twelve are being sedated.

9. Standards for all offices administering moderate sedation or general anesthesia.

- a. Site evaluations. A facility or office where moderate sedation or general anesthesia are administered shall be evaluated and inspected by an individual approved by the board and meet the following standards:
 - (1) Prior to the onsite evaluation and inspection, the applicant shall provide a complete list of emergency medication to the evaluator not less than two weeks prior to the scheduled evaluation. The applicant is responsible with scheduling a site evaluation. A dentist shall schedule a site evaluation with a board-appointed anesthesia provider within sixty days of submitting to the board a permit application for authorization to administer moderate sedation or anesthesia. An applicant who has successfully completed the course may be granted a temporary permit by the board prior to the onsite inspection and evaluation. Failure to pass the inspection and evaluation must result in the immediate and automatic termination of the temporary permit.

(2) An applicant who has failed the inspection and evaluation on the basis of a failure to demonstrate knowledge and ability in recognition and treatment of any or all of the simulated emergencies may be re-evaluated only on the simulated emergencies provided the re-evaluation is within thirty days.

(3) Prior to the issuance or renewal of a permit, the board may require an onsite inspection and evaluation. The permit of any dentist who has failed an onsite inspection and evaluation automatically must be suspended thirty days after the date on which the board notifies the dentist of the failure unless, within that time period, the dentist has retaken and passed an onsite inspection and evaluation.

(4) Respiratory rate, oxygen saturation, heart rate, blood pressure, and cardiac rhythm must be monitored and recorded every five minutes during the intraoperative period. When endotracheal anesthesia is used, expired carbon dioxide levels and temperatures are recorded every five minutes until extubation.

(5) Unused controlled pharmaceuticals must be secured and maintained in accordance with state and federal guidelines and must be discarded immediately with documentation of disposal in conformance with drug enforcement administration requirements.

(6) Monitoring equipment should be checked and calibrated in accordance with the manufacturer's recommendations and documented on an annual basis.

(7) Because sedation is a continuum, it is not always possible to predict how an individual patient will respond. Therefore, practitioners intending to produce a given level of sedation should be able to rescue patients whose level of sedation becomes deeper than initially intended. The qualified sedation or anesthesia provider shall correct adverse physiologic consequences of the deeper than intended level of sedation and return the patient to the originally intended level of sedation.

(8) For use of nasal versed, rules of the general sedation site evaluation apply.

b. Renewal of permit and site evaluation. Both the sedation permit and the site evaluation are subject to renewal. All sedation and anesthesia permits must be renewed biennially, concurrent with the dentist's license renewal. The state board of dental examiners may renew such permit biennially, provided:

(1) Continuing education requirements of the permit application have been met;

(2) Application for renewal and renewal fee is received by the board before the date of expiration of such permit. If the renewal application and renewal fee have not been received by the expiration of the permit, late fees apply and the dentist's sedation or anesthesia privileges are suspended.

(3) An onsite evaluation of the dentist's facility or satellite clinic conducted by an individual designated by the state board of dental examiners where sedation or anesthesia services are provided by a qualified anesthesia provider must be in good standing; or

(4) A North Dakota licensed anesthesia or sedation provider authorized by the board has successfully re-evaluated the credentials, facilities, equipment, personnel, and procedures of a permitholder within five years following the successful initial application or previous site evaluation.

c. Qualified dental staff members. For purposes of moderate sedation and general anesthesia, a qualified dental staff member shall meet the following requirements:

(1) A qualified dental staff member may assist in the anesthesia and sedation duties pursuant to section 20-04-01-01 and administer direct patient care, before, during, or after, administration of moderate sedation, or general anesthesia, and must have:

(a) Current certification as a dental anesthesia assistant by the American association of oral and maxillofacial surgeons, or certification from the American dental society of anesthesiology and holds a class I or II permit pursuant to section 20-03-01-05.1 or 20-04-01-03.1; or

(b) Appropriate medical training acquired directly by a planned sequence of instruction in an educational institution resulting in competency in monitoring the patient's blood pressure, heart rate, oxygenation, and level of consciousness, assisting in direct patient care, before, during, or after administration of sedation or anesthesia.

(2) A qualified dental staff member shall maintain basic life support for health professionals or advanced cardiac life support certification and participate in mock codes conducted by the authorizing dentist.

(3) A qualified dental staff member responsible for patient monitoring shall:

(a) Be continuously in the presence of the patient in the office, operatory, and recovery area;

[1] Once the sedative is initiated or if the patient has self-administered a sedative agent, immediately upon arrival;

[2] Throughout the administration of drugs;

[3] Throughout the treatment of the patient; and

[4] Throughout recovery until the patient is discharged by the dentist;

(b) Have the patient's entire body in sight;

(c) Be in close proximity so as to speak with the patient;

(d) Converse with the patient to assess the patient's ability to respond;

(e) Closely observe the patient for coloring, breathing, level of physical activity, facial expressions, eye movement, and bodily gestures in order to immediately recognize and bring any changes in the patient's condition to the attention of the treating dentist;

(f) Read, report, and record the patient's vital signs and physiological measures; and

(g) Monitor pulse oximetry.

d. Patient evaluation required.

(1) The decision to administer controlled drugs for dental treatment must be based on a documented evaluation of the health history and current medical condition of the patient in accordance with the class I through V risk category classifications of the American society of anesthesiologists in effect at the time of treatment. The findings of the evaluation, the American society of anesthesiologists' risk assessment class assigned, and any special considerations must be recorded in the patient's record.

(a) Any level of sedation and general anesthesia may be provided for a patient who is American society of anesthesiologists' class I and class II.

(b) A patient in American society of anesthesiologists' class III only may be provided moderate sedation or general anesthesia by:

[1] A physician anesthesiologist, dentist anesthesiologist, certified registered nurse anesthetist, or independently practicing qualified anesthesia health care provider licensed in North Dakota; or

[2] An oral and maxillofacial surgeon who has performed a physical evaluation and documented the findings and the American society of anesthesiologists' risk assessment category of the patient and any special monitoring requirements that may be necessary.

[3] Moderate sedation or general anesthesia may not be provided in a dental office for patients in American society of anesthesiologists' class IV and class V.

e. Recordkeeping requirements for moderate sedation and general anesthesia include:

(1) Notation of the patient's American society of anesthesiologists' classification;

(2) Review of medical history and current conditions, including the patient's weight and height or, if appropriate, the body mass index;

(3) Preoperative and postoperative vital signs;

(4) Drugs administered, dosage, notations of the time sedation or anesthesia in minutes, and monitors used. Capnography, pulse oximetry, heart rate, respiratory rate, and blood pressure must be recorded continually until an Aldrete score greater than or equal to eight;

(5) Monitoring records of all required vital signs and physiological measures recorded every five minutes, and time and assessment of patient at discharge; and

(6) A list of staff participating in the administration, treatment, and monitoring, including name, position, and assigned duties.

f. Informed written consent. Prior to administration of any level of sedation or general anesthesia, the dentist shall discuss the nature and objectives of the planned level of sedation or general anesthesia along with the risks, benefits, and alternatives and shall obtain informed, written consent from the patient or other responsible party for the administration and for the treatment to be provided. The written consent must be maintained in the patient record.

g. Pediatric patients. Sedating medication may not be prescribed for or administered to a patient twelve years of age or younger prior to the patient's arrival at the dentist office or treatment facility.

h. Emergency management. The licensed dentist authorized by permit to administer sedation and staff with patient care duties shall be trained in emergency preparedness. Written protocols must include training requirements and procedures specific to the permitholder's equipment and drugs for responding to emergency situations involving sedation or anesthesia, including information specific to respiratory emergencies. The permitholder shall document this review of office training or mock codes. Protocols must include the American heart association's basic life support or cardiopulmonary

resuscitation and advanced cardiac life support or pediatric advanced life support for any practitioner administering moderate or general anesthesia.

(1) If a patient enters a deeper level of sedation than the dentist is qualified and prepared to provide, the dentist shall stop the dental procedure until the patient returns to and is stable at the intended level of sedation.

(2) A dentist in whose office sedation or anesthesia is administered shall have written basic emergency procedures established and staff trained to carry out such procedures.

(3) Biannual mock codes to simulate office medical emergencies must be documented and available during a site evaluation.

i. Authorization of duties. A dentist who authorizes the administration of general anesthesia or moderate sedation in the dentist's dental office is responsible for assuring that:

(1) The equipment for administration and monitoring is readily available and in good working order prior to performing dental treatment with anesthesia or sedation. The equipment either must be maintained by the dentist in the dentist's office or provided by the anesthesia or sedation provider;

(2) The person administering the anesthesia or sedation is appropriately licensed;

(3) The individual authorized to monitor the patient is qualified;

(4) A physical evaluation and medical history is taken prior to administration of general anesthesia or sedation. A dentist holding a permit shall maintain records of the physical evaluation, medical history, and general anesthesia or sedation procedures; and

(5) Administration of sedation by another qualified provider requires the operating dentist to maintain advanced cardiac life support if the patient is twelve years of age or older and pediatric advanced live support if the patient is less than twelve years of age.

j. Reporting. All licensed dentists in the practice of dentistry in this state shall submit a report within a period of seven days to the board office of any mortality or other incident which results in temporary or permanent physical or mental injury requiring hospitalization of the patient during, or as a result of, antianxiety premedication, nitrous oxide inhalation analgesia, or sedation. The report must include responses to at least the following:

(1) Description of dental procedure.

(2) Description of preoperative physical condition of patient.

(3) List of drugs and dosage administered.

(4) Description, in detail, of techniques utilized in administering the drugs utilized.

(5) Description of adverse occurrence:

(a) Description, in detail, of symptoms of any complications, to include onset and type of symptoms in patient.

(b) Treatment instituted on the patient.

(c) Response of the patient to the treatment.

(6) Description of the patient's condition on termination of any procedures undertaken.

k. Violations. A violation of any provision of this article constitutes unprofessional conduct and is grounds for the revocation or suspension of the dentist's permit, license, or both, or the dentist may be reprimanded or placed on probation.

History: Effective October 1, 1993; amended effective May 1, 1996; June 1, 2002; July 1, 2004; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-06. Continuing dental education for dentists.

Each dentist shall provide evidence on forms supplied by the board that the dentist has attended or participated in continuing clinical dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle for dentists is thirty-two. Of these hours, a dentist may earn no more than sixteen hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from online education. The continuing education must include:
 - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For sedation and anesthesia permitholders, four hours related to sedation or anesthesia.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing ~~dental~~ education requirement.
5. All dentists must hold a current cardiopulmonary resuscitation certificate. ~~Anesthesia permitholders are required to~~ General anesthesia and moderate sedation providers shall maintain current advanced cardiac life support certification or pediatric advanced life support as specified by permit. A dentist who utilizes the services of other qualified anesthesia providers to administer moderate sedation or general anesthesia in the dentist's facility or satellite office shall maintain current advanced cardiac life support certification. A dentist who utilizes minimal sedation shall maintain basic life support certification.
6. The board may audit the continuing education credits of a dentist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities ~~listed on~~

~~the licensee's continuing education form.~~ Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

7. A dentist who maintains a license on inactive status is not subject to continuing education requirements.

History: Effective October 1, 1993; amended effective May 1, 1996; August 1, 1998; June 1, 2002; April 1, 2006; October 1, 2007; January 1, 2011; April 1, 2015; July 1, 2017; [April 1, 2021](#).

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06, 43-28-16.2

20-02-01-08. Discontinuance of practice - Retirement - Discontinuance of treatment.

These rules are adopted for the purpose of avoiding practice abandonment. A licensed dentist shall maintain patient records in a manner consistent with the protection of the welfare of the patient. Upon request of the patient or patient's legal guardian, the dentist shall furnish the dental records or copies of the records, including dental radiographs or copies of the radiographs. The dentist may charge a nominal fee for duplication of records as provided by North Dakota Century Code section 23-12-14, but may not refuse to transfer records for nonpayment of any fees.

1. A licensee, upon retirement, or upon discontinuation of the practice of dentistry, or upon moving from a community, shall notify all active patients in writing and by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry. The licensee shall make reasonable arrangements with active patients for the transfer of patient records, or copies thereof, to the succeeding licensee. In the event of a transfer of patient records to another licensee assuming the practice, written notice must be furnished to all patients as hereinbefore specified. ~~Active~~ [For purposes of this section, "active patient"](#) is defined as a person whom the licensee has examined, treated, cared for, or otherwise consulted with during the two-year period prior to the discontinuation of the practice of dentistry by the licensee. In the event of a nontransfer of records, a licensee shall have the ongoing obligation of ~~not less than~~ [at least](#) two years to afford the licensee's prior patients access to those records not previously provided to the patient.
2. In the event of termination of a dentist-patient relationship by a licensee, notice of the termination must be provided to the patient. A dentist-patient relationship exists if a dentist has provided treatment to a patient on at least one occasion within the preceding year. The dentist who is the owner or custodian of the patient's dental records shall mail notice of the termination of the dentist's relationship to the patient, which shall provide the following:
 - a. The date that the termination becomes effective, and the date on which the dentist and patient relationship may resume, if applicable;
 - b. A location at which the patient may receive emergency dental care for at least thirty days following the termination of the dentist and patient relationship;
 - c. A statement of further dental treatment required, if any; and
 - d. The dentist shall respond to a written request to examine or copy a patient's record within ten working days after receipt. A dentist shall comply with North Dakota Century Code section 23-12-14 for all patient record requests.
3. If a licensee dies or becomes unable to practice dentistry due to disability, for the purpose of selling or otherwise disposing of the deceased or disabled licensee's dental practice, a person who is not licensed to practice dentistry but who is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist may contract with a dentist to manage the dental practice for a period not to exceed twenty-four months.

4. If a dentist agrees to provide dental care without remuneration to underserved patients in the absence of a public health setting, the patient may not be considered a patient of record of the dentist providing the donated dental service.
5. If a licensee retires from a group practice and continuity of patient dental care will not be interrupted, the dentist is exempt from notifying active patients in writing. The licensee shall notify patients by publication once a week for three consecutive weeks in a newspaper of general circulation in the community that the licensee intends to discontinue the practice of dentistry.

History: Effective April 1, 2006; amended effective April 1, 2015; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-09. Retention of records.

A Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed, and handwritten in ink or computer printed. Digital radiographs must be transferred by compact or optical disc, electronic communication, or printing on high quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures. For purposes of this section:

1. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:
 - a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency, and patient's insurance information.
 - b. Patient's reason for visit or chief complaint.
 - c. Dental and physical health history.
 - d. Clinical examination must include record of existing oral health status, radiographs used, and any other diagnostic aids used.
 - e. Diagnosis.
 - f. Dated treatment plan except for routine dental care such as preventive services.
 - g. Informed consent must include notation of treatment options discussed with the patient, including prognosis of such treatment plan, benefits and risks of each treatment, and documentation of the treatment the patient has chosen.
 - h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.
 - i. Progress notes must include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided; medications used; materials placed; the treatment provider by name or initials; name of collaborating dentist; administration information of nitrous oxide inhalation; any medication dispensed before, during, or after discharge; and patient status at discharge.

j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to, or during the rendering of dental services.

2. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition.

3. "Retention of records" means a dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

History: Effective April 1, 2006; amended effective January 1, 2011; April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-06

20-02-01-11. Permit for the use of dermal fillers and botulinum toxin for dental use.

1. The rules in this chapter are adopted for the purpose of defining standards for the administration of dermal fillers and botulinum toxin by a dentist if the use is limited to the practice of dentistry as defined in North Dakota Century Code section 43-28-01(7). Notwithstanding a dentist who specializes in oral and maxillofacial surgery, the board may issue a permit to a dentist who applies on forms prescribed by the board and pays the initial fee or biennial renewal fee as required by section 20-05-01-01(1) to administer botulinum toxin or dermal fillers for the purpose of functional, therapeutic, and aesthetic dental treatment purposes under the following conditions:

a. The dentist provides evidence that demonstrates:

- (1) The applicant has completed a course and received satisfactory training in a residency or other educational program accredited by the commission on dental accreditation of the American dental association; ~~of~~
- (2) The applicant has successfully completed a board-approved continuing education course of instruction within the previous three months of application which includes neurophysiology, including facial tissues, parasympathetic, sympathetic, and peripheral nervous systems relative to the peri-oral tissue, and facial architecture, and:
 - (a) Patient assessment and consultation for botox and dermal fillers;
 - (b) Indications and contraindications for techniques;
 - (c) Proper preparation and delivery techniques for desired outcomes;
 - (d) Enhancing and finishing esthetic dentistry cases with dermal fillers;
 - (e) Botulinum neurotoxin treatment of temporomandibular joint syndrome and bruxism;
 - (f) Knowledge of adverse reactions and management and treatment of possible complications;

- (g) Patient evaluation for best esthetic and therapeutic outcomes;
- (h) Integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and
- (i) Live patient hands-on training, including diagnosis, treatment planning, and proper dosing and delivery of botox and dermal fillers; or

(3) The applicant has successfully completed a continuing education course of instruction substantially equivalent to the requirements of this state and provides evidence from another state or jurisdiction where the applicant legally is or was authorized to administer dermal fillers and botulinum toxin.

History: Effective April 1, 2015; amended effective July 1, 2017' April 1, 2021.

General Authority: NDCC 43-28-06

Law Implemented: NDCC 43-28-02

CHAPTER 20-03-01

20-03-01-01. Duties.

A dental assistant may perform the duties listed in subsections 1 through 56 under direct, indirect, or general supervision of a dentist as follows:

1. A dental assistant who is not registered with the board employed by a dentist may perform the following basic supportive dental duties under direct supervision:
 - a. Take and record pulse, blood pressure, and temperature.
 - b. Take and record preliminary dental and medical history for the interpretation by the dentist.
 - c. Apply topical medications and drugs to oral tissues, including topical anesthetic, but not including desensitizing or caustic agents or anticariogenic agents.
 - d. Receive removable dental prosthesis for cleaning or repair.
 - e. Take impressions for study casts.
 - f. Hold impression trays in the mouth (e.g., reversible hydrocolloids, rubber base).
 - g. Retract patient's cheek, tongue, or other tissue parts during a dental procedure.
 - h. Remove such debris as is normally created in the course of treatment during or after dental procedures by vacuum devices, compressed air, mouthwashes, and water.
 - i. Isolate the operative field, not to include rubber dams.
 - j. Hold a curing light for any dental procedure. Such curing lights may not include a laser capable of cutting, burning, or damaging hard or soft tissue or for electrosurgery for tissue retraction.
 - k. Take dental photographs, including the use of intraoral cameras on a patient of record.
2. A qualified dental assistant may perform the duties set forth in subsection 1 and take dental radiographs on a patient of record under the direct supervision of a dentist.
3. A registered dental assistant may perform the duties set forth in ~~subsection~~subsections 1 and 2 and the following duties under the direct supervision of a dentist:
 - a. Place and remove arch wires or appliances that have been activated by a dentist.
 - b. Acid etch enamel surfaces prior to direct bonding of orthodontic brackets or composite restorations.
 - c. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a licensed dentist.
 - d. Take face bow transfers.
 - e. Place and remove matrix bands and wedges.
 - f. Adjust permanent crowns outside of the mouth.
 - g. Orally transmit a prescription that has been authorized by the supervising dentist.

- h. Administer emergency medications to a patient in order to assist the dentist in an emergency.
4. A registered dental assistant may perform the following duties on a patient of record under the direct or indirect supervision of a dentist:
- a. Apply anticariogenic agents, flouride varnish, and silver diamine flouride topically.
 - b. Apply desensitizing solutions to the external surfaces of the teeth.
 - c. Dry root canal with paper points.
 - d. Place and remove rubber dams.
 - e. Take occlusal bite registration for study casts.
 - f. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
 - g. Remove excess cement from inlays, crowns, bridges, and orthodontic appliances with hand instruments or a slow-speed handpiece only.
 - h. Perform nonsurgical clinical and laboratory diagnosis tests, including pulp testing, for interpretation by the dentist.
 - i. Place and remove periodontal dressings, dry socket medications, and packing.
 - j. Monitor a patient who has been inducted by a dentist into nitrous oxide relative inhalation analgesia.
 - k. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
 - l. Preselect and prefit orthodontic bands.
 - m. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
 - n. Take dental radiographs.
 - o. Apply bleaching solution, activate light source, monitor, and remove bleaching materials.
 - p. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
 - q. Take impressions or occlusal bite registrations for study casts.
5. A registered dental assistant may assist a dentist authorized by permit under direct or indirect supervision to provide the following duties as set forth in subsection 9 of section 20-02-01-05 as follows:
- a. Sedation procedure preparation and presedation documentation, including date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.
 - b. Emergency equipment and use preparedness.
 - c. Monitor a patient discharged by a dentist once the patient is in recovery.
 - d. Documentation of patient responsiveness, vital signs, including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.

e. Training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training.

~~5-6.~~ A registered dental assistant may perform the following duties under the ~~direct, indirect, or~~ general supervision of a dentist:

a. Take and record pulse, blood pressure, and temperature.

b. Take and record preliminary dental and medical history for the interpretation by the dentist.

c. Apply topical medications and drugs to oral tissues, including topical anesthetic, ~~but not including~~ topical fluoride, fluoride varnish, and desensitizing ~~or~~ agents, but not including caustic agents ~~or anticariogenic agents.~~

d. Receive removable dental prosthesis for cleaning or repair.

~~e. Take impressions or occlusal bite registrations for study casts.~~

~~f.~~ Fabricate, adjust, place, recement, or remove a temporary crown, bridge, or onlay or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.

~~g-f.~~ Remove sutures.

~~h-g.~~ Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.

~~i-h.~~ Provide oral hygiene education and instruction.

~~j-i.~~ Provide an oral assessment for interpretation by the dentist.

~~k-j.~~ Repack dry socket medication and packing for palliative treatment.

~~l-k.~~ Apply pit and fissure sealants if the registered dental assistant has provided documentation of a board-approved sealant course. Adjust sealants with slow-speed handpiece.

~~m-l.~~ Polish the coronal surfaces of the teeth with a rubber cup or brush.

~~n-m.~~ Polish restorations with a slow-speed handpiece.

n. Provide screenings as defined in section 20-01-02-01.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-01.1. Expanded duties of registered dental assistants.

A registered dental assistant shall apply for a permit to perform the following duties:

1. A registered dental assistant authorized by permit and under the direct supervision of a dentist may perform the following restorative functions:

a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;

- b. Adapt and cement stainless steel crowns; and
 - c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.
2. A registered dental assistant authorized by permit and under the contiguous supervision of a dentist authorized by permit to provide parenteral sedation may provide anesthesia duties as follows:
 - a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia;
 - b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open;
 - c. Prepare anesthesia equipment and perform patient monitoring; and
 - d. Assist with emergency treatment and protocols.
 3. A registered dental assistant authorized by permit and under the direct visual supervision of a dentist authorized by permit to provide parenteral sedation shall provide anesthesia duties as follows:
 - a. Draw up and prepare medications;
 - b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
 - c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
 - d. Adjust an electronic device to provide medications, such as an infusion pump upon verbal command of the supervising dentist.

4. A registered dental assistant authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to treatment in accordance with subsection 2 of section 20-02-01-05.

History: Effective April 1, 2015; amended effective July 1, 2017; [April 1, 2021](#).

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-02. Prohibited services.

A dental assistant, qualified dental assistant, or registered dental assistant may not perform the following services:

1. Diagnosis and treatment planning.
2. Surgery on hard or soft tissue.
3. Administer local anesthetics, sedation or general anesthesia drugs or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.
4. Any irreversible dental procedure or procedures which require the professional judgment and skill of a licensed dentist.
5. Adjust a crown which has been cemented by a dentist.

6. Activate any type of orthodontic appliance or fabricate orthodontic impressions for an individual who is not a patient of record.
7. Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
8. Place bases or cavity liners.
9. Scaling, root planing, or gingival curettage.
10. Measure the gingival sulcus with a periodontal probe.
11. Use a high-speed handpiece inside the mouth.
12. Monitor a patient who has been induced to a level of moderate sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines that the patient may be discharged for recovery.

History: Effective February 1, 1992; amended effective October 1, 1993; April 1, 2000; June 1, 2002; July 1, 2004; January 1, 2011; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.1, 43-20-08, 43-20-10, 43-20-13

20-03-01-05. Registration of registered and qualified dental assistants.

An individual seeking registration as a registered or qualified dental assistant shall apply on forms prescribed by the board. The application must be notarized and include the application fee.

1. The board may grant registration as a registered dental assistant to an applicant meeting all the following requirements:
 - a. The applicant meets any of the following requirements:
 - (1) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, within one year of application.
 - (2) The applicant was certified by the dental assisting national board within one year of application.
 - (3) The applicant successfully completed a dental assisting program, accredited by the commission on dental accreditation of the American dental association or approved by the board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (4) The applicant was certified by the dental assisting national board, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (5) The applicant successfully completed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada and completed within two years of application sixteen hours of continuing education in accordance with section 20-03-01-06.
 - b. The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.

- c. The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
 - d. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.
2. The board may grant registration as a qualified dental assistant to an applicant meeting all the following requirements:
- a. The applicant meets any of the following requirements:
 - (1) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~ and completed three hundred hours of on-the-job training within one year of application.
 - (2) The applicant passed the ~~infection control and radiation parts of~~ national entry level dental assistant certification administered by the dental assisting national board ~~examination~~, have three hundred hours of on-the-job training, and completed, within two years before application, sixteen hours of continuing education in accordance with section 20-03-01-06.
 - (3) The applicant successfully completed the national entry level dental assistant certification administered by the dental assisting national board and successfully completed the North Dakota department of career technical education dental assisting education program and submits evidence of three hundred hours of on-the-job training within one year of application.
 - ~~b. The applicant completed six hundred fifty hours of dental assistance instruction, including on-the-job training.~~
 - ~~c.~~ The applicant passed a written examination on the laws and rules governing the practice of dentistry in North Dakota within one year of application.
 - ~~d.c.~~ The applicant successfully completed a cardiopulmonary resuscitation course within two years of application.
 - ~~e.d.~~ Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

History: Effective January 1, 2011; amended effective April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-13.2

20-03-01-06. Continuing dental education for qualified and registered dental assistants.

Each qualified or registered dental assistant shall ~~provide evidence~~ maintain documentation on forms supplied by the board that the qualified or registered dental assistant has attended or participated in continuing clinical dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing ~~dental~~ education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.

3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a qualified or registered dental assistant may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ webinars or classroom style learning. The continuing education must include:
 - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For registered dental anesthesia assistant permitholders, two hours related to sedation or anesthesia.
 - e. For registered dental restorative assistant permitholders, two hours related to restorative dentistry.
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All qualified or registered dental assistants must hold a current cardiopulmonary resuscitation certificate.
6. The board may audit continuing education credits of a registered dental assistant. Proof of continuing education shall be maintained from the previous renewal cycle. Upon receiving notice of an audit from the board, a registered dental assistant shall provide satisfactory documentation of attendance at, or participation in, the continuing education activities ~~listed on the licensee's continuing education form~~. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the registration.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-13.1

CHAPTER 20-04-01

20-04-01-01. Duties.

A dental hygienist may perform the following services under the general, direct, direct visual, indirect, or ~~contiguous~~contiguous supervision of a dentist:

1. Complete prophylaxis to include removal of accumulated matter, deposits, accretions, or stains from the natural and restored surfaces of exposed teeth. The dental hygienist may also do root planing and soft tissue curettage upon direct order of the dentist.
2. Polish and smooth existing restorations with a slow-speed handpiece.
3. Apply topical applications of drugs to the surface tissues of the mouth and to exposed surfaces of the teeth, including anticariogenic agents and desensitizing solutions.
4. Take impressions for study casts on a patient of record.
5. Take and record preliminary medical and dental histories for the interpretation by the dentist.
6. Take and record pulse, blood pressure, and temperature.
7. Provide oral hygiene treatment planning after an oral assessment or dentist's diagnosis.
8. Take dental radiographs.
9. Apply therapeutic agents subgingivally for the treatment of periodontal disease.
10. Hold impression trays in the mouth after placement by a dentist (e.g., reversible hydrocolloids, rubber base, etc.).
11. Receive removable dental prosthesis for cleaning and repair.
12. Dry root canal with paper points.
13. Place and remove rubber dams.
14. Place and remove matrix bands or wedges.
15. Take occlusal bite registration for study casts.
16. Place retraction cord in the gingival sulcus of a prepared tooth prior to the dentist taking an impression of the tooth.
17. Fabricate, adjust, place, recement, or remove a temporary crown, bridge, onlay, or temporary restorative material. This applies only to dentitions actively under treatment for which a permanent restoration is being fabricated.
18. Adjust permanent crowns outside of the mouth.
19. Perform nonsurgical clinical and laboratory oral diagnostic tests for interpretation by the dentist.
20. Apply pit and fissure sealants. Adjust sealants with slow speed handpiece.
21. Place and remove periodontal dressings, dry socket medications, and packing.
22. Remove sutures.

23. Monitor a patient who has been inducted by a dentist into nitrous-oxide relative inhalation analgesia.
24. Take impressions for fixed or removable orthodontic appliances, athletic mouth guards, bleaching trays, bite splints, flippers, and removable prosthetic repairs.
25. Preselect and prefit orthodontic bands.
26. Place, tie, and remove ligature wires and elastic ties, and place orthodontic separators.
27. Place and remove arch wires or appliances that have been activated by a dentist.
28. Cut and remove arch wires or replace loose bands, loose brackets, or other orthodontic appliances for palliative treatment.
29. Acid-etch enamel surfaces prior to pit and fissure sealants, direct bonding of orthodontic brackets, or composite restorations.
30. Place orthodontic brackets using an indirect bonding technique by seating the transfer tray loaded with brackets previously positioned in the dental laboratory by a dentist.
31. Take face bow transfers.
32. Orally transmit a prescription that has been authorized by the supervising dentist.
33. Repack dry socket medication and packing for palliative treatment.
34. Administer emergency medications to a patient in order to assist the dentist.
35. Screenings as defined in section 20-01-02-01.
36. Produce on a patient of record, a final scan by digital capture for review by the authorizing dentist for a prescriptive removable or permanent appliance.
37. Apply bleaching solution, activate light source, and monitor and remove bleaching materials.
38. Apply interim therapeutic restorations using the standards and protocols established by an authorizing dentist and after completion of a board-approved course.
39. A dental hygienist under direct or indirect supervision may assist a dentist authorized by permit as set forth in section 20-02-01-05 as follows:
 - a. Sedation procedure preparation and pre-sedation documentation, including date of procedure, nothing by mouth status, availability of responsible adult escort, and allergies.
 - b. Emergency equipment and use preparedness.
 - c. Monitor a patient discharged by a dentist once the patient is in recovery.
 - d. Documentation of patient responsiveness, vital signs, including heart rate, respiratory rate, blood pressure, oxygen saturation, and expired carbon dioxide.
 - e. Training must be documented and may be acquired directly by an employer-dentist, by a planned sequence of instruction in an educational institution or by in-office training.
40. A dental hygienist authorized by permit and under contiguous supervision of a dentist authorized by permit to provide moderate parenteral sedation may:

- a. Initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation or general anesthesia.
- b. Adjust the rate of intravenous fluids infusion only to maintain or keep the line patent or open.
- c. Prepare anesthesia equipment and perform patient monitoring.
- d. Assist with emergency treatment and protocols.

36.41. A dental hygienist authorized by permit and under direct visual supervision of a dentist authorized by permit to provide parenteral sedation may:

- a. Draw up and prepare medications;
- b. Follow instructions to deliver medication into an intravenous line upon verbal command of the supervising dentist;
- c. Adjust the rate of intravenous fluids infusion beyond a keep-open rate upon verbal command of the supervising dentist; and
- d. Adjust an electronic device to provide medications, such as an infusion pump upon the verbal command of the supervising dentist.

37.42. A dental hygienist authorized by permit and under the direct supervision of a dentist may:

- a. Place, carve, and adjust class I, II, and class V amalgam or glass ionomer restorations with hand instruments or a slow-speed handpiece;
- b. Adapt and cement stainless steel crowns; and
- c. Place, contour, and adjust class I, II, and class V composite restorations where the margins are entirely within the enamel with hand instruments or a slow-speed handpiece.

43. A dental hygienist authorized by permit and under the indirect supervision of a dentist may administer nitrous oxide analgesia to a patient who has not taken sedative medications prior to or for the duration of the dental hygiene treatment in accordance with subsection 2 of section 20-02-01-05.

History: Effective September 1, 1980; amended effective February 1, 1992; October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; July 1, 2004; April 1, 2006; January 1, 2011; April 1, 2015; July 1, 2017; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03, 43-20-11, 43-20-12

20-04-01-02. Prohibited services.

A dental hygienist may not perform the following services:

- 1. Diagnosis and treatment planning.
- 2. Surgery on hard or soft tissue.
- 3. Administer anesthetics, except topical and local anesthetic, as permitted under sections 20-04-01-01 and 20-04-01-03, or titrate local anesthetics, sedation or general anesthesia drugs without a board authorized permit.

4. Monitor a patient who has been induced to moderate sedation or general anesthesia until the dentist authorized by permit to administer sedation or anesthesia determines the patient may be discharged for recovery.
- ~~5.~~ Any irreversible dental procedure or procedures which require the professional judgment and skill of a dentist.
- ~~5:6.~~ Adjust a crown which has ~~not~~ been permanently cemented ~~by a dentist~~without a restorative functions permit.
- ~~6:7.~~ Activate any type of orthodontic appliance or fabricate impressions for an individual who is not a patient of record.
- ~~7:8.~~ Cement or bond orthodontic bands or brackets that have not been previously placed by a dentist.
- ~~8:9.~~ Place bases or cavity liners.
- ~~9:10.~~ Use a high-speed handpiece inside the mouth.

History: Effective February 1, 1992; amended effective October 1, 1993; July 1, 2004; January 1, 2011; April 1, 2015; April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03; 43-20-11, 43-20-12, 43-20-12.3

20-04-01-03. Duties of dental hygienists.

A dental hygienist may perform the following services under the direct supervision of a dentist:

1. A licensed dental hygienist may apply for a permit to administer local anesthesia to a patient who is at least eighteen years old, under the direct supervision of a licensed dentist. ~~To be considered for a permit,~~

2. Requirements for local anesthesia authorization are as follows:

a. Submit evidence that a hygienist must have successfully completed a didactic and clinical course in local anesthesia within the last twenty-four months sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association resulting in the dental hygienist becoming clinically competent in the administration of local anesthesia.; or

- ~~2. b. A licensed dental~~Submit evidence that the hygienist ~~applying for a local anesthesia permit who~~ has been ~~permitted~~authorized to administer local anesthesia in another jurisdiction and ~~who has continuously administered local anesthesia~~provide verification of clinical competency during the ~~past three years~~ must provide verification of the permit and continuous use to the North Dakota board of dental examinersprevious twelve months. Verification may consist of the following:

~~a.~~ (1) A letter from the accredited school with the school seal affixed. Photocopies will not be accepted.

~~b.~~ (2) A notarized copy of the certification of the local anesthesia course ~~completed.~~

~~c.~~ (3) A notarized letter from a licensed dentist stating ~~that~~ the licensed dental hygienist has administered local anesthesia ~~within the last three years~~competently.

~~d. A notarized copy of the dental hygiene transcript with the local anesthesia course recorded.~~

3. c. A licensed dental hygienist requesting a ~~permit~~ authorization to administer local anesthesia who cannot provide verification as required in ~~subsection 2 subdivision a~~ must ~~retake and successfully pass~~ submit evidence of successful completion of a didactic and clinical course in local anesthesia sponsored by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association.

History: Effective July 1, 2004; amended effective April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-03

20-04-01-04. Additional requirements for licensure by examination.

The board may grant a license to practice dental hygiene to an applicant who has met the requirements of North Dakota Century Code section 43-20-01.2 and all the following requirements:

1. The applicant has passed the examination administered by the joint commission on national dental examinations or the dental hygiene certification board of Canada within two five years of application.
2. The applicant has passed, within two five years of application, a clinical competency examination administered by one of the following:
 - a. Any regional dental testing service before September 17, 2009.
 - b. Central regional dental testing service.
 - c. Council of interstate testing agencies.
 - d. Western regional examining board.
 - e. American board of dental examiners.
3. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
4. The applicant has the physical health and visual acuity to enable the applicant to meet the minimum standards of professional competence.

History: Effective January 1, 2011; amended effective April 1, 2021.

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.2

20-04-01-07. Inactive status - License reinstatement.

A dental hygienist may, upon payment of the fee determined by the board, place the dental hygienist's license on inactive status. A dental hygienist on inactive status shall be excused from ~~the payment of renewal fees, except inactive status renewal fees, and continuing education~~ continuing education requirements. Inactive status must be renewed annually by completing the inactive status renewal application and paying the renewal fee. A dental hygienist on inactive status shall not practice dental hygiene in North Dakota. To reinstate a license on inactive status, the dental hygienist shall apply on a form prescribed by the board, pay a reinstatement fee, and meet all of the following requirements:

1. The applicant has passed a clinical competency examination administered by a regional dental testing service, approved by the board in section 20-04-01-04, within two years of application. The board may, within the board's discretion, waive this requirement.

2. The applicant passes a written examination on the laws and rules governing the practice of dentistry in this state administered by the board at a meeting.
3. The applicant has completed sixteen hours of continuing education in accordance with section 20-04-01-08 within two years of application.
4. The applicant has successfully completed a cardiopulmonary resuscitation course within two years of application.
5. Grounds for denial of the application under North Dakota Century Code section 43-20-05 do not exist.

History: Effective January 1, 2011; amended effective July 1, 2017; [April 1, 2021](#).

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-06

20-04-01-08. Continuing dental education for dental hygienists.

Each dental hygienist shall provide evidence on forms supplied by the board that the dental hygienist has attended or participated in continuing dental education in accordance with the following conditions:

1. Continuing education activities include publications, seminars, symposiums, lectures, college courses, and online education.
2. The continuing dental education hours will accumulate on the basis of one hour of credit for each hour spent in education. Subject matter directly related to clinical dentistry will be accepted by the board without limit.
3. The minimum number of hours required within a two-year cycle is sixteen. Of these hours, a dental hygienist may earn no more than eight hours from self-study. Self-study is an educational process designed to permit a participant to learn a given subject without involvement of a proctor. Cardiopulmonary resuscitation courses must provide hands-on training. All other continuing education requirements may be satisfied from ~~online education~~ [webinars or classroom style learning](#). The continuing education must include:
 - a. Two hours of ethics or jurisprudence. Passing the laws and rules examination is the equivalent of two hours of ethics or jurisprudence.
 - b. Two hours of infection control.
 - c. A cardiopulmonary resuscitation course.
 - d. For registered dental anesthesia hygienist permitholders, two hours related to sedation or anesthesia.
 - e. For registered dental restorative hygienist permitholders, two hours related to restorative dentistry.
 - f. [For a dental hygienist practicing under general supervision, two hours related to medical emergencies.](#)
4. Mere registration at a dental convention without specific attendance at continuing education presentations will not be creditable toward the continuing dental education requirement.
5. All dental hygienists must hold a current cardiopulmonary resuscitation certificate.

6. A dental hygienist who maintains a license on inactive status is not subject to continuing education requirements.
7. The board may audit the continuing education credits of a dental hygienist. Each licensee shall maintain certificates or records of continuing education activities from the previous renewal cycle. Upon receiving notice of an audit from the board, a licensee shall provide satisfactory documentation of attendance at, or participation in the continuing education activities listed ~~on the licensee's continuing education form~~. Failure to comply with the audit is grounds for nonrenewal of or disciplinary action against the license.

History: Effective January 1, 2011; amended effective April 1, 2015; July 1, 2017; [April 1, 2021](#).

General Authority: NDCC 43-20-10

Law Implemented: NDCC 43-20-01.4

CHAPTER 20-05-01

20-05-01-01. Fees.

The board shall charge the following nonrefundable fees:

1. For dentists:

a. License by examination application fee	\$440.00 <u>\$485.00</u>
b. License by credential review application fee	\$1,200.00 <u>\$1,320.00</u>
c. Renewal fee	\$400.00 <u>\$440.00</u>
d. Late fee	\$400.00 <u>\$440.00</u>
e. Temporary license application and license fee	\$250.00 <u>\$275.00</u>
f. Volunteer license application and license fee	\$65.00 <u>\$25.00</u>
g. Inactive status application fee	\$35.00 <u>\$40.00</u>
h. Inactive status <u>annual</u> renewal fee	\$35.00 <u>\$40.00</u>
i. Inactive status reinstatement fee	\$400.00 <u>\$485.00</u>
j. Dermal fillers and botulinum toxin permit	\$200.00
<u>k. Dermal fillers and botulinum toxin permit renewal</u>	<u>\$100.00</u>

2. For dental hygienists:

a. License by examination application fee	\$200.00 <u>\$220.00</u>
b. License by credential review application fee	\$450.00 <u>\$495.00</u>
c. Renewal fee	\$150.00 <u>\$165.00</u>
d. Late fee	\$150.00 <u>\$165.00</u>
e. Inactive status application fee	\$35.00 <u>\$42.00</u>
f. <u>Volunteer license application and license fee</u>	<u>\$25.00</u>
<u>g.</u> Inactive status <u>annual</u> renewal fee	\$35.00 <u>\$40.00</u>
g. <u>h.</u> Inactive status reinstatement fee	\$150.00 <u>\$220.00</u>

3. For registered and qualified dental assistants:

a. Application fee	\$130.00 <u>\$145.00</u>
b. Renewal fee	\$100.00 <u>\$110.00</u>
c. Late fee	\$100.00 <u>\$110.00</u>

4. For anesthesia permits:

a. Application fee	\$200.00
b. Inspection fee	actual cost
c. Renewal fee	\$200.00

d. Late fee \$200.00

5. For a duplicate license, registration, or permit ~~\$45.00~~\$50.00

History: Effective May 1, 1992; amended effective October 1, 1993; May 1, 1996; August 1, 1998; April 1, 2000; June 1, 2002; July 1, 2004; April 1, 2006; January 1, 2008; January 1, 2011; April 1, 2015; [April 1, 2021](#).

General Authority: NDCC 43-20-10, 43-28-06

Law Implemented: NDCC 43-20-01.2, 43-20-01.3, 43-20-01.4, 43-20-06, 43-20-13.1, 43-20-13.2, 43-28-11, 43-28-16.2, 43-28-17, 43-28-24, 43-28-27

TITLE 45
INSURANCE, COMMISSIONER OF

APRIL 2021

CHAPTER 45-03-06

45-03-06-04. Credits.

1. The principal office ad valorem tax credit shall be used as a credit against the premium tax liability for the calendar year in which the ad valorem tax was paid. Any unused credit may be carried over as a credit against the premium tax liability for the following calendar years but not beyond 1985. North Dakota Century Code section 26.1-03-17 requires that the credit be prorated on a quarterly basis. Credit shall be used for each quarter and shall be fully reconciled, along with the premium tax, as of the end of each calendar year, on or before March first of the subsequent year.
2. The examination credit shall be used as a credit against the premium tax liability for the quarter in which expense was paid and the succeeding three quarters. The credit is limited to expenses incurred and paid to the North Dakota department of insurance. North Dakota Century Code section 26.1-03-17 requires that the credit be prorated on a quarterly basis. The credit shall be reconciled along with the premium tax as of the end of each calendar year, on or before March first of the subsequent year.
3. The credit taken for assessments paid to the comprehensive health association of North Dakota shall be taken in the calendar year in which paid and any remaining credit used as completely as possible in each succeeding year. Credit cannot be taken for any assessments paid prior to March 21, 1983.
4. The credit for assessments paid to the North Dakota life and health insurance guaranty association shall be twenty percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.
5. Credit may be taken in the following year for miscalculations resulting in an overpayment in a preceding reconciliation submitted with the March first payment.
6. The credit for assessments paid to the reinsurance association of North Dakota must be taken in the calendar year in which paid. If the credit exceeds the premium tax liability the excess is not eligible to be carried over to subsequent years.

History: Effective September 1, 1983; amended effective April 1, 1996; May 1, 1997; April 1, 2021.

General Authority: NDCC 26.1-01-08

Law Implemented: NDCC 26.1-03-17

ARTICLE 45-06
ACCIDENT AND HEALTH INSURANCE

Chapter	
45-06-01	Medicare Supplement Insurance Minimum Standards [Superseded]
45-06-01.1	Medicare Supplement Insurance Minimum Standards
45-06-02	Intercarrier Health Insurance Pool
45-06-02.1	Comprehensive Health Association of North Dakota
45-06-03	Standard Health Insurance Proof of Loss Forms [Superseded]
45-06-03.1	Standardized Health Claim Form Model Regulation
45-06-04	Advertising Rules
45-06-05	Long-Term Care Insurance Model Regulation
45-06-05.1	Long-Term Care Insurance Model Regulation
45-06-06	North Dakota Small Employer Health Reinsurance Program [Repealed]
45-06-06.1	Regulation to Implement The Small Employer Health Insurance Availability Act
45-06-07	Model Regulation to Implement Rules Regarding Contracts and Services of Health Maintenance Organizations
45-06-08	Loss Ratios
45-06-09	Group Health Insurance Purchasing Cooperatives
45-06-10	Utilization Review
45-06-11	Regulation on the Crediting of Qualifying Previous Coverage Toward the Reduction of Preexisting Condition Exclusion Periods
45-06-12	Regulation to Implement North Dakota Century Code Chapter 26.1-36.4, Relating to Hospital and Medical Insurance
45-06-13	Provider-Sponsored Organizations
45-06-14	Multiple Employer Welfare Arrangements
45-06-15	Short-Term Care Insurance
45-06-16	Short-Term Limited-Duration Insurance
<u>45-06-17</u>	<u>Self-Insurance Health Plans</u>

CHAPTER 45-06-05.1
LONG-TERM CARE INSURANCE MODEL REGULATION

Section	
45-06-05.1-01	Applicability and Scope
45-06-05.1-02	Definitions
45-06-05.1-03	Policy Definitions
45-06-05.1-04	Policy Practices and Provisions
45-06-05.1-05	Unintentional Lapse
45-06-05.1-06	Required Disclosure Provisions
45-06-05.1-07	Required Disclosure of Rating Practices to Consumers
45-06-05.1-08	Initial Filing Requirements
45-06-05.1-08.1	Initial Filing Requirements for Policies Issued After October 1, 2019 <u>March 1, 2020</u>
45-06-05.1-09	Prohibition Against Post-Claims Underwriting
45-06-05.1-10	Minimum Standards for Home Health and Community Care Benefits in Long-Term Care Insurance Policies
45-06-05.1-11	Requirement to Offer Inflation Protection
45-06-05.1-12	Requirements for Application Forms and Replacement Coverage
45-06-05.1-13	Reporting Requirements
45-06-05.1-14	Licensing
45-06-05.1-15	Discretionary Powers of Commissioner
45-06-05.1-16	Reserve Standards
45-06-05.1-17	Life Insurance Long-Term Care Benefits
45-06-05.1-18	Premium Rate Schedule Increases

45-06-05.1-19	Filing Requirement
45-06-05.1-20	Filing Requirements for Advertising
45-06-05.1-21	Standards for Marketing
45-06-05.1-22	Suitability
45-06-05.1-23	Prohibition Against Preexisting Conditions and Probationary Periods in Replacement Policies or Certificates
45-06-05.1-24	Nonforfeiture Benefit Requirement
45-06-05.1-25	Standards for Benefit Triggers
45-06-05.1-26	Additional Standards for Benefit Triggers for Qualified Long-Term Care Insurance Contracts
45-06-05.1-27	Standard Format Outline of Coverage
45-06-05.1-28	Requirement to Deliver Shopper's Guide
45-06-05.1-29	Penalties

45-06-05.1-08.1. Initial filing requirements for policies issued after ~~October 1, 2019~~ March 1, 2020.

1. This section applies to any long-term care policy issued in this state on or after March 1, 2020.
2. An insurer shall provide the information listed in this subsection to the commissioner sixty days prior to making a long-term care insurance form available for sale.
 - a. A copy of the disclosure documents required in section 45-06-05.1-07.
 - b. An actuarial certification consisting of at least the following:
 - (1) A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated.
 - (2) A statement that the policy design and coverage provided have been reviewed and taken into consideration.
 - (3) A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration.
 - (4) A statement that the premiums contain at least the minimum margin for moderately adverse experience defined in subparagraphs a and b:
 - (a) A composite margin may not be less than ten percent of lifetime claims.
 - (b) A greater margin may be appropriate in circumstances where the company has less credible experience to support its assumptions used to determine the premium rates.
 - (5) (a) A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or
 - (b) A comparison of the premium schedules for similar policy forms currently available from the insurer with an explanation of the differences.
 - (6) A statement that reserve requirements have been reviewed and considered. Support for this statement must include:

- (a) Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; and
 - (b) A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship.
- c. An actuarial memorandum prepared, dated, and signed by the member of the academy of actuaries must be included and must address and support each specific item required as part of the actuarial certification and provide at least the following information:
- (1) An explanation of the review performed by the actuary prior to making the statements in paragraphs 2 and 3 of subdivision b.
 - (2) A complete description of pricing assumptions.
 - (3) Sources and levels of margins incorporated into the gross premiums that are the basis for the statement in paragraph 1 of subdivision b of the actuarial certification and an explanation of the analysis and testing performed in determining the sufficiency of the margins. Deviations in margins between ages, sexes, plans, or states must be clearly described. Deviations in margins required to be described are other than those produced utilizing generally accepted actuarial methods for smoothing and interpolating gross premium scales.
 - (4) A demonstration that the gross premiums include the minimum composite margin specified in paragraph 4 of subdivision b.

History: Effective October 1, 2019; [amended effective April 1, 2021](#).

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-45

CHAPTER 45-06-17

SELF-INSURANCE HEALTH PLANS

Section

<u>45-06-17-01</u>	<u>Definitions</u>
<u>45-06-17-02</u>	<u>Purpose</u>
<u>45-06-17-03</u>	<u>Scope</u>
<u>45-06-17-04</u>	<u>Ending Self-Insurance Health Plan</u>
<u>45-06-17-05</u>	<u>Administration</u>
<u>45-06-17-06</u>	<u>Reserves</u>
<u>45-06-17-07</u>	<u>Reporting</u>
<u>45-06-17-08</u>	<u>Trade Practices</u>
<u>45-06-17-09</u>	<u>Disclosure</u>

45-06-17-01. Definitions.

1. "Board" means the public employees retirement system board created by North Dakota Century Code section 54-52-03.
2. "Commissioner" means the insurance commissioner.
3. "Fiscal year" means a self-insurance health plan's twelve-month fiscal year.
4. "Runoff self-insurance health plan" means a self-insurance health plan that no longer has authority to self-fund but which continues to exist for the purpose of paying claims, preparing reports, and administering transactions associated with the period when the self-insurance health plan provided coverage.
5. "Self-insurance health plan" has the same meaning as provided under North Dakota Century Code section 54-52.1-01.
6. "Service company" means an entity licensed under North Dakota Century Code chapter 26.1-27 as an administrator of an entity licensed under North Dakota Century Code title 26.1 as an insurance company, health maintenance organization, or nonprofit health service corporation.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-02. Purpose.

The provisions in this chapter are intended to ensure the financial integrity and the competent and equitable administration of the self-insurance health plan.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-03. Scope.

This chapter applies to all self-insurance health plans established by the board as set forth in North Dakota Century Code chapter 54-52.1.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-04. Ending self-insurance health plan.

1. **Termination.** The board may terminate its self-insurance health plan as set forth in North Dakota Century Code chapter 54-52.1. The board shall notify the commissioner of its decision to terminate within ninety days of its decision to terminate.
2. **Runoff self-insurance health plan.** A self-insurance health plan must continue to exist as a runoff self-insurance health plan after its authority to self-fund has ended, for the purpose of paying claims, preparing reports, and administering transactions associated with the period during which the self-insurance health plan provided coverage. A runoff self-insurance health plan must continue to comply with this chapter and with other applicable North Dakota laws and rules.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-05. Administration.

1. **Service company.** The board may contract with one or more service companies for services necessary to conduct the day-to-day operations of the self-insurance health plan. The service company or companies must have expertise in and be licensed for the services provided to the self-insurance health plan. Subject to the oversight of the board, the service company or companies may provide, directly or through subcontractors, services directly related to the administration of coverage.
2. **Recordkeeping and examination authority.** A self-insurance health plan must maintain all records necessary to verify the accuracy and completeness of all reports submitted to the commissioner under section 45-06-17-07. The commissioner may examine the self-insurance health plan's records in order to verify the self-insurance health plan's compliance with this chapter and with other statutes and rules. The provisions of North Dakota Century Code chapter 26.1-03 apply to the commissioner's examination. All records concerning claims, reserves, financial transactions, and other matters necessary for the self-insurance health plan's operations are the self-insurance health plan's property and must be retained for the current year plus the previous five years.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-06. Reserves.

A reserve must be established for all charges, claims, costs, and expenses of the self-insurance health plan. This reserve must be set at a level to cover between two and four months of expected charges, claims, costs, and expenses. The reserve must be adjusted as new information becomes available.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-07. Reporting.

1. **Financial statements.** A self-insurance health plan must prepare annual financial statements containing a balance sheet; a statement of revenues, expenses, and surplus; a statement of changes in financial position; and a schedule of investments. The statements must be prepared on forms and according to instructions prescribed by the commissioner. The financial

statements must be filed with the commissioner no later than one hundred eighty days after the end of the self-insurance health plan's fiscal year. In lieu of self-prepared financial statements, a self-insurance health plan may submit audited financial statements prepared by an independent certified public accountant. The auditor's report must be submitted no later than thirty days after completion of the audit.

2. Quarterly reports. If the commissioner determines a self-insurance health plan's financial integrity is such that the self-insurance health plan's ability to meet obligations promptly and in full will be significantly impaired, the commissioner may require the self-insurance health plan to file quarterly reports with the commissioner no later than thirty days after the end of the first, second, and third quarters of each fiscal year. The commissioner may remove the requirement to file quarterly reports when the self-insurance health plan's financial integrity is restored. A quarterly report must contain statements of the self-insurance health plan's:

a. Current total cash on hand and on deposit, and total investment;

b. Current total reserve for outstanding losses reported and unreported;

c. Gross premiums written during the quarter;

d. Losses paid during the quarter;

e. Current total members; and

f. Any other information that the commissioner requests.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-08. Trade practices.

Self-insurance health plans are subject to the provisions of the unfair trade practices act found at North Dakota Century Code section 26.1-04-03.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

45-06-17-09. Disclosure.

Each policy issued by a self-insurance health plan must contain, in at least ten-point type on the front page and declaration page, the following notice:

NOTICE

This policy is issued by a self-insurance health plan. A self-insurance health plan may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for a self-insurance health plan.

History: Effective April 1, 2021.

General Authority: NDCC 26.1-36.6

Law Implemented: NDCC 26.1-36.6

CHAPTER 45-07-01.1

45-07-01.1-04. Credit life insurance rates.

1. **Premium rate.** Subject to the conditions and requirements in subsection 2 and section 45-07-01.1-10, the prima facie rates shown below are considered to meet the requirements of section 45-07-01.1-03 and may be used without filing additional actuarial support.
 - a. Monthly outstanding balance basis: Sixty-two cents per month per one thousand dollars of outstanding insured debt on single life insurance and one dollar five cents per month per one thousand dollars of outstanding insured debt on joint life insurance if premiums are payable on a monthly outstanding balance basis.
 - b. Single premium basis: If the premium is charged on a single premium basis, the rate shall be computed according to the following formula or according to a formula approved by the commissioner which produces rates substantially the same as those produced by the following formula:

$$S_p = \left(\frac{n \cdot O_p}{10} \times \frac{I_t}{I_i} \times (v^{t-1}) \right)$$

$$v = \frac{1}{1 + (dis)}$$

$$S_p = \sum_{t=1}^n \left(\frac{O_p}{10} \times \frac{I_t}{I_i} \times (v^{t-1}) \right)$$

$$v = \frac{1}{1 + (dis)}$$

S_p = Single premium per one hundred dollars of initial consumer credit life insurance coverage.

O_p = Sixty-two cents, the prima facie consumer credit life insurance premium rate for monthly outstanding balance coverage from subdivision a.

I_t = The scheduled amount of insurance for month t.

I_i = Initial amount of insurance. For a net insurance policy, I_i equals the initial principal balance of the loan.

dis = .0028, representing an annual discount rate of three percent for interest plus four-tenths percent for mortality.

n = The number of months in the term of the insurance.

- c. If the benefits provided are other than those described in the introduction to this subsection, premium rates for such benefits shall be actuarially consistent with the rates provided in subdivisions a and b.
- d. If life coverage is sold on a joint basis involving two people, the factor for calculating the rate is 1.7.

2. Conditions and requirements.

- a. Coverage may exclude death resulting from:
 - (1) War or any act of war;
 - (2) Suicide within one year after the effective date of the coverage;
 - (3) A preexisting condition that causes or substantially contributes to death within twelve months of the effective date of coverage; or
 - (4) Terminal illness with a life expectancy of twelve months or less which was diagnosed prior to the effective date of coverage.
- b. The effective date of coverage for that part of the insurance attributable to a different advance or a charge to the plan account is the date on which the advance or charge occurs.
- c. An age restriction may be included provided coverage continues until at least age seventy.
- d. Guaranteed issue amount. An insurer must issue an amount up to five thousand dollars without regard to a debtor's or creditor's health status. An amount in excess of five thousand dollars may be denied based upon the company's underwriting determination. An insurer may apply the exclusions set forth in subdivision a to the entire amount.

History: Effective January 1, 2003; [amended effective April 1, 2021.](#)

General Authority: NDCC 26.1-37-15

Law Implemented: NDCC 26.1-37

45-07-01.1-05. Credit accident and health insurance rates.

- 1. Premium rate. Subject to the conditions and requirements in subsection 5 and section 45-07-01.1-10, the prima facie rates shown below are considered to meet the requirements of section 45-07-01.1-03 and may be used without filing additional actuarial support.
 - a. If premiums are payable on a single premium basis for the duration of the coverage, the prima facie rate per one hundred dollars of initial insured debt for single accident and health insurance is as set forth in the table below (rates for monthly periods other than those listed shall be interpolated or extrapolated):

Number of Equal Monthly Installments	After Fourteenth Day of Disability, Retroactive to Fire Day	After Fourteenth Day of Disability	After Thirtieth Day of Disability, Retroactive to First Day of Disability	After Thirtieth Day of Disability
---	--	---	--	---

of Disability

6	\$1.31	\$.83	\$1.05	\$.55
12	1.88	1.30	1.51	.94
24	2.54	1.85	2.03	1.39
36	3.01	2.23	2.38	1.70
48	3.40	2.56	2.65	1.94
60	3.74	2.83	2.89	2.16
72	4.00	3.06	3.06	2.32
84	4.17	3.24	3.18	2.43
96	4.30	3.38	3.27	2.51
108	4.40	3.50	3.34	2.58
120	4.47	3.60	3.40	2.62

- b. If premiums are paid on the basis of a premium rate per month per thousand of outstanding insured gross debt, these premiums shall be computed according to the following formula or according to a formula approved by the commissioner which produces rates actuarially consistent with the single premium rates in subdivision a of subsection 1:

$$OP_n = \frac{10SP_n}{n \sum_{t=1}^n \{(v^{t-1} \times (n-t+1))\}}$$

where $v = \frac{1}{1 + (dis)}$

$$OP_n = 10SP_n / \sum_{t=1}^n \left\{ \frac{(v^{t-1} \times (n-t+1))}{n} \right\}$$

$$v = \frac{1}{1 + (dis)}$$

Where SP_n = Single premium rate per one hundred dollars of initial insured debt repayable in n equal monthly installments as shown in subdivision a.

OP_n = Monthly outstanding balance premium rate per one thousand dollars.

n = The number of months in the term of the insurance.

dis = .0025, representing an annual discount rate of three percent for interest.

- c. If the coverage provided is a constant maximum indemnity for a given period of time, the actuarial equivalent of subdivisions a and b shall be used.
 - d. If the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month, an appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in even amounts per month shall be used.
 - e. The outstanding balance rate for credit accident and health insurance may be either a term-specified rate or may be a single composite term outstanding balance rate.
2. Subject to the conditions and requirements in subsection 5 and section 45-07-01.1-10, the prima facie rates for credit accident and health insurance shown below are considered to meet the requirements of section 45-07-01.1-03 in the situation where the insurance is written on an open-end loan. These prima facie rates and the formulae used to calculate them may be used without filing additional actuarial support. Other formulae to convert from a closed-end credit rate to an open-end credit rate may be used if approved by the commissioner.
- a. If the maximum benefit of the insurance equals the net debt on the date of disability, the term of the loan is calculated according to the formula: $1/(\text{minimum payment percent})$. The prima facie rate is determined by applying the calculated term to the rates shown in subsection 1. A composite minimum payment percentage may be used in place of the minimum payment percentage for a specific credit transaction.
 - b. If the maximum benefit of the insurance equals the outstanding balance of the loan on the date of disability plus any interest accruing on that amount during disability, the term of the insurance (n) is estimated by using the following formula:

$$n = \frac{\ln\{1 - (1000i/x)\}}{\ln(v)}$$

where:

$$n = \frac{\ln\left\{1 - \left(\frac{1000i}{x}\right)\right\}}{\ln(v)}$$

where:

i = interest rate on the account or a composite interest rate used for the type of policy;

x = monthly payment per one thousand dollars of coverage consistent with the term calculated above; and

$$v = 1/(1 + i).$$

The calculated value of the term is used to look up an initial rate in subsection 1. The final prima facie rate is calculated by multiplying the initial rate by:

the adjustment n/a_n

where:

n is the term calculated above; and

$$a_n = (1 - v^n)/i.$$

3. If the accident and health coverage is sold on a joint basis involving two people, the factor for calculating the rate is 1.8.
4. If the benefits provided are other than those described in subsection 1 or 2, rates for those benefits shall be actuarially consistent with rates provided in subsections 1 and 2.
5. The premium rates in subsection 1 shall apply to contracts providing credit accident and health insurance and that contain the provisions below:
 - a. Coverage may be excluded for disabilities resulting from:
 - (1) Normal pregnancy;
 - (2) War or any act of war;
 - (3) Elective surgery;
 - (4) Intentionally self-inflicted injury;
 - (5) Sickness or injury caused by or resulting from the use of alcoholic beverages or narcotics, including hallucinogens, unless they are administered on the advice of and taken as directed, by a licensed physician other than the insured;
 - (6) Flight in any aircraft other than a commercial scheduled aircraft; or
 - (7) A preexisting condition from which the insured debtor becomes disabled within six months after the effective date of coverage.
 - b. For the preexisting condition exclusion above, the effective date of coverage for that part of the insurance attributable to a different advance or a charge to the plan account may be the date on which the advance or charge occurs.
 - c. A definition of disability providing that for the first twelve months of disability, total disability shall be defined as the inability to perform the essential functions of the insured's own occupation. Thereafter, it shall mean the inability of the insured to perform the essential functions of any occupation for which the insured is reasonably suited by virtue of education, training, or experience.
 - d. No employment requirement more restrictive than one requiring that the debtor be employed full time on the effective date of coverage and for at least twelve consecutive months prior to the effective date of coverage. "Full time" means a regular workweek of not less than thirty hours.

- e. An age restriction providing that no insurance will become effective on debtors on or after the attainment of age sixty-six and that all insurance will terminate upon attainment by the debtor of age sixty-six.
- f. A daily benefit of not less than one-thirtieth of the monthly benefit payable under the policy.
- g. Guaranteed issue. An insurer must issue a benefit amount up to five thousand dollars without regard to a debtor's or creditor's health status. A credit accident and health insurance benefit amount in excess of five thousand dollars may be denied based upon the company's underwriting determination. The benefit amount for credit accident and health insurance is defined as the monthly disability payment times the maximum number of payments payable.

History: Effective January 1, 2003; [amended effective April 1, 2021](#).

General Authority: NDCC 26.1-37-15

Law Implemented: NDCC 26.1-37

CHAPTER 45-09-01

45-09-01-03. Surplus lines insurance producer must conduct search.

The licensed surplus lines insurance producer seeking the placement of nonadmitted insurance must conduct a diligent search to ascertain whether the insurance, indemnity contract, or surety bond can be procured from a company authorized to do business in this state. The surplus lines insurance producer may rely on a diligent search done by a licensed insurance producer or the insured if the surplus lines insurance producer deems it sufficient. ~~Within sixty days after~~After the placing of any surplus lines insurance, the surplus lines insurance producer must complete and file with the commissioner a surplus lines affidavit confirming such a search has been done no later than March first for the quarter ending the preceding December thirty-first, June first for the quarter ending the preceding March thirty-first, September first for the quarter ending the preceding June thirtieth, and December first for the quarter ending the preceding September thirtieth of each year. The affidavit is not required if the insured is an exempt commercial purchaser as defined in North Dakota Century Code section 26.1-44-02.

History: Effective January 1, 1982; amended effective December 1, 2001; July 1, 2012; April 1, 2021.

General Authority: NDCC 26.1-44-09

Law Implemented: NDCC 26.1-44-02

CHAPTER 45-11-01

45-11-01-01. Required notice to policy owners.

A document that describes the general purposes and current limitations of the North Dakota life and health insurance guaranty association as required by subsections 2 and 3 of section 26.1-38.1-16 of the North Dakota Century Code must be in the form and contain the language printed in the notice shown in exhibit A.

History: Effective September 1, 1990; amended effective January 1, 2000; July 1, 2012.

General Authority: NDCC 26.1-38.1-16

Law Implemented: NDCC 26.1-38.1-16

(Exhibit A cannot be accurately reproduced for publication. Users should contact the Insurance Commissioner to obtain a correct copy)

EXHIBIT A

NOTICE OF PROTECTION PROVIDED BY THE

NORTH DAKOTA LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION

This notice provides a brief summary of the North Dakota Life and Health Insurance Guaranty Association ("the Association") and the protection it provides for policyholders. This safety net was created under North Dakota law, which determines who and what is covered and the amounts of coverage.

The Association was established to provide protection in the unlikely event that your life, annuity or health insurance company becomes financially unable to meet its obligations and is taken over by its Insurance Department. If this should happen, the Association will typically arrange to continue coverage and pay claims, in accordance with North Dakota law, with funding from assessments paid by other insurance companies. (For purposes of this notice, the terms "insurance company" and "insurer" include health maintenance organizations (HMOs).)

The protections provided by the Association are based on contract obligations up to the following amounts:

1. Life Insurance
 - a. \$300,000 in death benefits
 - b. \$100,000 in cash surrender or withdrawal values
2. Health Insurance
 - a. \$500,000 ~~in hospital, medical and surgical insurance benefits~~ for health benefit plans (see definition below)
 - b. \$300,000 in disability income insurance benefits
 - c. \$300,000 in long-term care insurance benefits
 - d. \$100,000 in other types of health insurance benefits
3. Annuities
 - a. \$250,000 in ~~withdrawal and cash values~~ the present value of annuity benefits, including net cash surrender and net cash withdrawal values

The maximum amount of protection for each individual, regardless of type of coverage is \$300,000; however, may be up to \$500,000 with regard to ~~hospital, medical, and surgical insurance benefits~~ health benefit plans.

"Health benefit plan" is defined in North Dakota Century Code Section 26.1-38.1-02(10) and generally includes hospital or medical expense policies, contracts or certificates, or HMO subscriber contracts that provide comprehensive forms of coverage for hospitalization or medical services, but excludes policies that provide coverages for limited benefits (such as dental-only or vision-only insurance), Medicare Supplement insurance, disability income insurance, and long-term care insurance (LTCI).

Benefits provided by a long-term care (LTC) rider to a life insurance policy of annuity contract shall be considered the same type of benefits as the base life insurance policy or annuity contract to which it relates.

Note: Certain policies and contracts may not be covered or fully covered. For example, coverage does not extend to any portion(s) of a policy or contract that the insurer does not guarantee, such as certain investment additions to the account value of a variable life insurance policy or a variable annuity contract. If coverage is available, it will be subject to substantial limitations. There are also various residency requirements and other limitations under North Dakota law. To learn more about the above protections, as well as protections relating to group contracts or retirement plans, please visit the Association's website at www.ndlifega.org or contact:

North Dakota Life and Health Insurance Guaranty Association North Dakota Insurance Department

P.O. Box 2422

600 East Boulevard Avenue, Dept. 401

Fargo, ND 58108

Bismarck, ND 58505

COMPLAINTS AND COMPANY FINANCIAL INFORMATION

A written complaint to allege a violation of any provision of the Life and Health Insurance Guaranty Association Act must be filed with the North Dakota Insurance Department, 600 East Boulevard Avenue, Dept. 401, Bismarck, North Dakota 58505; telephone (701) 328-2440. Financial information for an insurance company, if the information is not proprietary, is available at the same address and telephone number and on the Insurance Department website at www.nd.gov/ndins.

Insurance companies and agents are not allowed by North Dakota law to use the existence of the Association or its coverage to sell, solicit, or induce you to purchase any form of insurance or HMO coverage. When selecting an insurance company, you should not rely on Association coverage. If there is any inconsistency between this notice and North Dakota law, then North Dakota law will control.

CHAPTER 45-14-01

45-14-01-06. Annual privacy notice to customers required.

1. a. General rule. A licensee shall provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. Annually means at least once in any period of twelve consecutive months during which that relationship exists. A licensee may define the twelve-consecutive-month period, but the licensee shall apply it to the customer on a consistent basis.
 - b. Example. A licensee provides a notice annually if it defines the twelve-consecutive-month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice. For example, if a customer opens an account on any day of year one, the licensee shall provide an annual notice to that customer by December 31 of year two.
2. Exception to general rule. A licensee that provides nonpublic personal information to nonaffiliated third parties only in accordance with sections 45-14-01-14, 45-14-01-15, or 45-14-01-16 and has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent notice sent to consumers in accordance with this section or section 45-14-01-05 may not be required to provide an annual notice under this section until such time as the licensee fails to comply with any criteria described in this section.
3. a. Termination of customer relationship. A licensee is not required to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a continuing relationship.
 - b. Examples:
 - (1) A licensee no longer has a continuing relationship with an individual if the individual no longer is a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.
 - (2) A licensee no longer has a continuing relationship with an individual if the individual's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve consecutive months, other than to provide annual privacy notices, material required by law or regulation, or promotional materials.
 - (3) For the purposes of this rule, a licensee no longer has a continuing relationship with an individual if the individual's last-known address according to the licensee's records is deemed invalid. An address of record is deemed invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.
 - (4) A licensee no longer has a continuing relationship with a customer in the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

~~3.4.~~ Delivery. When a licensee is required by this section to deliver an annual privacy notice, the licensee shall deliver it according to section 45-14-01-10.

History: Effective December 1, 2001; amended effective April 1, 2021.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-02-27

TITLE 55.5
OCCUPATIONAL THERAPY PRACTICE, BOARD OF

APRIL 2021

ARTICLE 55.5-02
OCCUPATIONAL THERAPY PRACTICE LICENSURE

Chapter	
55.5-02-01	Initial Licensure and Renewals
55.5-02-02	Code of Ethics
55.5-02-03	Supervision
55.5-02-04	Grievances [Repealed]
55.5-02-05	Address, Name, <u>or</u> Supervision, or Educational Changes

CHAPTER 55.5-02-01
INITIAL LICENSURE AND RENEWALS

Section	
55.5-02-01-01	Licensure Application
55.5-02-01-01.1	Requirements for Licensure
<u>55.5-02-01-01.2</u>	<u>Military Spouse Initial Licensure</u>
55.5-02-01-02	Licensure Renewal
55.5-02-01-03	Fees
55.5-02-01-04	Continued Competency
55.5-02-01-05	Passing Score
55.5-02-01-06	Duration of Limited Permit

55.5-02-01-01. Licensure application.

An application for a license to practice occupational therapy must be made to the state board of occupational therapy on forms approved by the board available upon request. The application must contain such information as the board may reasonably require.

1. Each application for a license must be accompanied by:
 - a. A prescribed fee. The initial fee for licensure of an individual who meets the definition of military spouse set forth in North Dakota Century Code section 43-51-01 is waived.
 - b. Official verification of a passing score on an examination by a national occupational therapy certifying agency approved by the board and taken within eighteen months of the application.
2. All applications must be signed by the applicant and notarized.

3. Should any information included in the application change during the application process, the applicant must advise the board of those changes.
4. The board may request additional information or clarification of information provided on the application as it deems necessary, including verification of licensure in good standing from other jurisdictions.
5. The board may direct an applicant to appear before the board concerning the application.
6. The board may require a completed **self-assessment**jurisprudence examination of the applicant's or licensee's knowledge of the North Dakota laws, rules, and regulations of occupational therapy.

History: Effective April 1, 1988; amended effective November 1, 2000; February 1, 2004; April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-08

55.5-02-01-01.1. Requirements for licensure.

1. To be licensed as an occupational therapist an applicant must meet all of the following requirements:
 - a. The applicant has a degree from an occupational therapy program accredited by the accreditation council for occupational therapy education or a degree from a foreign occupational therapy program which the national board for certification in occupational therapy deems comparable.
 - b. The applicant has passed the occupational therapist registered certification examination administered by the national board for certification in occupational therapy.
 - c. Grounds for denial of the application under North Dakota Century Code section 43-40-16 do not exist.
 - d. The applicant has completed a **self-assessment**jurisprudence examination of the applicant's knowledge of North Dakota laws and rules.
2. To be licensed as an occupational therapy assistant an applicant must meet all of the following requirements:
 - a. The applicant has a degree from an occupational therapy program accredited by the accreditation council for occupational therapy education or a degree from a foreign occupational therapy program which the national board for certification in occupational therapy deems comparable.
 - b. The applicant has passed the certified occupational therapy assistant certification examination administered by the national board for certification in occupational therapy.
 - c. Grounds for denial of the application under North Dakota Century Code section 43-40-16 do not exist.
 - d. The applicant has completed a **self-assessment**jurisprudence examination of the applicant's knowledge of North Dakota laws and rules.

History: Effective July 1, 2014; amended effective April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-08, 43-40-11, 43-40-16

55.5-02-01-01.2. Military spouse initial licensure.

1. The board shall license individuals who meet the definition of military spouse set forth in North Dakota Century Code section 43-51-01 and who meet the following requirements:
 - a. Completes an application for licensure on a form approved by the board and available upon request.
 - b. The military spouse demonstrates competency in occupational therapy or as an occupational therapy assistant through methods or standards determined by the board which must include experience as an occupational therapist or assistant for at least two of the four years preceding application.
 - c. The board determines the issuance of the license will not substantially increase risk of harm to the public and no grounds exist to deny the license pursuant to North Dakota Century Code section 43-40-16.
2. The board may require the submission of any information it deems necessary to assist it in making its determination. The board may deny a license if the board determines the applicant does not meet the above requirements. If the board determines the applicant substantially meets the above requirements, the board may issue a provisional license. When issuing a provisional license, the board may explain the steps necessary for the applicant to fully meet the above requirements and be issued a nonprovisional license. A provisional license must be granted automatically by the board if the board does not deny or grant the license within thirty days of the application. The board may place conditions on any provisional license. Military spouses may not be assessed fees for the issuance of the license or provisional license under this section. A provisional license may be valid for up to two years. Provisional licenses expire if:
 - a. The board grants the application for licensure.
 - b. The board denies the application for licensure.
 - c. The provisional license expires.
 - d. The board revokes the provisional license to protect the public safety.
 - e. The applicant fails to meet any steps or conditions the board placed on the provisional license.

History: Effective April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-08, 43-40-11, 43-40-16, 43-51-01, 43-51-11.1

55.5-02-01-02. Licensure renewal.

Licenses are renewable biennially in even-numbered years.

1. **Licensure renewal for occupational therapist.**
 - a. Applications for renewal of occupational therapy licenses will be sent by the board on or before April first of the renewal year to all licenseholders. Renewal applications, continued competency documentation, and fees must be postmarked or delivered to the board's office on or before June first of the renewal year.
 - b. Occupational therapists are considered delinquent and a late charge shall be assessed if the renewal application, renewal license fee, and continued competency documentation

are not postmarked or delivered to the board's office on or before June first of the renewal year.

- c. Occupational therapy licenses will expire if the renewal application, continued competency documentation, and fees are not postmarked or delivered to the board's office by June thirtieth of the renewal year. To reinstate an expired license, an applicant must submit:
 - (1) A renewal application form;
 - (2) The renewal license fee;
 - (3) Continued competency documentation; and
 - (4) Late charges as assessed by the board.

No late renewal of an occupational therapy license may be granted more than three years after expiration, at which time the initial application process is required.

- d. The renewal of an occupational therapy license will be sent to the applicant by July first of the renewal year if the renewal request is complete and postmarked on or before June first of the renewal year.
- e. The board may require a completed ~~self-assessment~~ **jurisprudence examination** of the licensee's knowledge of the North Dakota laws, rules, and regulations of occupational therapy.
- f. The board may extend the renewal deadline or waive continued competency or late fees for an applicant providing proof of medical or other hardship rendering the applicant unable to meet the renewal deadline or complete continued competency.
- g. The board may require evidence of a supervision plan from those who have signatures on a substantiating supervision form of the occupational therapy assistant.

2. **Licensure renewal for occupational therapy assistant.**

- a. Application for renewal of an occupational therapy assistant license will be sent by the board on or before April first of the renewal year to all licenseholders. Renewal applications, continued competency documentation, and fees must be postmarked or delivered to the board's office on or before June first of the renewal year.
 - (1) An occupational therapy assistant supervised during the renewal period shall submit a renewal application, substantiation of supervision, a renewal license fee, and continued competency documentation.
 - (2) An occupational therapy assistant not practicing occupational therapy during the renewal period shall submit the renewal application, renewal license fee, and continued competency documentation. Upon resumption of occupational therapy practice, the occupational therapy assistant shall submit substantiation of supervision.
 - (3) The board may require evidence of a supervision plan.
- b. Delinquency and late charges.
 - (1) Occupational therapy assistants who are supervised at the time of renewal are considered delinquent and a late charge will be assessed if the renewal application, renewal licensure fee, continued competency documentation, and substantiation of

supervision are not submitted and postmarked or delivered to the board's office on or before June first of the renewal year.

- (2) Occupational therapy assistants who are not practicing occupational therapy at the time of renewal are considered delinquent and a late charge shall be assessed if the renewal application, renewal license fee, and continued competency are not submitted and postmarked or delivered to the board's office on or before June first of the renewal year.
- c. Licenses will expire if the renewal form, renewal license fee, continued competency documentation, and substantiation of supervision form are not postmarked or delivered to the board's office by June thirtieth of the renewal year. To reinstate an expired license, an applicant must submit:
- (1) A renewal application;
 - (2) The renewal license fee;
 - (3) Substantiation of supervision (if supervised);
 - (4) Continued competency documentation; and
 - (5) Late charges as assessed by the board.

No late renewal of a license may be granted more than three years after expiration, at which time the initial application process is required.

- d. The renewal of license will be sent to the applicant by July first of the renewal year if the renewal request is completed and postmarked on or before June first of the renewal year.
- e. The board may require a completed ~~self-assessment~~ [jurisprudence examination](#) of the licensee's knowledge of the North Dakota laws, rules, and regulations of occupational therapy.
- f. The board may extend the renewal deadline or waive continued competency or late fees for an applicant providing proof of medical or other hardship rendering the applicant unable to meet the renewal deadline or complete continued competency.

History: Effective April 1, 1988; amended effective November 1, 2000; February 1, 2004; April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-15

55.5-02-01-04. Continued competency.

Continued competency is the ongoing application and integration of knowledge, critical thinking, interpersonal, and psychomotor skills essential to safely and effectively deliver occupational therapy services within the context of a licensee's role and environment.

1. The board requires a minimum of twenty contact hours within the twenty-four months prior to the completed application for renewal of licensure. One contact hour is equal to one clock-hour.
2. Any licensee initially licensed between July first and December thirty-first of the odd-numbered year is required to complete ten contact hours for that licensing period with twenty contact hours for each subsequent licensing period.

3. Any licensee initially licensed on or after January first of the even-numbered year has no contact hour requirement until the following licensing period when the licensee is required to complete twenty contact hours for that licensing period and each subsequent licensing period.
4. When an applicant for renewal has not been licensed for up to three years, the applicant must submit evidence of a minimum of twenty contact hours of continued competency earned within the twenty-four months prior to the completed application for renewal of license.
5. Board-approved continued competency must meet all the following requirements:
 - a. Be directly related to or supportive of occupational therapy practice.
 - b. Enhance the licensee's professional development and competence.
 - c. Be specific to the licensee's current area of practice or an intended area of practice within the next year.
6. Continued competency includes:
 - a. Workshops, refresher courses, professional conferences, seminars, or education programs presented by organizations such as the American occupational therapy association, the national board for certification in occupational therapy, the North Dakota occupational therapy association, medical associations, or educational and national or state health organizations or approved by the North Dakota board of occupational therapy practice. There is no limit on hours that may be earned under this subdivision.
 - b. Presentations by licensee:
 - (1) Professional presentations, for example, inservices, workshops, or institutes. A presentation may be counted only one time. There is no limit on hours that may be earned under this paragraph.
 - (2) Community or service organization presentations. A presentation may be counted only one time. No more than eight hours may be earned under this paragraph.
 - c. Formal academic coursework.
 - (1) One or two credit hour class is equal to five contact hours.
 - (2) Three or four credit hour class is equal to ten contact hours.
 - d. Authoring professional publications. There is no limit on hours that may be earned under this subdivision. Publications include:
 - (1) Book chapter.

Primary or coauthor of chapter in practice area-related professional textbook. One chapter is equal to ten contact hours as evidenced by a copy of published chapter or letter from the editor.
 - (2) Article.

Primary or coauthor of practice area-related article in nonpeer-reviewed professional publication. One article is equal to five contact hours as evidenced by a copy of published article.

Primary or coauthor of practice area-related article in peer-reviewed professional publication. One article is equal to ten contact hours.

Primary or coauthor of practice area-related article in lay publication (e.g., community newspaper or newsletter). One article is equal to two contact hours.

(3) Multimedia.

Developing instructional materials - training manuals, multimedia, or software programs - that advance the professional skills of others (not for proprietary use; must not be part of one's primary role) as evidenced by program description (materials may be requested by ~~MBCOT~~the board). Five contact hours.

(4) Research activities.

Primary or coprimary investigator in extensive scholarly research activities or outcomes studies. Method of substantiation includes a copy of a research study that indicates certificant as primary or coprimary investigator. Ten contact hours.

Externally funding service or training projects associated with grants or postgraduate studies. Method of substantiation includes grant funding number or abstract or executive summary or completed report. Ten contact hours.

- e. Formal self-study course with a completion certificate. There is no limit on hours that may be earned under this subdivision.
 - f. Direct supervision of occupational therapy students performing level II fieldwork or experiential component in an occupational therapy program accredited by the accreditation council for occupational therapy education. The licensee must be the primary supervisor. The supervision may not be the primary responsibility of the licensee's employment. The licensee must submit to the board a record of the students supervised and the dates and times of supervision and a certification of the supervision from the occupational therapy program. No more than twelve contact hours in a licensing period may be earned under this subdivision.
 - g. Professional leadership. This category encompasses leadership responsibilities or committee involvement in professional organizations, including officer or committee chairperson in an occupational therapy or related practice area of a professional organization or item writing for a professional certification examination. No more than six hours may be earned under this subdivision.
 - h. Employer-based continued competency education program with measurable learning outcomes at least one hour in length. No more than six hours may be earned under this subdivision.
 - i. Distance learning activities.
7. Licensees and continuing education providers may submit continuing education courses to the board for preapproval.
8. A copy of a continuing education certificate must be submitted for board approval. The continuing education certificate must contain the person's name, dates of attendance, title of the course, and contact hours. If the program was not formally granted contact hours, the licensee must submit written verification of attendance signed by a supervisor or program coordinator which includes the name of the participant, dates of attendance, title of the course, and hours of the course, not including breaks and lunch.
9. Failure to meet the continuing competency requirements as outlined in this section will result in denial of an application for renewal and may subject a licensee to disciplinary action. The board may waive or allow exceptions due to extraordinary circumstances.

10. Continued competency hours may only be used once to satisfy the requirements of this section.

History: Effective April 1, 1988; amended effective November 1, 2000; February 1, 2004; April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-15

CHAPTER 55.5-02-02

55.5-02-02-01. Code of ethics.

The board has adopted and incorporated into this article by reference the principles of occupational therapy code of ethics and ethic standards (20102015) of the American occupational therapy association ~~adopted by the representative assembly in 2010.~~

History: Effective April 1, 1988; amended effective November 1, 2000; February 1, 2004; July 1, 2011; April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-16

CHAPTER 55.5-02-03

55.5-02-03-01.2. Supervision of occupational therapy assistants.

An occupational therapy assistant must be supervised by an occupational therapist.

1. An occupational therapist may not supervise more than three occupational therapy assistants licensed or limited permitholders at the same time.
2. An occupational therapy assistant must be directly supervised as needed by evidence of clinical practice, and indirectly supervised as is necessary. In determining the methods, frequency, and content of supervision, an occupational therapist shall consider all of the following:
 - a. Complexity of clients' needs.
 - b. Number and diversity of clients.
 - c. Skills of the occupational therapy assistant.
 - d. Type of practice setting.
 - e. Changes in practice settings.
 - f. Requirements of the practice setting.
 - g. Other regulatory requirements.
3. An occupational therapist and a supervised occupational therapy assistant shall make a written supervision plan, including all of the following:
 - a. Documentation that the occupational therapy assistant is competent to perform the services provided.
 - b. Documentation of the frequency, methods, and content of supervision.
 - c. Documentation of periodic evaluation of the occupational therapy assistant's competence and the supervision necessary.
4. An occupational therapist shall file with the board a substantiation of supervision form for each occupational therapy assistant supervised before the occupational therapy assistant may practice. If there is a change in supervisors, the new supervisor shall immediately file a new substantiation of supervision form. The form is available from the board.
5. An occupational therapist, who is unavailable to supervise an occupational therapy assistant for more than one day, shall arrange to have supervision available by another occupational therapist as necessary.

History: Effective April 1, 2014; amended effective April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01

55.5-02-03-02. Delegation of tasks to occupational therapy aides.

1. The primary function of occupational therapy aides functioning in an occupational therapy setting is to perform designed routine tasks related to the operation of an occupational therapy service. An occupational therapist or an occupational therapy assistant may delegate to occupational therapy aides only specific tasks which are neither evaluative, ~~assessive,~~ task

selective, nor recommending in nature, and only after ensuring that the occupational therapy aides are appropriately trained and have supportive documentation for the performance of the tasks. Such tasks may include:

- a. Routine department maintenance.
 - b. Transportation of patients and clients.
 - c. Preparation or setting up of treatment equipment and work area.
 - d. Taking care of patient's and client's personal needs during treatments.
 - e. Assisting the occupational therapist or occupational therapy assistant in the construction of adaptive equipment.
 - f. Clerical, secretarial duties.
2. The occupational therapist or occupational therapy assistant may not delegate to occupational therapy aides:
- a. Performance of occupational therapy evaluative procedures.
 - b. Initiation, planning, adjustment, modification, or performance of occupational therapy treatment procedures.
 - c. Making occupational therapy entries directly in patient's or client's official records.
 - d. Acting on behalf of the occupational therapist or occupational therapy assistant in any matter related to occupational therapy intervention which requires decisionmaking.

History: Effective November 1, 2000; amended effective April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01, 43-40-03.1

CHAPTER 55.5-02-05 INFORMATION CHANGES

Section

55.5-02-05-01 Address, Name, or Supervision, ~~or Educational~~ Changes

55.5-02-05-01. Address, name, or supervision, ~~or educational~~ changes.

Any licensee must report a change of address, name, or supervision, ~~or educational degree~~ to the board. Proof of any changes and substantiation of supervision status must also be submitted by both the occupational therapist and the occupational therapy assistant.

History: Effective April 1, 1988; amended effective November 1, 2000; April 1, 2021.

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-05

CHAPTER 55.5-03-01

55.5-03-01-03. Specific occupational therapy services.

The "Occupational Therapy Practice Framework: Domain and Process" (4th edition 2020) describes the practice of occupational therapy. The practice of occupational therapy means the therapeutic use of occupations, including everyday life activities with individuals, groups, populations, or organizations to support participation, performance, and function in roles and situations in home, school, workplace, community, and other settings. Occupational therapy services are provided for habilitation, rehabilitation, and the promotion of health and wellness, including methods delivered via telerehabilitation to those who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. Occupational therapy addresses the physical, cognitive, psychosocial, sensory-perceptual, and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being, and quality of life.

History: Effective November 1, 1992; amended effective April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01, 43-40-05

55.5-03-01-04. Occupational therapy evaluation.

Evaluation of factors affecting activities of daily living (ADL), instrumental activities of daily living (IADL), [health maintenance](#), rest and sleep, education, work, play, leisure, and social participation, includes:

1. Client factors, including body functions (~~such as mental functions, sensory functions, neuromusculoskeletal, sensory-perceptual, visual, mental, cognitive, and plain factors~~ [immunological, and respiratory system functions, voice and speech functions, skin and related structure functions](#)) and body structures (~~such as cardiovascular, digestive, nervous, integumentary, genitourinary systems, and structures related to movement~~), values, beliefs, and spirituality.
2. ~~Habits~~ [Performance patterns, including habits](#), routines, roles, [and rituals](#), ~~and behavior patterns~~.
3. ~~Physical~~ [Context is the environmental and personal factors specific to each client \(person, group, population\) that influences engagement and participation in occupations. Examples include physical](#) and social environments, cultural, personal, temporal, and virtual contexts and activity demands ~~that affect performance~~.
4. ~~Performance skills, including motor and praxis, sensory-perceptual, emotional regulation, cognitive, communication and social skills, process skills, and social interaction skills~~.

History: Effective November 1, 1992; amended effective November 1, 2000; April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01, 43-40-05

55.5-03-01-05. Occupational therapy intervention.

1. Methods or approaches selected to direct the process of interventions include:
 - a. Establishment, remediation, or restoration of a skill or ability that has not yet developed, is impaired, or in decline.

- b. Compensation, modification, or adaptation of activity or environment to enhance performance or to prevent injuries, disorders, or other conditions.
 - c. ~~Retention~~Maintenance, retention, and enhancement of skills or abilities without which performance in everyday life activities would decline.
 - d. ~~Promotion~~Creation, promotion of health and wellness, including the use of self-management strategies, to enable or enhance performance in everyday life activities.
 - e. Prevention of barriers to performance and participation, including injury and disability prevention.
2. Interventions and procedures to promote or enhance safety and performance in activities of daily living (ADL), instrumental activities of daily living (IADL), health maintenance, rest and sleep, education, work, play, leisure, and social participation, including:
- a. Therapeutic use of occupations, exercises, and activities.
 - b. Training in self-care, self-management, health management and maintenance, home management, community or work reintegration, and school activities and work performance.
 - c. Development, remediation, or compensation of neuromusculoskeletal, sensory-perceptual, visual, mental, and cognitive functions, pain tolerance and management, and behavioral skills.
 - d. Therapeutic use of self, including one's personality, insights, perceptions, and judgements, as part of the therapeutic process.
 - e. Education and training of individuals, including family members, caregivers, groups, populations, and others.
 - f. Care coordination, case management, and transition services.
 - g. Consultative services to groups, programs, organizations, or communities.
 - h. Modification of home, work, school, or community environments and adaptation of processes, including the application of ergonomic principles.
 - i. Assessment, design, fabrication, application, fitting, and training in seating and positioning, assistive technology, adaptive devices, and orthotic devices, and training in the use of prosthetic devices.
 - j. Assessment, recommendations, and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices.
 - k. Low vision rehabilitation.
 - l. Driver rehabilitation and community mobility.
 - m. Management of feeding, eating, and swallowing to enable eating and feeding performance.
 - n. Application of physical agent modalities, and use of a range of specific therapeutic procedures (such as wound care management, interventions to enhance sensory-perceptual and cognitive processing, and manual therapy) to enhance performance skills.

An occupational therapist may purchase, store, and administer topical medications, including aerosol medications, as part of the practice of occupational therapy, but shall not dispense or sell any of the medications to patients. An occupational therapist shall comply with any protocols of the United States pharmacopoeia for storage of medications.

A valid order or prescription for medication classified as a legend drug is needed before administration to a patient. Occupational therapy facilities must work with a pharmacist to assist with proper protocols for storage of medications. A record of dosage, for, quantity, and strength of medication administered to each patient is required in the medical record.

- o. Facilitating the occupational performance of groups, populations, or organizations through the modification of environments and the adaptation of processes.

p. [Advocacy in promoting and empowering clients to seek and obtain resources.](#)

History: Effective November 1, 1992; amended effective November 1, 2000; April 1, 2014; [April 1, 2021](#).

General Authority: NDCC 43-40-05

Law Implemented: NDCC 43-40-01, 43-40-05

TITLE 67
PUBLIC INSTRUCTION, SUPERINTENDENT OF

APRIL 2021

CHAPTER 67-01-01

67-01-01-01.1. Organization of the department of public instruction.

1. **History.** From 1864 to statehood, North Dakota was served by a territorial school board and a superintendent. In 1889, the constitution of North Dakota provided for a state superintendent of public instruction. William Mitchell was the first state superintendent. The 1890 legislative assembly enacted a provision that the superintendent of public instruction must hold a teacher's certificate of highest grade issued in the state. Statutes were also enacted at that time to provide that the state superintendent of public instruction shall have general supervision of the common and secondary schools of the state and shall be an ex officio member of the board of university and school lands. Effective January of 1991, authority for the supervision of the state schools for the deaf and blind and the state library was transferred to the office of the superintendent.
2. **Superintendent.** The superintendent is an elected, constitutional officer who supervises the kindergarten through grade twelve education system in North Dakota. The superintendent must be a qualified elector of the state, who is at least twenty-five years old, ~~who holds a teacher's certificate at the highest grade issued by the state.~~ The superintendent is charged with responsibility for the general supervision of elementary and secondary schools and to assure that North Dakota public and nonpublic elementary, middle-junior high, and high schools comply with statutory minimum requirements. The superintendent administers the state accreditation and education improvement processes; manages the issuance of credentials to administrators, driver education instructors, counselors, library media personnel, and title I and special education personnel; administers summer school programs at both the elementary and high school levels; administers the statewide standardized achievement testing program; adopts and administers rules relevant to the accreditation process; and administers the school food programs and the federally funded technology grant program and is responsible for the administration and implementation of the federal Elementary and Secondary Education Act, ~~also known as "No Child Left Behind"~~. In 1989 the legislative assembly provided that the office of the superintendent of public instruction was to be known as the department of public instruction.
3. **Administrative units.**
 - a. **Fiscal management.** This unit is responsible for ~~the preparation and submission of the biennial budget, department payroll, and the internal accounting system. Responsibilities include the preparation of financial statements and various fiscal reports, maintenance of the department budget, grant and contract files, process and issuance of all payments, receipt of all revenue, and coordination of school districts and other sub-recipient audits. The director coordinates agency risk management activities~~maintaining the department's

budget, accounting, preparation of financial statements and reports, maintaining grants and contracts, processing of payments and revenue, and payroll operations. This unit also interprets and implements state and federal program statutes, state and federal regulations, and policy directives. This unit is also responsible for activities in the area of school district finance. This unit supervises the distribution of state aid and assists with the implementation of the uniform accounting system. The unit provides technical assistance to schools and school districts regarding annexation, reorganization, and dissolution procedures; provides support and technical assistance for open enrollment; approves school construction; and manages school construction loan programs.

- b. Human resources management and office services. This unit performs personnel services for the department ~~and supervises the administrative areas that support internal departmental functions, including printing, mail distribution, purchasing, and business communications, including recruitment, salary administration, performance management, training, and policy development.~~
- c. Child nutrition and food distribution. This unit administers United States department of agriculture's child nutrition programs, nutrition education and training programs, and commodity assistance for schools, institutions, and low-income individuals.
- d. Management information systems. This unit ~~performs information technology and data management services to assist state and local education agencies, school personnel, and legislators. This includes administration and support of the local area network, hardware and software, training for users, and coordination with the North Dakota information technology department. This unit also provides application development and consulting services~~ is responsible for collecting data from all North Dakota schools for state and federal reporting. This unit also is responsible for oversight of the external and internal websites. In addition, this unit provides technical assistance and support for department staff and its partners.
- e. School approval and ~~accreditation opportunity.~~ This unit assists kindergarten through grade twelve schools in providing quality education; ~~administers the accreditation program; and reviews public and nonpublic schools for statutory compliance; administers the statewide standardized achievement test program; and provides technical assistance for dual credit.~~ The unit also administers the issuance of credentials for administrators, counselors, ~~and library media personnel, and driver education personnel.~~ This unit administers the twenty-first century community learning centers grant, a competitive grant that provides opportunities for student academic enrichment in an afterschool or out of school time setting. This unit also is responsible for administrative rules development and updates. In addition, this unit processes and approves student applications for the North Dakota academic and career and technical education scholarship program.
- f. ~~School finance and organization. This unit is responsible for several major areas of activity. In the area of school district finance, this unit supervises the distribution of state aid and assists with the implementation of the uniform accounting system. In the area of school organization, the unit provides technical assistance to schools and school districts regarding annexation, reorganization, and dissolution procedures; provides support and technical assistance for open enrollment; supervises the school bus transportation program; approves school construction; and manages school construction loan programs. This unit also provides administrative support to the state board for public school education and collects teacher compensation data.~~

- ~~g. Adult education and literacy. This unit provides funding and technical assistance to local programs and monitors progress of each funded project. This unit is also responsible for the administration of the general education development testing program.~~
- ~~h. Compensatory education~~Education equity and support. This unit provides financial and technical assistance to state and local educational agencies to meet the needs of educationally deprived, at-risk children. This office oversees title I, homeless education program, neglected and delinquent education program, and title IV. The ~~goal~~purpose of title I is to provide instructional services and activities to meet the needs of disadvantaged children identified as failing, or most at risk of failing, the state's challenging performance~~content~~ standards. ~~This includes programs for migrant education and education of homeless children. The even start intergenerational literacy program, reading first, and the comprehensive school reform are also coordinated through this unit.~~The purpose of title IV is to provide student support and academic enrichment, with the goal of creating safe, healthy, and well-rounded children. Multitiered systems of support, foster care programs, safe and healthy portfolios, etc. are coordinated through this office. This office also is responsible for the overall administration of school improvement grants to the lowest performing schools in the state, those identified as targeted support improvement, and comprehensive school improvement.
- ~~i. Education improvement. This unit is responsible for the overall administration of the department's education improvement efforts, the development of state content standards and assessments, administration of title III English language acquisition programs and immigration, and offers statewide professional development opportunities (title II) and innovative programs (title V).~~
- ~~j.~~g. Special education. This unit prescribes state and federal rules and regulations for special education and assists school districts and special education units in the development and administration of special education programs.
- ~~k. Special projects. This unit administers the twenty-first century community learning centers grant, a competitive grant that provides opportunities for student academic enrichment in an afterschool or out of school time setting. Additionally, this unit assists with administrative rules development and special projects that arise.~~
- ~~l. School health programs. This unit administers the title IV part A safe and drug free schools program and coordinates health education including AIDS prevention.~~
- ~~m. Education technology. This unit allocates federal title II D technology grants funds to school districts to implement and integrate technology with school curricula in core academic skills. Allocation of grant funds is based on a competitive application process.~~
- h. Academic support. This unit encompasses multiple facets of the division of student support and innovation providing students, and the schools that serve those students, with student-centered resources as well as professional learning and development opportunities for educators. This unit closely collaborates with other units throughout the division and department, and several education and social service agencies across North Dakota. Key initiatives the unit supports span across early childhood education programs through grade twelve and include projects supporting the transition to higher education and career. These projects include leveraging the senior year; advanced coursework opportunities, including advanced placement, dual credit, and early entry; college-ready English and math developmental coursework; multiple professional learning and development opportunities; early childhood education programs through grade twelve standards development and implementation support; North Dakota comprehensive literacy program; dyslexia pilot; music education grants; leadership scholarships and opportunities; civics education supports; and the federal title II program.

- i. Assessment. This unit provides professional services and guidelines to administer the North Dakota state assessment, North Dakota alternate assessment, ACCESS for English language learners, and the ACT aspire in accordance with state and federal law. This unit also coordinates the national assessment of education progress in accordance with federal laws through the United States department of education. In providing the mentioned assessments, the office also plays a role in school accountability and measuring student learning. The adult education program, including GED testing program, provides funding and technical assistance to regional adult learning centers and monitors progress of each funded location and is also a part of this unit.
- j. Early learning. This unit is responsible for the department's efforts on early childhood education programs, including early head start/head start and early childhood special education IDEA part b.
- k. Indian and multicultural education. This unit administers the title III and migrant summer program funding and assists school districts in the development and administration of English language learner, migrant, and Indian education programs.
- l. Outreach and engagement. This unit disseminates information about the department's initiatives and operations to families, students, educators, and other education stakeholders, as well as to legislators, policymakers, and the news media using a number of methods, including traditional and social media channels.

4. Divisions.

- a. North Dakota state library. The state library was established as the public library commission in 1907 and occupied a single room in the state capitol. In 1909, the library's name was changed to the state library commission. The commission consisted of three members - the superintendent of public instruction, the president of the North Dakota library association, and a member appointed by the governor. In 1927 the library was removed from the board of regents; it came under the auspices of the director of institutions until administrative authority was transferred to the superintendent of public instruction in 1989, effective January 1, 1991. The state library commission occupied the liberty memorial building on the capitol grounds from 1936-70 and later moved to the Randal building north of Bismarck. The agency's name was changed to the North Dakota state library in 1979 and in 1982 the state library returned to the liberty memorial building, its present location.

Today the superintendent appoints the state librarian. The state library specializes in state-of-the-art information services to state agencies and the general public and assumes a leadership role in promoting the development of library service for all North Dakota residents. Major goals of the state library are to provide library services to state government officials and employees, provide library services to patrons without direct local library services and to persons who are blind and physically disabled, and to provide libraries with consulting services in areas of collection, development, and evaluation. The state library coordinates the sharing of resources, provides continuing educational opportunities for librarians and public trustees, and maintains the state document depository program.

- b. North Dakota vision services - school for the blind. The school for the blind was created by the constitution in 1889, established by the legislative assembly in 1895, and opened in Bathgate, North Dakota, in 1908. In 1952, a constitutional amendment authorized selection of another location. An initiated measure adopted in 1958 provided funds for a new school located near the university of North Dakota in Grand Forks. The new facilities, administered by the director of institutions, opened in September of 1961. Authority for the supervision of the school was transferred to the department of public

instruction in 1989, effective January 1, 1991. The 2001 legislative assembly changed its name to North Dakota vision services - school for the blind and it now functions as a statewide, comprehensive resource center and works cooperatively with related agencies in providing a full range of services to all persons who are blind or visually impaired, including those with multidisabilities. The superintendent of public instruction appoints the school superintendent. Land grant income and legislative appropriation support the school.

- c. North Dakota school for the deaf. The school for the deaf, created by the constitution in 1889 and established by the first legislative assembly in 1890, opened in 1890 and was located in Devils Lake, North Dakota. The school for the deaf was administered by the director of institutions until January 1, 1991, when supervision was transferred to the department of public instruction. The school provides a free educational program for deaf children between the ages of birth and twenty-one. In addition to the school's traditional role as an educational institution, North Dakota school for the deaf also has become a resource center on deafness, serving the needs of hearing-impaired citizens statewide. The school is supported by land grant income and legislative appropriation.

History: Amended effective January 1, 1982; September 1, 1983; November 1, 1985; January 1, 1986; May 1, 1988; September 1, 1988; December 1, 2003; [April 1, 2021](#).

General Authority: NDCC [15.1-37](#), 28-32-02(2)

Law Implemented: NDCC [15.1-37](#), 28-32-02(2)

67-01-01-02. Inquiries and contact information.

The public may obtain information or make submissions or requests by contacting the department of public instruction.

1. General inquiries regarding the department of public instruction may be addressed to the superintendent of public instruction at:

North Dakota Department of Public Instruction
600 East Boulevard Avenue, Dept. 201
Floors 9, 10, and 11
Bismarck, ND 58505-0440

Telephone inquiries:

Local: (701) 328-2260
Fax: (701) ~~328-2461~~[328-4770](#)

Inquiries regarding the functions of a specific division may be addressed to the director of that division.

2. Mailing address for the North Dakota Vision Services - School for the Blind:

North Dakota Vision Services - School for the Blind
500 Stanford Road
Grand Forks, ND 58203-2799

Telephone inquiries:

Local: (701) 795-2700
Toll free: (800) 421-1181
Fax: (701) 795-2727

3. Mailing address for the North Dakota School for the Deaf:

North Dakota School for the Deaf
1401 College Drive North
Devils Lake, ND 58301

Telephone inquiries:

Local: (701) ~~662-9000~~665-4400
Fax: (701) ~~662-9009~~665-4409

4. Mailing address for the North Dakota State Library:

North Dakota State Library
604 East Boulevard Avenue, Dept. 250
Bismarck, ND 58505-0800

Telephone inquiries:

Local: (701) ~~328-2492~~328-4622
Fax: (701) 328-2040
In state toll free: (800) 472-2104

5. The Department of Public Instruction's web page address is *<http://www.dpi.state.nd.us/>*.

History: Effective December 1, 2003; amended effective April 1, 2021.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1

CHAPTER 67-01-02

67-01-02-01. Definitions.

As used in this title, unless the context otherwise requires:

1. "Department" means the North Dakota department of public instruction.
2. "Superintendent" means the superintendent of public instruction.
3. "Title I" means title I of the Elementary and Secondary Education Act, ~~as amended by the No Child Left Behind Act of 2001, Pub. L. 107-110, 20 USC 6301 et seq. (2002).~~

History: Effective October 1, 2006; amended effective April 1, 2021.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 28-32-02

CHAPTER 67-11-04

67-11-04-04. Types of credentials.

1. The Beginning on April 1, 2021, the plan of study option to qualify for a library media credential is:
 - a. Issued to an individual licensed to teach or approved to teach by the North Dakota education standards and practices board;
 - b. Issued to an individual who is employed as a librarian in a school ~~that is unable to employ a credentialed librarian~~ and who does not meet the qualifications for an LM01, LM02, or LM03 credential, ~~as required by the total number of students served~~;
 - c. Issued to an individual who ~~has completed a minimum of six semester hours of undergraduate or graduate credits in library media from subsection 1 of section 67-11-04-05~~ is enrolled in a state-approved course of study in school library preparation and has obtained a letter from a supervisor recommending the individual for a school library plan of study credential; and
 - d. Issued to an individual who submits a written plan of study for approval to become a credentialed librarian and who annually submits college transcripts showing a minimum of six semester hours of undergraduate or graduate credits in library media until the licensed teacher qualifies for the required credential.
2. The Beginning on April 1, 2021, the librarian credential (LM03) is:
 - a. Issued to coincide with the period for which the individual is licensed to teach or approved to teach by the North Dakota education standards and practices board; however, an individual holding a lifetime educator's professional license must renew the credential every five years;
 - b. Issued to an individual who has completed a minimum of fifteen semester hours of undergraduate or graduate credits in library media, of which at least one course must come from subsection 1a subdivision of each of subsections 1 through 5 of section 67-11-04-05.
3. The Beginning on April 1, 2021, the library media specialist credential (LM02) is:
 - a. Issued to coincide with the period for which the individual is licensed to teach or approved to teach by the North Dakota education standards and practices board; however, an individual holding a lifetime educator's professional license must renew the credential every five years; and
 - b. Issued to an individual who has completed a minimum of ~~fifteen~~ twenty-four semester hours of undergraduate or graduate credits in library media, of which at least one course must come from subsection 1a subdivision of each of subsections 1 through 5 of section 67-11-04-05 ~~and nine semester hours of undergraduate or graduate credits in library media from subsection 2 of section 67-11-04-05.~~
4. The Beginning on April 1, 2021, the library media director credential (LM01) is:
 - a. Issued to coincide with the period for which the individual is licensed to teach or approved to teach by the North Dakota education standards and practices board; however, an individual holding a lifetime educator's professional license must renew the credential every five years;

b. Issued to an individual who ~~holds a master's degree in library science, media education, another field of education, or education administration from a state-approved program;~~ and

~~c. Issued to an individual who has completed a minimum of fifteen semester hours of undergraduate or graduate credits in library media from subsection 1 of section 67-11-04-05, nine semester hours of undergraduate or graduate credits in library media from subsection 2 of section 67-11-04-05, and six semester hours of graduate credits in library or education coursework under subsection 3 of section 67-11-04-05;~~

(1) Holds a master's degree in library media and information science; or

(2) Holds a master's degree certifiable by the North Dakota education standards and practices board and meet all requirements of subsection 3 of this section.

5. If a credential issued under this chapter will expire within twelve months of issuance because the educator's professional license will expire within twelve months of the issuance of the credential, the credential will be issued for a period coinciding with the period of licensure of the succeeding educator's professional license.

History: Effective February 1, 2000; amended effective May 16, 2000; November 1, 2002; October 1, 2006; January 1, 2010; April 1, 2021.

General Authority: NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16, 28-32-02

Law Implemented: NDCC 15.1-02-04, 15.1-02-11, 15.1-02-16

67-11-04-05. Credential standards.

~~1. Coursework required for all library media credentials and the plan of study option identified in section 67-11-04-04 must be taken from a state-approved library media program and must include at least fifteen semester hours of undergraduate or graduate credits in the following areas. The standards for library media credentials are:~~

~~a. Introduction to the role of the librarian in the school library;~~

~~b. Reference;~~

~~c. Selection of materials and collection development;~~

~~d. Classification and cataloging of library materials; and~~

~~e. Library administration.~~

~~A minimum of two semester hours must be taken in each area identified in subdivisions a through e.~~

~~2. Coursework required for the LM01 and LM02 credentials identified in section 67-11-04-04 must be taken from a state-approved library media program and must include at least nine semester hours of undergraduate or graduate credits in the following areas:~~

~~a. Conducting research following state and national library standards;~~

~~b. Current issues in school librarianship; and~~

~~c. A study of children's literature or young adult literature or reading methods which may be accomplished through a class taken in either a state-approved library or state-approved education program.~~

~~A minimum of two semester hours must be taken in each area identified in subdivisions a through c.~~

~~3. Coursework required for the LM01 credential identified in section 67-11-04-04 must be taken from a state-approved library or state-approved education program and must include at least six semester hours of graduate credits from two or more courses in the following areas:~~

- ~~a. Personnel supervision;~~
- ~~b. Policy and educational finance;~~
- ~~c. Staff and program evaluation; or~~
- ~~d. Curriculum, instruction, and learning theory.~~

1. The learner and learning, which includes:

- a. Learner development;
- b. Learner diversity;
- c. Learning differences; and
- d. Learning environments.

2. Planning for instruction, which includes:

- a. Instructional strategies;
- b. Integrating ethical use of information into instructional practice; and
- c. Assessment.

3. Knowledge of application and content, which includes:

- a. Reading engagement;
- b. Information literacy; and
- c. Technology-enabled learning.

4. Organization and access, which includes:

- a. Access;
- b. Information resources; and
- c. Evidence-based decisionmaking.

5. Leadership, advocacy, and professional responsibility, which includes:

- a. Professional learning;
- b. Leadership and collaboration;
- c. Advocacy; and
- d. Ethical practice.

History: Effective February 1, 2000; amended effective May 16, 2000; October 1, 2006; January 1, 2010; [April 1, 2021](#).

General Authority: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#), 28-32-02

Law Implemented: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#)

67-11-04-06. Application process.

An applicant must submit the following:

1. A completed [online](#) application, ~~SFN 14236, available on the department of public instruction's web site~~; and
2. A copy of college transcripts showing coursework for the desired credential.

History: Effective February 1, 2000; amended effective May 16, 2000; November 1, 2002; October 1, 2006; [April 1, 2021](#).

General Authority: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#), 28-32-02

Law Implemented: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#)

67-11-04-07. Renewal requirements.

All library media credentials are renewed by submitting the following:

1. A completed [online](#) application, ~~SFN 14236, available on the department of public instruction's web site~~; and
2. A copy of college transcripts showing completion of two semester hours of ~~graduate~~ [graduate-level continuing education](#) credit in library media and information science, [computer science](#), [cybersecurity](#), or other related content.

History: Effective February 1, 2000; amended effective May 16, 2000; November 1, 2002; October 1, 2006; [April 1, 2021](#).

General Authority: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#), 28-32-02

Law Implemented: NDCC 15.1-02-04, 15.1-02-11, [15.1-02-16](#)

CHAPTER 67-12-01

67-12-01-01. Minimum standards required.

Except as specifically provided in this chapter, all public schoolbuses operated in North Dakota must meet the minimum body and chassis standards established or referenced in this chapter. ~~Through June 30, 2008, a school may use a noncomplying van to transport school children to and from school and school-related activities if:~~

- ~~1. The van was purchased by the school district and placed into service for the purpose of transporting school children to and from school and school-related activities prior to March 1, 2003;~~
- ~~2. The van is equipped with a seatbelt for the driver and each passenger in the van; and~~
- ~~3. The van is driven in compliance with rules of the road applicable to schoolbuses.~~ A school may use a multifunction school activity bus as defined by the national highway traffic safety administration ruling 34-03 for purposes that do not include transportation between home and school for students from kindergarten through grade twelve.

History: Effective May 1, 1999; amended effective July 1, 2003; December 1, 2003; April 1, 2021.

General Authority: NDCC 28-32-02, 39-21-27, 39-21-27.1

Law Implemented: NDCC 39-21-27, 39-21-27.1

67-12-01-02. National standards adopted.

Except as provided in section 67-12-01-03, the body and chassis standards identified in the federal motor vehicle safety standards for schoolbuses, 49 CFR part 571 [as revised through ~~July 1, 2005~~October 1, 2011], are hereby adopted for schoolbuses in this state.

History: Effective May 1, 1999; amended effective July 1, 2003; July 1, 2006; April 1, 2021.

General Authority: NDCC 28-32-02, 39-21-27, 39-21-27.1

Law Implemented: NDCC 39-21-27, 39-21-27.1

67-12-01-03. Additional standards.

1. Whenever body and chassis standards identified in the ~~2005~~2015 revised edition of the national minimum standards for schoolbus construction, as developed by the ~~fourteenth~~sixteenth national conference on school transportation, ~~May 15-19, 2005~~May 17-20, 2015, exceed or are in addition to the federal motor vehicle safety standards for schoolbuses, those national minimum standards for schoolbus construction apply and are hereby adopted by reference.
2. All schoolbuses purchased after September 1, 2006, may not include interior overhead racks unless the rack:
 - a. Meets head requirements of FMVSS no. 222 effective on July 1, 2002, when applicable;
 - b. Has a maximum rated capacity displayed for each compartment;
 - c. Is completely enclosed and equipped with latching doors which must be sufficient to withstand a force of five times the maximum rated capacity of the compartment;
 - d. Has all corners and edges rounded with a minimum radius of one inch [25.4 millimeters] or padded equivalent to door header padding;
 - e. Is attached to the bus sufficiently to withstand a force equal to twenty times the maximum rated capacity of the compartment; and

f. Has no protrusions greater than one-fourth of one inch [6.35 millimeters].

History: Effective May 1, 1999; amended effective July 1, 2003; July 1, 2006; [April 1, 2021](#).

General Authority: NDCC 28-32-02, 39-21-27, 39-21-27.1

Law Implemented: NDCC 39-21-27, 39-21-27.1

CHAPTER 67-23-05

67-23-05-01. Dispute resolution options under part B of IDEA.

Federal law sets out the procedures for the following special education dispute resolution options: mediation, state complaint investigation, and due process. Specific information on these options may be found in the Individuals With Disabilities Education Improvement Act of 2004, Public Law 108-446 [118 Stat. 2647], 20 U.S.C. 1400 to 1419; at federal regulations implementing IDEA at 34 CFR part 300; and at the department's web site at www.dpi.state.nd.us/speced/resource/conflict/index.shtm <https://www.nd.gov/dpi/education-programs/special-education>.

History: Effective January 1, 2008; [amended effective April 1, 2021](#).

General Authority: NDCC 15.1-32-09

Law Implemented: NDCC 15.1-32-02, 15.1-32-08, 15.1-32-12; 20 USC 1415

TITLE 75.5
SOCIAL WORK EXAMINERS, BOARD OF

APRIL 2021

CHAPTER 75.5-02-01

75.5-02-01-03. Definitions.

As used in this title, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of social work examiners.
2. "Client" means the individual, couple, family, group, organization, or community that seeks or receives social work services from an individual licensed social worker or an organization, regardless of whether the licensed social worker or organization bills or accepts or requests the payment of fees for the services.
3. "Clinical social work practice" means the professional application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, and groups. The practice of clinical social work requires specialized clinical knowledge and advanced clinical skills in the area of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorder, conditions, and addictions. Treatment methods include the provision of individual, marital, couple, family, and group psychotherapy.
4. "Clinical supervision for licensure" means an interactional professional relationship between a clinical supervisor which meets the standards adopted by the board and a social worker and which provides evaluation and direction over the supervisee's practice of clinical social work in preparation for the social worker's licensure as a licensed clinical social worker, in accordance with the requirements adopted by the board, and promotes development of the social worker's knowledge, skills, and abilities to engage in the practice of clinical social work in an ethical and competent manner.
5. "Consultation" means an advisory professional relationship between a social worker and an individual with particular expertise, with the social worker legally and ethically maintaining responsibility for all judgments and decisions regarding service to the client.
6. "Counseling" means a method used by a social worker to assist an individual, couple, family, or group in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.
7. "Electronic social work services" means the use of a computer, including the internet, social media, online chat, text, and electronic mail, or other electronic means, such as a wireless communications device, landline telephone, or video technology, to provide information to the public, deliver social work services to a client, communicate with a client, manage confidential

information and case records, store and access information about clients, and arrange payment for professional services.

~~2.8.~~ "Face-to-face supervision" means a direct, interactive, live exchange, either in person, by telephone, or by audio or audiovisual electronic device in either individual or group supervision.

~~3.9.~~ "Group supervision" means one supervisor and more than one supervisee, including health professionals in related professions. Group supervision is facilitated by the supervisor and involves an exchange among all group members. The size of the group shall be limited to seven, including the supervisor.

~~4.10.~~ "Individual supervision" means one supervisor and one supervisee.

11. "Licensed baccalaureate social worker" means an individual licensed under this chapter to practice baccalaureate social work.

12. "Licensed clinical social worker" means an individual licensed under this chapter to practice clinical social work.

13. "Licensed master social worker" means an individual licensed under this chapter to practice masters social work.

14. "Private practice of social work" means the independent practice of social work by a licensee who is practicing within that licensee's scope of practice, and who is self-employed on a full-time or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or an agency are not considered to be the private practice of social work.

15. "Psychotherapy" means the use of treatment methods utilizing a specialized, formal interaction between a licensed clinical social worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, and sustained to understand unconscious processes; intrapersonal, interpersonal, and psychosocial dynamics; and the assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, or addictions.

16. "Social work case management" means a method to plan, provide, evaluate, and monitor services by a licensed social worker from a variety of resources on behalf of and in collaboration with a client.

17. "Social work practice" means the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. The scope of practice for licensees of the board consists of the following:

a. The practice of baccalaureate social work, which includes the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is generalist practice that includes assessment, planning, implementation, intervention, evaluation, research, social work case management, information and referral, counseling, supervision, consultation, education, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities.

b. The practice of masters social work, which includes, in addition to the practice of baccalaureate social work, the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation,

intervention, evaluation, social work case management information and referral, counseling, supervision, consultation, education, research, advocacy, community organization, and the development, implementation, and administration of policies, programs, and activities. Under the supervision of a licensed clinical social worker, the practice of master's social work may include the practices reserved to licensed clinical social workers.

- c. The practice of clinical social work, which includes, in addition to the practice of baccalaureate social work and the practice of masters social work, the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment; treatment planning; implementation and evaluation; social work case management information and referral; counseling; supervision; consultation; education; research; advocacy; community organization; the development, implementation, intervention, and administration of policies, programs, and activities; and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of individual, marital, couple, family, and group counseling and psychotherapy. The practice of clinical social work may include the provision of clinical supervision.

History: Effective February 1, 2004; amended effective April 1, 2012; April 1, 2021.

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-04

CHAPTER 75.5-02-03 THE LICENSING PROCESS

Section

75.5-02-03-01	Application
75.5-02-03-02	License Examination
75.5-02-03-03	License Fees
75.5-02-03-03.1	Failure to Complete Licensure Requirements
75.5-02-03-04	Provisional Licenses [Repealed]
75.5-02-03-04.1	Supervision of Applicants for Licensure as a Licensed Independent -Clinical Social Worker
75.5-02-03-05	License Renewal
75.5-02-03-06	Procedure for Inactive Licenses [Repealed]
75.5-02-03-07	Continuing Education Requirements

75.5-02-03-01. Application.

A person may not engage in social work practice in this state unless that person is a licensed baccalaureate social worker, a licensed master social worker, or a licensed clinical social worker.

Requests for application forms must be made with the board's office. Applications for initial licensure, except licensure of applicants licensed in another jurisdiction, must include:

1. A completed, signed application form.
2. An official transcript showing proof of required degree submitted to the board's office by the academic institution from which the degree was earned.
3. Proof of successful completion of the appropriate examination submitted to the board's office by the administering body of the examination.
4. For applicants for licensed ~~independent~~-clinical social worker, a completed verification of ~~master-of-a doctorate or a master's degree in~~ social work and have successfully completed supervised practice form and verification of ~~master-of~~ social work employment form.
5. A minimum of three written references providing evidence of the applicant meeting the requirements for professional conduct and competence required under the licensing act.
 - a. Applicants never having worked as a social worker must submit one reference from a social work faculty member, one reference from a field placement supervisor, and one reference from a licensed social worker.
 - b. All other applicants must submit three references - two from social workers at the applicant's proposed level of licensure or higher, and one from a work supervisor. All providers of references must be familiar with the applicant's work.
 - c. In appropriate circumstances, the board may waive or change the requirements for references.
6. Completion of a nationwide criminal history record check must be conducted in the manner provided in North Dakota Century Code section 12-60-24. All costs associated with obtaining a background check are the responsibility of the applicant.
7. Completion of child abuse and neglect background inquiry. All costs associated with obtaining the reports are the responsibility of the applicant or licensee.
8. The proper fees.

It is the applicant's responsibility to distribute the forms to the appropriate individuals.

History: Effective January 1, 1987; amended effective April 1, 1998; February 1, 2004; [April 1, 2021](#).

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-04

75.5-02-03-02. License examination.

1. The license examination must be approved by the board. A passing examination score is valid only if the licensure application is postmarked or delivered to the board's office within one year from the date of the examination. The board shall certify the eligibility of all applicants and determine uniform passing and failing cutoff points.
2. Students currently enrolled and in good standing in accredited social work programs may apply for and take the appropriate examination during the semester or quarter in which they will graduate. A license may not be granted until proof of graduation is received by the board.
- ~~2.~~3. With the exception of students in good standing in the last semester or quarter of an accredited social work program, only applicants who meet the educational requirements of a baccalaureate or graduate degree in social work from an accredited social work program may take the qualifying examination.
- ~~3.~~4. An applicant who fails the examination may retake the examination after ninety days from the initial examination date.

History: Effective January 1, 1987; amended effective June 1, 1991; April 1, 1998; February 1, 2004; [April 1, 2021](#).

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-04, 43-41-09

75.5-02-03-04.1. Supervision of applicants for licensure as a licensed ~~independent~~ clinical social worker.

1. The applicant for licensure as a licensed ~~independent~~ clinical social worker must submit a plan for supervision to the board's office prior to beginning the process of working toward licensed ~~independent~~ clinical social work status, to include the name of the proposed supervisor and a copy of the supervisor's license. Should the supervisor change, a new plan must be submitted to the board's office by the applicant.
2. The applicants must participate in a minimum of one hundred fifty hours of face-to-face clinical supervision with a supervisor approved by the board. Not more than fifty hours of supervision may be group supervision.
3. The applicant must maintain a record of supervision hours, including dates, time, and content of supervisory sessions, should the board request same for verification purposes.
4. The applicant must complete and document a minimum of three thousand hours of supervised clinical social work experience during the four-year post-master's degree period.
5. The clinical supervisor must:
 - a. Evaluate the supervisee's knowledge and document minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues.

- b. Provide individual or group, or individual and group, face-to-face supervision.
- c. Maintain documentation of supervision, including date, time, and content of supervisory sessions.

History: Effective February 1, 2004; amended effective April 1, 2012; [April 1, 2021](#).

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-09

75.5-02-03-07. Continuing education requirements.

1. A social work practitioner licensed in North Dakota must complete thirty approved continuing education contact hours for the two-year licensing period to maintain licensure in North Dakota. No more than ten hours may be completed by ~~self-study or distance learning methods~~independent learning which may include activities like online studies without live interaction. At least two hours must concern social work ethics.
 - a. Fifteen approved continuing education hours are required if a social worker is initially licensed between January first and June thirtieth of the odd-numbered year.
 - b. No continuing education hours are required if a social worker is initially licensed on or after July first of an odd-numbered year.
 - c. Continuing education hours cannot be earned until after the license effective date and only within the current licensing period.
 - d. Continuing education hours may only be applied to one licensing period.
2. Board-approved continuing education course content must enhance the social worker's professional competence and relate to:
 - a. Theories and concepts of human behavior and the social environment;
 - b. Social work knowledge and skills;
 - c. Social work research or practice evaluation;
 - d. Social work ethics; or
 - e. Cross-disciplinary courses directly relevant to social work practice or specialty.
3. Approved continuing education may include:
 - a. Workshops, professional conferences, seminars, and educational programs or courses presented by providers approved by the board. The continuing education presented by approved providers must comply with subsection 2.
 - b. Formal academic coursework. One semester credit hour class is equal to fifteen contact hours.
 - c. Program presentation by licensee for which the licensee may receive hour-per-hour contact hours but only for one presentation of the same program.

History: Effective April 1, 1998; amended effective February 1, 2004; April 1, 2012; [April 1, 2021](#).

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-09, 43-41-12

CHAPTER 75.5-02-04

75.5-02-04-01. Activities constituting the private practice of social work.

Only those individuals licensed in North Dakota at the licensed ~~independent~~-clinical social work level may engage in the private practice of social work. Pursuant to North Dakota Century Code section 43-41-05, the following criteria will be applied:

1. A private practitioner of social work on either a full- or part-time basis, is responsible for that person's own practice, exercises sole responsibility for the client, establishes conditions of exchange with clients, and identifies oneself as a social worker in offering services.
2. Services provided by a social worker are not considered private practice unless those services are provided independent of any supervising or sponsoring organization, or are provided within a private agency framework where the social worker is a partner or shareholder, and a fee is collected from or on behalf of the client.
3. If the social worker provides a continuation of services following termination of services to the client by the employing agency, the social worker must be considered to be in private practice unless the followup service is expressly designated as part of the social worker's responsibilities and the sponsoring agency or organization retains responsibility for the services that are provided.

History: Effective January 1, 1987; amended effective April 1, 1998; [April 1, 2021](#).

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-05

CHAPTER 75.5-02-05 RECIPROCITY

Section

75.5-02-05-01 Reciprocity

75.5-02-05-02 Military Spouse Reciprocity

75.5-02-05-02. Military spouse reciprocity.

1. The board shall license an individual that meets the definition of military spouse set forth in North Dakota Century Code section 43-51-01 who meet the following requirements:
 - a. The military spouse demonstrates competency in social work through methods or standards determined by the board which must include experience in social work for at least two of the four years preceding application; and
 - b. The board determines the issuance of the licensee will not substantially increase risk of harm to the public.
2. The board shall require the submission of any information it deems necessary to assist it in making its determination. The board may deny a license if the board determines the applicant does not meet the above requirements. If the board determines the applicant substantially meets the above requirements, the board may issue a provisional license. A provisional license must be granted automatically by the board if the board does not deny or grant the application or a license within thirty days of application. The board may place conditions on any license or provisional license. Military spouses may not be assessed fees for the initial issuance of a license or provisional license under this section. A provisional license may be valid for up to two years. Provisional licenses expire:
 - a. If the board issues a standard, nonprovisional license.
 - b. If the board denies the application.
 - c. On the expiration date provided by the board for the provisional license.
 - d. If the board revokes the provisional license to protect the public safety.
 - e. If the application fails to meet any steps or conditions the board placed on the provisional license at the discretion of the board.

History: Effective April 1, 2021.

General Authority: NDCC 43-51-11.1

Law Implemented: NDCC 43-51-11.1

CHAPTER 75.5-02-06.1 CODE OF ETHICS

Section

- 75.5-02-06.1-01 Ethical Responsibilities to Clients
- 75.5-02-06.1-02 Ethical Responsibilities to Colleagues [\[Repealed\]](#)
- 75.5-02-06.1-03 Ethical Responsibilities in Practice Settings [\[Repealed\]](#)
- 75.5-02-06.1-04 Ethical Responsibilities as Professionals [\[Repealed\]](#)
- 75.5-02-06.1-05 Ethical Responsibilities to the Social Work Profession [\[Repealed\]](#)

75.5-02-06.1-01. Ethical responsibilities to clients.

- ~~1. **Commitment to clients.** Social workers' primary responsibility is to promote the well-being of clients. In general, clients' interests are primary. However, social workers' responsibility to the larger society or specific legal obligations may on limited occasions supersede the loyalty allowed clients, and clients shall be so advised.~~
- ~~2. **Self-determination.** Social workers respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals. Social workers may limit clients' rights to self-determination when, in the social workers' professional judgment, clients' actions or potential actions pose a serious, foreseeable, and imminent risk to themselves or others.~~
- ~~3. **Informed consent.**~~
 - ~~a. Social workers shall provide services to clients only in the context of a professional relationship based, when appropriate, on valid informed consent.~~
 - ~~b. In instances when clients are not literate or have difficulty understanding the primary language used in the practice setting, social workers shall take steps to ensure clients' comprehension.~~
 - ~~c. In instances when clients lack the capacity to provide informed consent, social workers shall protect clients' interests by seeking permission from an appropriate third party, informing clients consistent with the clients' level of understanding.~~
 - ~~d. In instances when clients are receiving services involuntarily, social workers shall provide information about the nature and extent of services and about the extent of clients' right to refuse service.~~
 - ~~e. Social workers who provide services via electronic media such as computer, telephone, radio, and television shall inform recipients of the limitations and risks associated with such services.~~
 - ~~f. Social workers shall obtain clients' informed consent before audiotaping or videotaping clients or permitting observation of services to clients by a third party.~~
- ~~4. **Competence.** Social workers shall provide services and represent themselves as competent only within the boundaries of their education, training, license, certification, consultation received, supervised experience, or other relevant professional experience.~~
- ~~5. **Cultural competence and social diversity.** Social workers shall have a knowledge base of their clients' cultures and be able to demonstrate competence in the provision of services that are sensitive to clients' cultures and to differences among people and cultural groups.~~
- ~~6. **Conflicts of interest.**~~

- ~~a. Social workers shall be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Social workers shall inform clients when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the clients' interests primary and protects clients' interests to the greatest extent possible.~~
- ~~b. Social workers shall not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests.~~
- ~~c. Social workers shall not engage in dual or multiple relationships with clients or former clients in which there is a risk of exploitation or potential harm to the client.~~
- ~~d. When social workers provide services to two or more people who have a relationship with each other (for example, couples, family members), social workers shall clarify with all parties which individuals will be considered clients and the nature of social workers' professional obligations to the various individuals who are receiving services.~~

~~7. **Privacy and confidentiality.**~~

- ~~a. Social workers shall respect clients' rights to privacy. Social workers shall not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research. Once private information is shared, standards of confidentiality apply.~~
- ~~b. Social workers may disclose confidential information when appropriate with valid consent from a client or a person legally authorized to consent on behalf of a client.~~
- ~~c. Social workers shall protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person or when laws or regulations require disclosure without a client's consent. In all instances, social workers shall disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made shall be revealed.~~
- ~~d. Social workers shall inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made.~~
- ~~e. Social workers shall discuss with clients and other interested parties the nature of confidentiality and limitations of clients' right to confidentiality.~~
- ~~f. When social workers provide counseling services to families, couples, or groups, social workers shall seek agreement among the parties involved concerning each individual's right to confidentiality and obligation to preserve the confidentiality of information shared by others.~~
- ~~g. Social workers shall inform clients involved in family, couples, marital, or group counseling of the social worker's, employer's, and agency's policy concerning the social worker's disclosure of confidential information among the parties involved in the counseling.~~
- ~~h. Social workers shall not disclose confidential information to third-party payers unless clients have authorized such disclosure.~~

- ~~i. Social workers shall not discuss confidential information in any setting unless privacy can be ensured.~~
- ~~j. Social workers shall protect the confidentiality of clients during legal proceedings to the extent permitted by law.~~
- ~~k. Social workers shall protect the confidentiality of clients when responding to requests from members of the media.~~
- ~~l. Social workers shall protect the confidentiality of clients' written and electronic records and other sensitive information.~~
- ~~m. Social workers shall take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.~~
- ~~n. Social workers shall transfer or dispose of clients' records in a manner that protects clients' confidentiality.~~
- ~~o. Social workers shall take reasonable precautions to protect client confidentiality in the event of the social worker's termination of practice, incapacitation, or death.~~
- ~~p. Social workers shall not disclose identifying information when discussing clients for teaching or training purposes unless the client has consented to disclosure of confidential information.~~
- ~~q. Social workers shall not disclose identifying information when discussing clients with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.~~
- ~~r. Social workers shall protect the confidentiality of deceased clients consistent with the preceding standards.~~

~~8. **Access to records.**~~

- ~~a. Social workers shall provide clients with reasonable access to records concerning the clients.~~
- ~~b. When providing clients with access to their records, social workers shall take steps to protect the confidentiality of other individuals identified or discussed in such records.~~

~~9. **Sexual relationships.**~~

- ~~a. Social workers shall under no circumstances engage in sexual activities or sexual contact with current clients, whether such contact is consensual or forced.~~
- ~~b. Social workers shall not engage in sexual activities or sexual contact with clients' relatives or other individuals with whom clients maintain a close personal relationship when there is a risk of exploitation or potential harm to the client.~~
- ~~c. Social workers shall not engage in sexual intimacies with former clients within a minimum of two years after terminating the client-worker relationship. Social workers who engage in such a relationship after two years following termination have the responsibility to thoroughly examine and document that such relations did not have an exploitative nature, based on factors such as duration of client-worker relationship, amount of time since the client-worker relationship, termination circumstances, client's personal history~~

~~and mental status, adverse impact on the client, and actions by the social worker suggesting a plan to initiate a sexual relationship with the client after termination.~~

~~d. Social workers shall not provide clinical services to individuals with whom they have had a prior sexual relationship.~~

~~10. **Physical contact.** Social workers shall not engage in physical contact with clients when there is a possibility of psychological harm to the client as a result of the contact.~~

~~11. **Sexual harassment.** Social workers shall not sexually harass clients. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.~~

~~12. **Derogatory language.** Social workers shall not use derogatory language in their written or verbal communications to or about clients. Social workers shall use accurate and respectful language in all communications to and about clients.~~

~~13. **Payment for services.**~~

~~a. When setting fees, social workers shall ensure that the fees are fair, reasonable, and commensurate with the services performed.~~

~~b. Social workers shall not solicit a private fee or other remuneration for providing services to clients who are entitled to such available services through the social workers' employer or agency.~~

~~14. **Clients who lack decisionmaking capacity.** When social workers act on behalf of clients who lack the capacity to make informed decisions, social workers shall take reasonable steps to safeguard the interests and rights of those clients.~~

The board adopts the national association of social workers 2017 code of ethics.

It is also a violation of the code of ethics for a social worker licensed by the board to engage in any practices or treatments that attempt to change or repair the sexual orientation or gender identity of lesbian, gay, bisexual, transgender, and questioning individuals, commonly referred to as conversion or reparative therapy.

As used in this section, "conversion therapy" means any practices or treatments that seek to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion or reparative therapy does not include counseling that provides assistance to a person undergoing gender transition, or counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

History: Effective April 1, 1998; amended effective April 1, 2021.

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-09

75.5-02-06.1-02. Ethical responsibilities to colleagues.

Repealed effective April 1, 2021.

~~1. **Respect.**~~

- ~~a. Social workers shall treat colleagues with respect and shall represent accurately and fairly the qualifications, views, and obligations of colleagues.~~
- ~~b. Social workers shall cooperate with social work colleagues and with colleagues of other professions when such cooperation serves the well-being of clients.~~
- ~~2. **Confidentiality.** Social workers shall respect confidential information shared by colleagues in the course of their professional relationships and transactions.~~
- ~~3. **Disputes involving colleagues.**~~
 - ~~a. Social workers shall not take advantage of a dispute between a colleague and an employer to obtain a position or otherwise advance the social workers' own interests.~~
 - ~~b. Social workers shall not exploit clients in disputes with colleagues or engage clients in any inappropriate discussion of conflicts between social workers and their colleagues.~~
- ~~4. **Consultation.** Social workers shall seek the advice and counsel of colleagues whenever such consultation is in the best interests of clients.~~
- ~~5. **Referral for services.**~~
 - ~~a. Social workers shall refer clients to other professionals when the other professionals' specialized knowledge or expertise is needed to serve clients fully or when social workers believe they are not being effective or making reasonable progress with clients and additional service is required.~~
 - ~~b. Social workers are prohibited from giving or receiving payment for a referral when no professional service is provided by the referring social worker.~~
- ~~6. **Sexual relationships.**~~
 - ~~a. Social workers who function as supervisors or educators shall not engage in sexual activities or contact with supervisees, students, trainees, or other colleagues over whom they exercise professional authority.~~
 - ~~b. Social workers shall not engage in sexual relationships with colleagues when there is potential for a conflict of interest. Social workers who become involved in, or anticipate becoming involved in, a sexual relationship with a colleague have a duty to transfer professional responsibilities, when necessary, to avoid a conflict of interest.~~
- ~~7. **Sexual harassment.** Social workers shall not sexually harass supervisees, students, trainees, or colleagues. Sexual harassment includes sexual advances, sexual solicitation, requests for sexual favors, and other verbal or physical conduct of a sexual nature.~~
- ~~8. **Impairment of colleagues.** Social workers who have direct knowledge that a social work colleague's impairment interferes with practice effectiveness and that the colleague has not taken adequate steps to address the impairment shall make a report to the North Dakota board of social work examiners.~~
- ~~9. **Incompetence of colleagues.** Social workers who have direct knowledge that a social work colleague is incompetent and has not taken adequate steps to address the incompetence shall make a report to the North Dakota board of social work examiners.~~
- ~~10. **Unethical conduct of colleagues.**~~
 - ~~a. Social workers shall take adequate measures to discourage, prevent, expose, and correct the unethical conduct of colleagues.~~

- ~~b. The social worker who has direct knowledge of a social work colleague's unethical behavior shall make a written report to the North Dakota board of social work examiners.~~

~~**History:** Effective April 1, 1998.~~

~~**General Authority:** NDCC 43-41-09~~

~~**Law Implemented:** NDCC 43-41-09~~

75.5-02-06.1-03. Ethical responsibilities in practice settings.

~~Repealed effective April 1, 2021.~~

~~1. Administration and management.~~

- ~~a. Social workers shall maintain respect for institutional policies and management functions of the agencies within which services are being performed.~~
- ~~b. Social workers will take initiative toward improving such policies when it will better serve the interests of the client.~~

~~2. Supervision and consultation.~~

- ~~a. Social workers shall not engage in any dual or multiple relationships with supervisees in which there is a risk of exploitation of or potential harm to the supervisee.~~
- ~~b. Social workers who provide supervision shall evaluate supervisees' performance in a manner that is fair and respectful.~~

~~3. Education and training.~~

- ~~a. Social workers who function as educators or field instructors for students shall evaluate students' performance in a manner that is fair and respectful.~~
- ~~b. Social workers who function as educators or field instructors for students shall take reasonable steps to ensure that clients are routinely informed when services are being provided by students.~~
- ~~c. Social workers who function as educators or field instructors for students shall not engage in any dual or multiple relationships with students in which there is a risk of exploitation or potential harm to the student.~~

~~4. Performance evaluation. Social workers who have responsibility for evaluating the performance of others shall fulfill such responsibility in a fair and considerate manner and on the basis of clearly stated criteria.~~

~~5. Client records. Social workers shall take reasonable steps to ensure documentation in records is accurate, timely, and reflects the services provided.~~

~~6. Billing. Social workers shall establish and maintain billing practices that accurately reflect the nature and extent of services provided and that identify who provided the service in the practice setting.~~

~~**History:** Effective April 1, 1998; amended effective February 1, 2004.~~

~~**General Authority:** NDCC 43-41-09~~

~~**Law Implemented:** NDCC 43-41-09~~

75.5-02-06.1-04. Ethical responsibilities as professionals.

~~Repealed effective April 1, 2021.~~

- ~~1. **Discrimination.** Social workers shall not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, political belief, religion, or mental or physical disability.~~
- ~~2. **Private conduct.** Social workers shall not permit their private conduct to interfere with their ability to fulfill their professional responsibilities.~~
- ~~3. **Dishonesty, fraud, and deception.** Social workers shall not participate in, condone, or be associated with dishonesty, fraud, or deception.~~
- ~~4. **Impairment.** Social workers whose personal problems, psychosocial distress, legal problems, substance abuse, or mental health difficulties interfere with their professional judgment and performance shall immediately seek consultation and take appropriate remedial action by seeking professional help, making adjustments in workload, terminating practice, or taking any other steps necessary to protect clients and others.~~
- ~~5. **Misrepresentation.**~~
 - ~~a. Social workers shall make clear distinctions between statements made and actions engaged in as a private individual and as a representative of the social work profession, a professional social work organization, or the social worker's employing agency.~~
 - ~~b. Social workers shall ensure that their representations to clients, agencies, and the public of professional qualifications, credentials, education, competence, affiliations, services provided, or results to be achieved are accurate.~~
- ~~6. **Solicitations.**~~
 - ~~a. Social workers shall not engage in uninvited solicitation of potential clients who, because of their circumstances, are vulnerable to undue influence, manipulation, or coercion.~~
 - ~~b. Social workers shall not engage in solicitation of testimonial endorsements, including solicitation of consent to use a client's prior statement as a testimonial endorsement, from current clients or from other people who, because of their particular circumstances, are vulnerable to undue influence.~~
- ~~7. **Acknowledging credit.** Social workers shall take responsibility and credit, including authorship credit, only for work they have actually performed and to which they have contributed.~~

History: Effective April 1, 1998.

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-09

75.5-02-06.1-05. Ethical responsibilities to the social work profession.

Repealed effective April 1, 2021.

- ~~1. **Integrity of the profession.** Social workers shall act to prevent the unauthorized and unqualified practice of social work.~~
- ~~2. **Evaluation and research.**~~
 - ~~a. Social workers engaged in evaluation or research shall carefully consider possible consequences and shall follow guidelines developed for the protection of evaluation and research participants. Appropriate institutional review boards shall be consulted.~~

- ~~b. Social workers engaged in evaluation or research shall obtain voluntary and written informed consent from participants, when appropriate, without any implied or actual deprivation or penalty for refusal to participate; without undue inducement to participate; and with due regard for participants' well-being, privacy, and dignity. Informed consent shall include information about the nature, extent, and duration of the participation requested and disclosure of the risks and benefits of participation in the research.~~
- ~~c. When evaluation or research participants are incapable of giving informed consent, social workers shall provide an appropriate explanation to the participants, obtain the participants' assent to the extent they are able, and obtain written consent from an appropriate proxy.~~
- ~~d. Social workers shall never design or conduct evaluation or research that does not use consent procedures, such as certain forms of naturalistic observation and archival research, unless rigorous and responsible review of the research has found it to be justified because of its prospective scientific, educational, or applied value and unless equally effective alternative procedures that do not involve waiver of consent are not feasible.~~
- ~~e. Social workers shall inform participants of their right to withdraw from evaluation and research at any time without penalty.~~
- ~~f. Social workers shall take appropriate steps to ensure that participants in evaluation and research have access to appropriate supportive services.~~
- ~~g. Social workers engaged in evaluation or research shall protect participants from unwarranted physical or mental distress, harm, danger, or deprivation.~~
- ~~h. Social workers engaged in the evaluation of services shall discuss collected information only for professional purposes and only with people professionally concerned with this information.~~
- ~~i. Social workers engaged in evaluation or research shall ensure the anonymity or confidentiality of participants and of the data obtained from them. Social workers shall inform participants of any limits of confidentiality, the measures that will be taken to ensure confidentiality, and when any records containing research data will be destroyed.~~
- ~~j. Social workers who report evaluation and research results shall protect participants' confidentiality by omitting identifying information unless proper consent has been obtained authorizing disclosure.~~
- ~~k. Social workers shall report evaluation and research findings accurately. They shall not fabricate or falsify results and shall take steps to correct any errors later found in published data using standard publication methods.~~
- ~~l. Social workers engaged in evaluation or research shall be alert to and avoid conflicts of interest and dual relationships with participants, shall inform participants when a real or potential conflict of interest arises, and shall take steps to resolve the issue in a manner that makes participants' interests primary.~~
- ~~m. Social workers shall educate themselves, their students, and their colleagues about responsible research practices.~~

History: Effective April 1, 1998.

General Authority: NDCC 43-41-09

Law Implemented: NDCC 43-41-09