

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 329

July 2008

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

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TITLE 4
OFFICE OF MANAGEMENT AND BUDGET

JULY 2008

CHAPTER 4-07-05

4-07-05-08. Vacancy announcement contents. Each vacancy announcement must include the following information:

1. Class or working title.
2. Position number.
3. Salary or projected hiring range.
4. Closing date.
5. Duty location of position (city).
6. Procedures for applying.
7. Summary of work.
8. Minimum qualifications and special requirements.
9. Whether recruitment is internal or external.
10. Status:
 - a. Full time or part time; and
 - b. Regular or temporary.

Additional preferred qualifications may be listed on the vacancy announcement at the discretion of the appointing authority, or a reference to the position description may be made.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

CHAPTER 4-07-11

4-07-11-07. Reemployment following a reduction-in-force. An individual who has lost employment due to a reduction-in-force shall be offered reemployment by the former employing agency if all of the following conditions are present:

1. A regular position vacancy, in the same classification or lower classification in the same series, occurs in the former employing agency, and the appointing authority decides to fill the vacancy by appointing someone other than a current employee.
2. The individual meets the qualifications determined to be necessary for successful performance of the position by the agency and successfully completes any examination specified by the agency, including an oral interview.
3. No more than one year has elapsed since the individual lost employment due to the reduction-in-force.
4. The individual is not currently employed in a regular position in state service.

History: Effective May 1, 1994; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-12

4-07-12-04. Annual leave accrual schedule. Agencies State agencies are advised that the following annual leave accrual schedule is recommended required for use by each state agency subject to this chapter:

<u>Years of Service</u>	<u>Hours Earned Per Month</u>
zero through three	eight
four through seven	ten
eight through twelve	twelve
thirteen through eighteen	fourteen
over eighteen	sixteen

~~An~~ A local government agency subject to the North Dakota merit system adopting or using a different accrual schedule shall promptly file a copy of that schedule with human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-12-12. Annual leave and reemployment. An employee who leaves the employee's employment and who is rehired within ~~one year~~ three years must be credited with the employee's previous years of continuous service for the purpose of determining the employee's annual leave accrual rate. ~~However, an employee affected by a reduction-in-force and rehired within two years must be credited with the employee's previous service for the purpose of determining the employee's annual leave accrual rate.~~

History: Effective September 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-12-13. Assumption of accrued annual leave. ~~An~~ A state agency appointing authority employing an individual from another state agency ~~may~~ shall accept all or only a part of the employee's accrued annual leave hours the employee requests to transfer. ~~Agencies State agencies~~ covered by the North Dakota merit system ~~may~~ shall accept all or a part of accrued annual leave hours the employee requests to transfer of a county social service board employee in a position classified by human resource management services.

A county social service board may accept all or a part of accrued annual leave hours an employee requests to transfer from another county social service board

or a state agency, if the employee occupies a position classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-13

4-07-13-04. Sick leave accrual rate. ~~Agencies~~ State agencies are advised that the following sick leave accrual schedule is ~~recommended~~ required for use by each state agency subject to this chapter:

<u>Years of Service</u>	<u>Hours Earned Per Month</u>
zero to all	eight

~~An~~ A local government agency subject to the North Dakota merit system adopting or using a different accrual schedule shall promptly file a copy of that schedule with human resource management services.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-06-14, 54-44.3-12(1)

4-07-13-10. Temporary ~~or~~ emergency employment. A temporary ~~or~~ emergency employee may not be credited with any accrued sick leave hours.

History: Effective September 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-13-12. Assumption of accrued sick leave. ~~An~~ A state agency appointing authority employing an individual from another state agency shall accept all of the employee's accrued sick leave hours. ~~Agencies~~ State agencies covered by the North Dakota merit system ~~may~~ shall accept all accrued sick leave hours of a county social service ~~board~~ employee in a position classified by human resource management services.

A county social service board may accept all of accrued sick leave hours an employee requests to transfer from another county social service board or a state agency, if the employee occupies a position classified by human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-18

4-07-18-04. Length of service required to receive award. An employee must have completed three, five, ten, fifteen, twenty, twenty-five, thirty, thirty-five, forty, forty-five, or fifty years of employment with the state in order to receive a service award. An employee who leaves employment with the state and then returns, again begins to accumulate time. That time must be added to the employee's previous service and applied to any future service award.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

4-07-18-05. Service award types. The types of service awards that are given to employees must be provided as follows:

1. Following the completion of three years; certificate or plaque, and a gift not to exceed a value of twenty-five dollars.
2. Following the completion of five years; certificate or plaque, and a gift not to exceed a value of ~~twenty-five~~ fifty dollars.
2. 3. Following the completion of ten years; certificate or plaque, and a gift not to exceed a value of ~~fifty~~ one hundred dollars.
3. 4. Following the completion of fifteen years; certificate or plaque, and a gift not to exceed a value of ~~seventy-five~~ one hundred fifty dollars.
4. 5. Following the completion of twenty years; certificate or plaque, and a gift not to exceed a value of two hundred dollars.
5. 6. Following the completion of twenty-five years; certificate or plaque, and a gift not to exceed a value of two hundred ~~twenty-five~~ fifty dollars.
6. 7. Following the completion of thirty years; certificate or plaque, and a gift not to exceed a value of ~~two hundred fifty~~ three hundred dollars.
7. 8. Following the completion of thirty-five years; certificate or plaque, and a gift not to exceed a value of ~~two hundred seventy-five~~ three hundred fifty dollars.
8. 9. Following the completion of forty years; certificate or plaque, and a gift not to exceed a value of ~~three~~ four hundred dollars.
9. 10. Following the completion of forty-five years; certificate or plaque, and a gift not to exceed a value of four hundred fifty dollars.

~~40.~~ 11. Following the completion of fifty years and every five-year increment thereafter; certificate or plaque, and a gift not to exceed a value of five hundred dollars.

History: Effective September 1, 1992; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12(1)

CHAPTER 4-07-20

4-07-20-02.1. Waiver of agency grievance procedure. A waiver of the agency grievance procedure is allowed by mutual agreement of the employee and appointing authority. Each party must sign the waiver within fifteen working days of the employer action. Upon obtaining the waiver, the employee may appeal directly to human resource management services in accordance with section 4-07-20.1-08. An additional fifteen working days is not available if the requested waiver is denied.

History: Effective July 1, 2004; amended effective July 1, 2008.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12.2

CHAPTER 4-07-20.1

4-07-20.1-05. Waiver of agency grievance procedure. A waiver of the agency grievance procedure is allowed by mutual agreement of the employee and appointing authority. The waiver must be signed by both parties within fifteen working days of the employer action. Upon obtaining the waiver, the employee may appeal directly to human resource management services in accordance with section 4-07-20.1-08. An additional fifteen working days is not available if the requested waiver is denied.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12.2

4-07-20.1-08. Procedure for appeal to human resource management services.

1. The employee shall file the properly completed prescribed appeal form with the director, human resource management services. The appeal form must be delivered, mailed, or transmitted by facsimile and must be received in the human resource management services office by five p.m. within fifteen working days of service of the notice of results of the agency grievance procedure or within fifteen working days from the date of the waiver. An additional fifteen working days is not available if the requested waiver is denied. The date of service of the notice shall be considered to be the date the notice was mailed or actual notice. The agency shall prepare a certificate of mailing, a certificate of admission of delivery in person, or other reliable means, to show proof of the date of mailing or actual delivery.
2. The director, human resource management services, shall within two working days submit a written request to the director, office of administrative hearings, to conduct a hearing on behalf of the division and shall forward a copy of the appeal form to the appointing authority.
3. The administrative law judge shall initially consider whether the appeal was filed within required time limitations. If the administrative law judge determines the time limitations have not been met, the administrative law judge shall prepare an appropriate order dismissing the appeal, which shall be final, and provide a copy of it to the parties. The administrative law judge may, for good cause shown, waive the time limitations for filing an appeal. Good cause means those circumstances that reasonably and without any fault on the part of the appellant prevented the filing of an appeal in a timely fashion. In no event may an appeal be deemed timely after sixty days have elapsed from the date of the employer action.
4. The administrative law judge shall consider whether human resource management services has jurisdiction over the subject matter of the

appeal and whether all rules and regulations were followed in the internal agency grievance process. If the administrative law judge is unable to establish whether human resource management services has jurisdiction over the subject matter of the appeal or whether the appropriate rules were followed, a hearing may be conducted to ascertain the facts related to those issues.

5. If the administrative law judge determines that human resource management services does not have jurisdiction in the matter of the appeal, the administrative law judge shall prepare findings of fact and conclusions of law, if appropriate; issue a final decision dismissing the appeal; and provide a copy of them to the parties.
6. If it is determined that human resource management services has jurisdiction over the appeal, the administrative law judge shall schedule a hearing. The administrative law judge shall conduct the hearing and related proceedings, receive evidence related to the issues, prepare findings of fact and conclusions of law, and issue a final decision.
7. The administrative law judge shall notify the employee and the appointing authority of the final decision by sending each of them a copy of the findings of fact, conclusions of law, and final decision. Notification shall be accomplished in the same manner as for notification of final orders required by subsection 3 of North Dakota Century Code section 28-32-39. The parties shall implement the final decision within any time periods specified by the administrative law judge.
8. The administrative law judge shall return the completed appeal file to human resource management services.
9. Any party to the appeal may review the recordings of the hearing by making a request to human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12.2

CHAPTER 4-07-20.2

4-07-20.2-04.1. Procedure for applicant appeals of discrimination in employment to agency appointing authority.

1. An applicant who has completed a timely and properly completed application for a position within an agency and who alleges discrimination in employment shall file a written appeal to the agency appointing authority. The letter of appeal must specify what alleged discriminatory action against the applicant was taken by the agency. The appeal information must be delivered, mailed, or transmitted by facsimile and must be received in the office of the agency appointing authority by five p.m. within fifteen working days of the alleged discriminatory action.
2. The agency appointing authority has fifteen working days from the receipt of the appeal to review the appeal and provide a written response to the applicant.
3. If the applicant does not agree with the response of the agency appointing authority, the applicant may further appeal to human resource management services in accordance with section 4-07-20.2-07.

History: Effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-20.2-07. Procedure for appeal to human resource management services.

1. The employee shall file the properly completed prescribed appeal form with the director, human resource management services. The appeal form must be delivered, mailed, or transmitted by facsimile and must be received in the human resource management services office by five p.m. within fifteen working days of service of the notice of results of the agency grievance procedure or within fifteen working days from the date of the waiver. An additional fifteen working days is not available if the requested waiver is denied. The date of service of the notice shall be considered to be the date the notice was mailed or actual notice. The agency shall prepare a certificate of mailing, a certificate of admission of delivery in person, or other reliable means to show proof of the date of mailing or actual delivery. ~~An applicant shall file the appeal form by delivery, mail, or transmittal by facsimile, and the form must be received in the human resource management services office by five p.m. within fifteen working days of the alleged discriminatory action.~~

2. An applicant shall file the appeal form by delivery, mail, or transmittal by facsimile, and the form must be received in the human resource management services office by five p.m. within fifteen working days of the service of notice of the agency appointing authority's response to the alleged discriminatory action. The date of service of the notice shall be considered to be the date the notice was mailed or actual notice. The agency shall prepare a certificate of mailing, a certificate or admission of delivery in person, or other reliable means to show proof of the date of mailing or actual delivery.
3. The director, human resource management services, shall within two working days submit a written request to the director, office of administrative hearings, to conduct a hearing on behalf of human resource management services and shall forward a copy of the appeal form to the affected appointing authority.
- ~~3.~~ 4. The administrative law judge shall initially consider whether the appeal was filed within required time limitations. If the administrative law judge determines the time limitations have not been met, the administrative law judge shall prepare an appropriate order dismissing the appeal, which shall be final, and provide a copy of it to the parties. The administrative law judge may, for good cause shown, waive the time limitations for filing an appeal. Good cause means those circumstances that reasonably and without any fault on the part of the appellant prevented the filing of an appeal in a timely fashion. In no event may an appeal be deemed timely after sixty days have elapsed from the date of the employer action.
4. 5. The administrative law judge shall consider whether human resource management services has jurisdiction over the subject matter of the appeal and whether all rules and regulations were followed in the internal agency grievance process. If the administrative law judge is unable to establish whether human resource management services has jurisdiction over the subject matter of the appeal or whether the appropriate rules were followed, a hearing may be conducted to ascertain the facts related to those issues.
5. 6. If the administrative law judge determines that human resource management services does not have jurisdiction in the matter of the appeal, the administrative law judge shall prepare findings of fact and conclusions of law, if appropriate; issue a final decision dismissing the appeal; and provide a copy of them to the parties.
6. 7. If it is determined that human resource management services has jurisdiction over the appeal, the administrative law judge shall schedule a hearing. The administrative law judge shall conduct the hearing and related proceedings, receive evidence related to the issues, prepare findings of fact and conclusions of law, and issue a final decision.

7. 8. The administrative law judge shall notify the employee or the applicant and the affected appointing authority of the final decision by sending each of them the findings of fact, conclusions of law, and final decision. Notification shall be accomplished in the same manner as for notification of final orders required by subsection 3 of North Dakota Century Code section 28-32-39. The parties shall implement the final decision within any time periods specified by the administrative law judge.
8. 9. The administrative law judge shall return the completed appeal file to human resource management services.
9. 10. Any party to the appeal may review the recordings of the hearing by making a request to human resource management services.

History: Effective November 1, 1996; amended effective July 1, 2004; July 1, 2008.

General Authority: NDCC 54-44.3-12(1)

Law Implemented: NDCC 54-44.3-12.2

CHAPTER 4-07-28

4-07-28-02. Definitions. The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 54-44.3 except:

1. "Emergency status" means a category of employment that applies to an individual employed as a result of unusual or unexpected conditions without regard to the normal open, competitive selection process and the duration of the employment does not exceed ninety working days.
2. "Internal applicant" means an employee who has regular, probationary, temporary merit system employment status within an agency; a previous employee who is eligible for reinstatement to an agency; or an individual who has completed a documented internship with the agency within the past two years.
3. "Merit system exempt status" means a category of employment that applies to an individual employed in a nonclassified position without regard to the normal open, competitive selection process such as with seasonal or time-limited programs and for appointed officials.
4. "Probationary status" means a category of employment that applies to an individual employed in a classified position, who was selected for a position on an open, competitive basis and who has not yet completed the initial ~~six-month~~ probationary period.
5. "Regular status" means a category of employment that applies to an individual employed in a classified position, who was selected for a position on an open, competitive basis and who has successfully completed the a six-month or longer probationary period.
6. "Temporary status" means a category of employment that applies to an individual who was selected for a position on an open, competitive basis and is employed in a position that is specified as time-limited in duration.

History: Effective September 1, 1992; amended effective July 1, 1995; November 1, 1996; July 1, 2008.

General Authority: NDCC 54-44.3

Law Implemented: NDCC 54-44.3

CHAPTER 4-07-34.1
LOCAL COUNTY SOCIAL SERVICE MERIT SYSTEMS

<u>Section</u>	
<u>4-07-34.1-01</u>	<u>Scope of Chapter</u>
<u>4-07-34.1-02</u>	<u>Procedures for Establishing a Local County Social Service Agency Merit System</u>
<u>4-07-34.1-03</u>	<u>Plan Approval</u>
<u>4-07-34.1-04</u>	<u>Merit Principles Requirements</u>
<u>4-07-34.1-05</u>	<u>Oversight and Audit Procedures</u>
<u>4-07-34.1-06</u>	<u>Noncompliance</u>
<u>4-07-34.1-07</u>	<u>Opt-Back-In Procedures</u>

4-07-34.1-01. Scope of chapter. This chapter applies to county social service agencies that have opted not to be covered by the North Dakota merit system, but are required to comply with the federal standards for a merit system of personnel administration.

History: Effective July 1, 2008.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12

4-07-34.1-02. Procedures for establishing a local county social service agency merit system. A county board of commissioners or group of county boards in consultation with the social service board or boards that opts to establish a local merit system for the social service agencies shall develop a plan that includes policies and procedures that comply with the merit principles listed in section 4-07-34.1-04 and submit it to human resource management services and the department of human services for approval prior to implementation.

History: Effective July 1, 2008.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12

4-07-34.1-03. Plan approval. Human resource management services shall establish an effective date authorizing a county board of commissioners or group of county boards merit system after approval of the county plan.

History: Effective July 1, 2008.
General Authority: NDCC 54-44.3-12
Law Implemented: NDCC 54-44.3-12

4-07-34.1-04. Merit principle requirements. The following are the minimum merit system requirements that a county board of commissioners or group of county boards must address in its plan to establish a local merit system.

1. Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.

- a. A standard employment application form;
 - b. An application review and ranking process, applicant notification, and procedure for appeals of disqualification;
 - c. Referral of applicants to interviewer based on applicant ranking;
 - d. Compliance with North Dakota Century Code chapter 37-19.1, veterans' preferences;
 - e. Job announcements for internal and external recruitment; and
 - f. Position changes, including promotions, demotions, transfers, and reinstatements.
2. Providing equitable and adequate compensation.
- a. A classification plan, including class descriptions with minimum qualifications;
 - b. Individual job descriptions;
 - c. A salary administration plan with minimum salary range rates that are not less than the state merit system compensation plan;
 - d. Identified working hours; and
 - e. Leave policies, including holidays, annual, sick, military, funeral, jury and witness, workers' compensation, and family medical leave.
3. Training employees, as needed, to assure high-quality performance.
4. Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected.
- a. A for-cause employment standard must be used;
 - b. A performance management program, including a minimum of an annual performance review;
 - c. A probationary period;
 - d. A corrective and disciplinary process, including use of progressive discipline; and

- e. Defined separations, including preaction process, dismissal, reduction-in-force, and expiration of appointment, including a formal appeal mechanism.
5. Assuring fair treatment of applicants and employees in all aspects of human resource administration without regard to political affiliation, race, color, national origin, sex, religious creed, age, or disability and with proper regard for their privacy and constitutional rights as citizens. This "fair treatment" principle includes compliance with the federal equal employment opportunity and nondiscrimination laws.
- a. Policies, including Americans With Disabilities Act, Fair Labor Standards Act, and Age Discrimination in Employment Act;
 - b. Compliance with federal and state equal employment opportunity and nondiscrimination laws including title VI and title VII of the Civil Rights Act of 1964, as amended, the North Dakota Human Rights Act, and the Public Employee Relations Act of 1985, as amended;
 - c. Grievance policy and procedure;
 - d. Appeals process to a neutral third party; and
 - e. Records management, including personnel files, records retention, open records, and compliance with the Health Information Portability and Protection Act.
6. Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office and compliance with the federal Hatch Act.

History: Effective July 1, 2008.

General Authority: NDCC 14-02.4, 54-44.3-12

Law Implemented: NDCC 14-02.4, 54-44.3-12

4-07-34.1-05. Oversight and audit procedures. Human resource management services and the department of human services human resource division shall jointly conduct periodic audits or oversight reviews of local county merit system policies, procedures, and practices to ensure compliance with the local county merit system plan and federal merit system principles.

History: Effective July 1, 2008.

General Authority: NDCC 14-02.4, 54-44.3-12

Law Implemented: NDCC 14-02.4, 54-44.3-12

4-07-34.1-06. Noncompliance.

1. When a local county merit system is found to be out of compliance, the audit team shall recommend corrective action.
2. The county board of commissioners or group of county boards shall submit a corrective action plan within sixty days of receipt of the audit findings.
3. The county board of commissioners or group of county boards, human resource management services, and the department of human services shall negotiate a corrective action agreement within sixty days of receipt of the corrective action plan.
4. Upon approval of the corrective action plan, the county board of commissioners or group of county boards shall have an additional sixty days to implement the plan.
5. A followup audit shall be conducted within six months of the implementation date of the corrective action plan.
6. When a local county merit system is found to be out of compliance with the local county merit system plan and federal merit system principles after a followup audit, the county board of commissioners or group of county boards shall be required to be placed under the jurisdiction of the North Dakota merit system. All programs and policies, including salaries, must be adjusted to be in compliance with the North Dakota merit system. Any federal penalties that result from the noncompliance shall be the responsibility of the county board of commissioners or group of county boards.

History: Effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-34.1-07. Opt-back-in procedures. A county board of commissioners or group of county boards in consultation with the social service board or boards that opted out of the North Dakota merit system may opt back in the North Dakota merit system with the concurrence of human resource management services and the department of human services. All programs and policies, including salaries, must be adjusted to be in compliance with the North Dakota merit system.

History: Effective July 1, 2008

General Authority: NDCC 14-02.4, 54-44.3-12

Law Implemented: NDCC 14-02.4, 54-44.3-12

CHAPTER 4-07-36
TRAINING AND TUITION REIMBURSEMENT

Section

4-07-36-01

Scope of Chapter

4-07-36-02

Payment of Training and Tuition

4-07-36-01. Scope of chapter. This chapter applies to all state and local government agencies, departments, institutions, and boards and commissions that employ individuals in positions classified by human resource management services.

History: Effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

4-07-36-02. Payment of training and tuition. An appointing authority may adopt policies to provide training and educational opportunities to its employees to learn new required skills or to enhance their current skills, to increase the opportunity for advancement within the agency or state service, to increase proficiency and productivity, and to improve work performance.

Costs of training or educational courses, including tuition and fees, may be paid for, within budgetary constraints, by the agency or reimbursed to the employee in accordance with agency policy.

History: Effective July 1, 2008.

General Authority: NDCC 54-44.3-12

Law Implemented: NDCC 54-44.3-12

TITLE 17
STATE BOARD OF CHIROPRACTIC EXAMINERS

JULY 2008

CHAPTER 17-01-01

17-01-01-01. Organization and functions of the board of chiropractic examiners.

1. **History.** The board of chiropractic examiners was first established in 1915 under laws now codified as North Dakota Century Code chapter 43-06. North Dakota was the first state in the United States to issue a license to practice chiropractic.
2. **Functions.** One function of the board is to examine, or designate a testing agency to examine, candidates coming into the state to see if they are qualified to practice chiropractic in North Dakota. It is also the function of the board to prevent those who are unqualified from practicing chiropractic in the state.
3. **Board membership.** The board consists of five members appointed by the governor. Each member is a doctor of chiropractic. Members of the board serve five-year terms, and one term expires each year. Board members annually elect from board membership the president, vice president, and secretary-treasurer of the board.
4. **Secretary-treasurer.** The secretary-treasurer of the board is elected by the board and is responsible for overseeing the board's activities as stated in section 17-01-03-02.
5. **Executive director.** The board may hire an executive director to oversee the clerical needs of the board, and who will answer to the board president.
6. **Inquiries.** Any questions or suggestions concerning these rules should be sent to the executive director:

Jerry Blanchard, D.C.
Box 185
Grafton, ND 58237
Telephone 701-352-1690
Fax 701-352-2258

History: Amended effective December 1, 1981; March 1, 1986; April 1, 1988; July 1, 1990; April 1, 2001; July 1, 2008.

General Authority: NDCC 43-06-04.1

Law Implemented: NDCC 28-32-02.1, 43-06-04, 43-06-04.1

17-01-01-02. Fees. The board charges the following fees:

1. For an application for initial licensure, ~~one~~ two hundred ~~fifty~~ dollars.
2. For renewal of a license, ~~one~~ two hundred ~~fifty~~ dollars for active status or one hundred dollars for inactive status.
3. To change from inactive to active status, fifty dollars.
4. For a duplicate license, twenty-five dollars.
5. The additional administrative fee for late renewals is two hundred dollars.

History: Effective April 1, 2001; amended effective July 1, 2008.

General Authority: NDCC 43-06-04.1

Law Implemented: NDCC 43-06-08, 43-06-13

CHAPTER 17-01-02

17-01-02-03. Board expenses. Each member of the board of chiropractic examiners shall be reimbursed for the member's expenses for each day the member is actually engaged in performing the duties of the member's office as provided for in North Dakota Century Code section 44-08-04, and such mileage and travel expenses as are provided for in North Dakota Century Code section 54-06-09 and additional allowance for other necessary expenses incurred. Each member of the board shall receive compensation in the amount of ~~one~~ two hundred ~~fifty~~ dollars for each day or portion thereof spent in the discharge of the member's duties.

History: Effective April 1, 1982; amended effective April 1, 1984; February 1, 1990; April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-05

Law Implemented: NDCC 43-06-05, 44-08-04, 54-06-09

CHAPTER 17-02-01

17-02-01-01.2. Definitions.

1. Unless specifically stated otherwise, all definitions found in North Dakota Century Code section 43-06-01 are applicable to this title.
2. "Actual consultation" as used in North Dakota Century Code section 43-06-02 means seeking or giving professional advice, opinions, or assistance in conjunction with a licensed chiropractor in this state with regard to a specific patient for the purpose of providing chiropractic treatment to the patient.
3. In this title, unless the context or subject matter otherwise requires:
 - a. "National board" means the national board of chiropractic examiners or its successor.
 - b. "Special purposes examination for chiropractic" or "SPEC" means the special purposes examination for chiropractic offered by the national board.

History: Effective May 1, 1993; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1

Law Implemented: NDCC 43-06-02, 43-06-10, 43-06-10.1

17-02-01-02.1. Reciprocity. An applicant for reciprocal licensure will be considered by the board if the following conditions are met:

1. The applicant has a license and is in good standing to practice chiropractic in another state or jurisdiction;
2. The applicant has been licensed to practice chiropractic for at least the preceding two years in the other state or jurisdiction;
3. The applicant has successfully passed the national board on an earlier occasion;
4. The applicant successfully passes the special purposes examination for chiropractic or part IV of the national board examination, or qualifies for the license transfer application, unless waived by the board for good cause; and
5. The applicant successfully passes the jurisprudence examination required by North Dakota law.

6. The applicant applies for a temporary license under the "travel to treat" program as authorized under North Dakota Century Code chapter 43-51.

History: Effective May 1, 1993; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-10.1

Law Implemented: NDCC 43-06-10, 43-06-10.1

17-02-01-08. Examination subjects and requirements. Examinations will be provided by the national board, or its successor, except for jurisprudence, which will be administered by the board. An applicant must satisfy the following criteria:

1. The applicant must hold a diploma from a chiropractic college fully accredited by the council on chiropractic education.
2. If the applicant graduated before 1966, the applicant must have been in active practice and have passed five examinations (x-ray, orthopedics, jurisprudence, nutrition, and neurology) and also five practicals (x-ray, spinal biomechanics, extremity adjusting, first aid, and case management).
3. If the applicant graduated between 1966 and 1988, the applicant must have passed parts I and II of the national board examination. In addition, the applicant must have passed part IV or the SPEC.
4. If the applicant graduated between July 1988 and January 1997, the applicant must have passed parts I, II, and III of the national board examination. In addition, the applicant must have passed part IV or the SPEC.
5. If the applicant graduated after January 1997, the applicant must have passed parts I, II, III, and IV of the national board examination.
6. Passing grades for part IV of the national board examination are effective for seven years after which time the applicant may be required to take and pass the SPEC.
7. ~~Applications made~~ Graduates after January 1, 2001, must reflect a passing score on the national board's physiotherapy examination.

History: Amended effective February 1, 1990; April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-10, 43-06-10.1

17-02-01-13. License renewal and fees.

1. Every chiropractor who has been licensed by the board shall renew the license by remitting a renewal fee on or before September first of each year and completing the questionnaire provided by the board.

For applicants who receive an initial license after July first, the license will be deemed to be automatically renewed on September first for an additional year without payment of an additional renewal fee.

2. Subject to subsection 3, a license which has not been renewed as a result of nonpayment of the annual registration fee may be reinstated upon payment to the board of past renewal fees plus an additional administrative fee set by the board. Proof of appropriate continuing education hours must be presented.
3. If a license has not been renewed during a continuous two-year period, no renewal of the license may be issued unless the applicant passes the special purposes examination for chiropractic or part IV of the national board examination, or has passed part IV within the seven years immediately preceding the date of application for renewal, unless waived by the board for good cause. Further, the applicant must pass the jurisprudence examination required under North Dakota law.

History: Amended effective April 1, 1984; February 1, 1990; May 1, 1993; April 1, 2001; July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-04.1, 43-06-13

CHAPTER 17-02-02.1
LICENSE REVOCATION OR SUSPENSION

Section

17-02-02.1-01

Relicensure After Revocation

17-02-02.1-02

License Suspension

17-02-02.1-01. Relicensure after revocation. A chiropractor who has had the chiropractor's license revoked is not eligible to apply for relicensure for at least one year following the date the revocation order was signed by a board official, unless otherwise specified in the order.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-04.1, 43-06-13

17-02-02.1-02. License suspension. During a period of suspension the suspended chiropractor shall not provide or assist in any type of patient care or patient communications.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-04.1, 43-06-13

CHAPTER 17-02-03

17-02-03-04. Reporting child abuse. A chiropractor having knowledge of or reasonable cause to suspect that there is child abuse or neglect is mandated to report the circumstances to the department of human services if the knowledge or suspicion is derived from information received by the chiropractor in the chiropractor's professional capacity.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-04.1, 43-06-13

CHAPTER 17-03-01

17-03-01-01. Unprofessional conduct. The board may revoke, suspend, or deny a license to any person otherwise qualified or licensed by the board who is found to have committed unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

1. Exploitation of patients for financial gain, which includes:
 - a. Overutilization of chiropractic services ~~or practices~~. Overutilization is defined as services ~~or practices~~ rendered or goods or appliances sold by a chiropractor to a patient for the financial gain of the chiropractor or a third party which are excessive in quality or quantity to the justified needs of the patient.
 - b. Ordering of excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient.
 - c. Exercising undue influence on a patient or client, including the promotion or the sale of services, goods, or appliances in such a manner as to exploit the patient or client.
 - d. The administration of treatment or the use of diagnostic procedures which are ~~clearly~~ excessive as determined by the customary practices and standards of the local community of licensees.
2. Willfully harassing, abusing, or intimidating a patient, either physically or verbally.
3. Failing to maintain a patient record and a billing record for each patient which accurately ~~reflect~~ reflects the evaluation or treatment, ~~or both~~, of the patient and the ~~bills~~ fees charged to the patient. Unless otherwise provided, all patient records must be retained for at least ~~six~~ ten years.
4. The willful or grossly negligent failure to comply with the substantial provisions of federal, state, or local laws, rules, or regulations governing the practice of the profession.
5. Any conduct which has endangered or is likely to endanger the health, welfare, or safety of the public including habitual ~~intemperance~~ alcohol abuse, illegal use of controlled substances, or conducting unauthorized experiments or tests upon patients.
6. Conviction of a crime which is substantially related to the qualifications, functions, or duties of a chiropractor.
7. Conviction of a felony or any offense involving moral turpitude, dishonesty, or corruption.

8. Violation of any of the provisions of law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances.
9. The commission of any act involving moral turpitude or dishonesty, whether the act is committed in the course of the individual's activities as a licenseholder or otherwise.
10. Knowingly making or signing any false certificate or other document relating to the practice of chiropractic care which falsely represents the existence or nonexistence of a state of facts.
11. Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violations of, or conspiring to violate any provision of the law or the rules adopted by the board.
12. Making or giving any false statement or information in connection with the application for issuance of a license.
13. Participation in any act of fraud or misrepresentation.
14. Except as required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment.
15. ~~The employment or use of persons known as cappers or steerers to obtain business.~~
- ~~16.~~ 16. The offering, delivering, receiving, or accepting of any rebate, refund, commission, preference, patronage, dividend, discount, or other consideration as compensation or inducement for referring patients to any person.
- ~~17.~~ 16. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which a licensee knows or has reason to know that the licensee is not competent to perform, or performing without adequate supervision professional services which a licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.
- ~~18.~~ 17. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified by training, by experience, or by licensure, to perform them.
- ~~19.~~ 18. Advertising or soliciting for patronage that is not in the public interest, which includes:

- a. Advertising or soliciting which is false, fraudulent, deceptive, or misleading.
 - b. Advertising or soliciting which guarantees any service or result.
 - c. Advertising or soliciting which makes any claim relating to professional services or products or the cost or price thereof which cannot be substantiated by the licensee.
 - d. Advertising or soliciting which make claims of professional superiority which cannot be substantiated by the licensee.
 - e. Advertising or soliciting which is based upon a claim that the chiropractor uses a secret or special method of treatment and the chiropractor refuses to divulge the secret or special method of treatment to the board.
 - f. Advertising no out-of-pocket expenses or practicing same.
 - g. Advertising free examination or service.
- ~~20.~~ 19. Violation of any term of suspension or probation imposed by the board.
20. Initiating or engaging in any sexual conduct, sexual activities, or sexualizing behavior involving a current patient, even if the patient attempts to sexualize the relationship, except when the patient is the chiropractor's spouse.

History: Effective February 1, 1990; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 43-06-04.1, 43-06-15

Law Implemented: NDCC 43-06-15

17-03-01-03. Use of special purposes examination for chiropractic or the ethics and boundary examination for disciplinary purposes. The board may require any person who is found to have committed unprofessional conduct to take the special purposes examination for chiropractic or the ethics and boundary examination provided by the national board of chiropractic examiners. Passing the ~~special purposes examination for chiropractic~~ of one or both of these examinations may be made a requirement for continued licensure or to unencumber a suspended license.

History: Effective May 1, 1993; amended effective July 1, 2008.

General Authority: NDCC 28-32-02, 43-06-04.1

Law Implemented: NDCC 43-06-15

17-03-01-04. Code of ethics. The board adopts the 1999 2000 edition of the American chiropractic association code of ethics as the code of ethical conduct governing the practice of chiropractic in the state of North Dakota.

History: Effective April 1, 2001; amended effective July 1, 2008.

General Authority: NDCC 43-06-04.1

Law Implemented: NDCC 43-06-04.1

CHAPTER 17-03-02

17-03-02-01. Professional education.

1. All licensees shall complete a minimum of twenty hours of approved continuing chiropractic education per year. Only hours earned at board-approved continuing chiropractic education programs will be acceptable. In order to receive board approval, a continuing chiropractic education program must meet one of the following:
 - a. ~~Must be a~~ A program sponsored by the board;
 - b. ~~Must be a~~ A program approved by the ~~council on chiropractic education providers of approved continuing education (PACE)~~;
 - c. ~~Must be a~~ A program sponsored by a college of chiropractic accredited by the council on chiropractic education or its successor;
 - d. ~~Must be a~~ A health-related seminar sponsored by an equally accredited college or university;
 - e. ~~Must be a~~ A medical seminar qualifying for continuing education credits; or
 - f. ~~Must be an~~ An educational program arranged by the North Dakota chiropractic association and approved by the board.
2. In order to have a program approved, the sponsor shall submit to the board the following information in addition to any other information requested by the board:
 - a. A detailed course outline or syllabus including such items as the method of instruction and the testing materials.
 - b. The qualifications and subjects taught by each instructor appearing in the program.
 - c. The procedure to be used for recording attendance of those attendees seeking to apply for continuing chiropractic education credit.
 - d. The instructor is approved by the board of chiropractic examiners.
3. The board must be the sole determinant of whether the courses are approved for continuing chiropractic education credit. The board shall make that determination based on the information submitted to it. In making its decision, the board shall determine whether or not the course submitted for credit meets the basic objectives

and goals of continuing chiropractic education. Those basic goals include the growth of knowledge, the cultivation of skills and greater understanding, the continual striving for excellence in chiropractic care, and the improvement of health and welfare of the public.

4. On or before September first of each year, licensees may elect to renew their licenses as inactive. The inactive status is at a reduced fee for those licensees who do not practice, consult, or provide any service relative to the chiropractic profession in the state. The inactive licensee does not have to provide proof of continuing educational hours. Any inactive licensee may activate the license at any time by paying an additional fee and showing proof of twenty hours of continuing education in the last twelve months.
5. All licensees must have four hours of professional boundary study every three years prior to renewal of their licenses. These four hours will be included in the annual twenty-hour requirement in the year taken.
6. During the first calendar year a new license is issued to practice chiropractic in North Dakota, the licensee will be required to attend a seminar put on by the board. The seminar will be provided twice a year without charge.

History: Effective February 1, 1990; amended effective April 1, 2001; July 1, 2008.

General Authority: NDCC 43-06-13, 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-13

17-03-02-02. Peer review.

1. Peer review must be performed by a committee of three individuals appointed by the president of the board. Membership on the committee shall consist of three licensed chiropractors, none of whom may be in a direct or indirect business or personal relationship with the provider, insurer, or patient whose care is being reviewed.
2. The peer review committee shall investigate cases referred by the board that concern whether a licensed chiropractor:
 - (1) ~~a.~~ properly Properly utilized services;
 - (2) ~~b.~~ rendered Rendered or ordered appropriate treatment or services;
or
 - (3) ~~c.~~ charged Charged unconscionable fees or charges for treatment.
3. The fees and charges for treatment include all services provided to the consumer regardless of the monetary consideration paid to the health care provider.

4. The term "unconscionable fees or charges" means:
- (1) ~~a. charges~~ Charges for improperly utilized services; or ~~utilized services or~~
 - (2) ~~b. unreasonable~~ Unreasonable charges for provider services, tests, or treatments.
5. The term "properly utilized services" means a determination of whether the services provided were necessary and reasonable as substantiated by clinical records and reports of the provider.

History: Effective February 1, 1990; amended effective July 1, 2008.

General Authority: NDCC 43-06-14.1

Law Implemented: NDCC 43-06-14.1

17-03-02-03. Report of disciplinary actions. The board will report all final disciplinary actions to CIN-BAD, the internet database of the federation of chiropractic licensing boards. In addition, by law, the board will report all final disciplinary actions to the federal health care integrity and protection database. The board will also publish all final disciplinary actions in its newsletter, distributed to all licenseholders and to select state newspapers.

History: Effective April 1, 2001; amended effective July 1, 2008.

General Authority: NDCC 43-06-04.1, 43-06-05

Law Implemented: NDCC 43-06-15

TITLE 33
STATE DEPARTMENT OF HEALTH

JULY 2008

CHAPTER 33-18-01

33-18-01-01. Responsibility. It is the responsibility of any person, partnership, association, or corporation engaged in the business of construction of water wells ~~or~~ the installation of water well pumps, pitless units, or other appurtenances, or both, or drilling of geothermal systems, to comply within the meaning of this chapter pursuant to North Dakota Century Code chapters 23-01, 43-35, and 61-28.1.

A person, partnership, association, or corporation may not engage in the business of water well construction ~~or~~ the installation of water well pumps, pitless units, or other appurtenances, or both, or drilling of geothermal systems, unless a certified water well contractor ~~or~~ water well pump and pitless unit installer, or geothermal system driller is in charge.

The certified water well contractor ~~or water well pump or~~ water well pump and pitless installer, or geothermal system driller in charge shall provide inspection and supervision of all water well construction activities ~~or~~ installation of water well pumps, pitless units, or other appurtenances, or both, or drilling of geothermal systems.

History: Amended effective January 1, 1984; April 1, 1997; July 1, 2008.

General Authority: NDCC 43-35-19

Law Implemented: NDCC 43-35-19

33-18-01-02. Definitions. For the purpose of this chapter, the following definitions shall apply:

1. "Abandoned well" means a well whose use has been permanently discontinued.
2. "Annular space" means the opening between a well hole excavation and the well casing or curb, or between a casing pipe and a liner pipe.
3. "Appurtenances" means valves, meters, taps, gauges, or other devices required for adequate control or measurement of the well output.

4. "Aquifer" means a water-bearing formation that transmits water in sufficient quantities to supply a well.
5. "Casing" shall mean the pipe installed in the drill hole to give unobstructed access to the water-bearing formation.
6. "Constructing" a well includes boring, digging, drilling, or excavation in installing casings, well screens, and other appurtenances.
7. "Contamination" means alteration of the physical, chemical, or biological quality of the water so that it is harmful or potentially injurious to the health of the users or for the intended use of the water.
8. "Department" means the North Dakota state department of health.
9. "Disinfection" means the killing of infectious agents outside the body by chemical or physical means.
10. "Drawdown" means the extent of lowering the water surface in a well and of the water table adjacent to the well, resulting from the discharge of water from the well by pumping or natural flow.
11. "Drilling" means making any opening in the earth's surface by drilling, boring, or otherwise, and includes inserting any object into any part of the earth's surface for the purpose of obtaining an underground water supply except drainage tiles or similar devices designed primarily to improve land by removing excess water.
12. "Established ground surface" means the permanent elevation of the surface of the ground at the site of the well.
13. "Filter pack" means a clean sand or sand and gravel material of selected grain size and gradation which is installed in the annular space between a well hole excavation and the outside of the well screen for the purpose of preventing formation material from entering the screen.
14. "Geothermal system driller" means any person who is certified to conduct the business of drilling, boring, or excavating for the purpose of constructing or substantially modifying a geothermal energy extraction facility.
15. "Ground water source" means all water obtained from dug, drilled, bored, or driven well, infiltration lines, and springs.
- ~~15-~~ 16. "Grout" or "grouting material" means any stable impervious bonding material which is capable of providing a watertight seal between the casing and the formation throughout the depth required to protect against objectionable matter and which is reasonably free of shrinkage.

46. 17. "Liner pipe" means a pipe installed inside a completed and cased well for the purpose of sealing off undesirable water or for repairing ruptured or punctured casing or screens.
47. 18. "Pitless adapter" means a commercially manufactured device designed for attachment to a well casing and is so constructed as to prevent the entrance of contaminants into the well or potable water supply, conduct water from the well below the frostline to prevent freezing, and provide full access to the water system components within the well.
48. 19. "Pitless unit" means a factory-assembled device with cap which extends the upper end of a well casing to above grade and is so constructed as to prevent the entrance of contaminants into the well or potable water supply, conduct water from the well below the frostline to prevent freezing, and provide full access to the well and the water system components within the well.
49. 20. "Potable water" means water free from impurities in amounts sufficient to cause disease or harmful physiological effects, with the bacteriological and chemical quality conforming to applicable standards.
20. 21. "Pressure tank" or "hydropneumatic tank" means a closed water storage container constructed to operate under a designed pressure rating to modulate the water system pressure within a selected range.
24. 22. "Private water supply" means one that is not for public use.
22. 23. "Public water supply" means a water supply connected to at least fifteen service connections or regularly serves an average of twenty-five persons daily, sixty days out of the year.
23. 24. "Pumps" and "pumping equipment" means any equipment or materials utilized or intended for use in withdrawing or obtaining ground water for any use, including, without limitation, seals and tanks, together with fittings and controls.
24. 25. "Repair" means any action which results in a breaking or opening of the well seal or replacement of a pump.
25. 26. "Shall" means mandatory compliance with all aspects of the rules and regulations for water well construction and water well pump installation.
26. 27. "Should" means provisions which are not mandatory but which are recommended or desirable procedures or methods. Deviation from the rules and regulations for water well construction and water well pump installation is subject to individual consideration.

- ~~27.~~ 28. "Static water level" means the elevation of the surface of the water in a well when no water is being discharged therefrom.
- ~~28.~~ 29. "Water well contractor" means any person who is certified to conduct the business of well drilling under the provisions of North Dakota Century Code chapter 43-35.
- ~~29.~~ 30. "Water well pump and pitless unit installer" means any person who is certified to conduct the business of installing water well pumps and pitless units under the provisions of North Dakota Century Code chapter 43-35.
- ~~30.~~ 31. "Well development" means the general process to achieve sand-free water at the highest possible well capacity.
- ~~31.~~ 32. "Well seal" means an approved arrangement or device used to cap a well or to establish and maintain a junction between the casing or curbing of a well and the piping or equipment installed therein, the purpose or function of which is to prevent pollutants from entering the well at the upper terminal.
- ~~32.~~ 33. "Well vent" means an outlet at the upper terminal of the well casing to allow equalization of air pressure in the well and escape of toxic or inflammable gases.
- ~~33.~~ 34. "Wells" means any artificial opening or artificially altered natural opening however made by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn; provided, that this definition does not include a natural spring, stock ponds, or holes drilled for the purpose of exploration for production of oil, gas, gravel, or other minerals.

History: Amended effective September 1, 1986; April 1, 1997; July 1, 2008.

General Authority: NDCC 43-35-19, 43-35-19.1

Law Implemented: NDCC 43-35-19, 43-35-19.1

33-18-01-06. General well construction requirements.

1. **Construction water.** Water used in the drilling process shall be obtained from a source which will not result in contamination of the well. Chlorination of the water with an initial dosage of not less than fifty milligrams per liter (one gallon [3.78 liters] of laundry bleach or 0.6 pounds [1.32 kilograms] of calcium hypochlorite per one thousand gallons [3.78 kiloliters] of drilling water) is recommended.

Waters from surface sources must be chlorinated with a minimum dosage of one hundred milligrams per liter (two gallons [7.56 liters] of laundry bleach or 1.2 pounds [2.64 kilograms] of calcium hypochlorite per one thousand gallons [3.78 kiloliters] of drilling water).

2. **Ferrous well casing.**

- a. General. Casing and liner pipe of wrought iron or steel through ten inches [25.4 centimeters] in diameter shall be prime pipe meeting current American Society for Testing and Materials Schedule 40, or equivalent specifications. Larger diameter pipes shall have a minimum wall thickness of three hundred seventy-five thousandths of an inch [0.952 centimeter].

All casing shall have additional thickness and weight if standard thickness is not considered sufficient to assure reasonable life expectancy of the well or be capable of withstanding forces to which they are subjected.

- b. Drive shoe. Pipe that is to be driven shall be equipped with a drive shoe or other device approved by the department.
- c. Joints. Casing and liner pipe joints shall be properly welded or threaded.

3. **Nonferrous well casing.**

- a. General. Pipe other than wrought iron or steel must be adaptable to the stresses to which they will be subjected during and after installation and to the corrosiveness of the water.
- b. Thermoplastic well casing. Thermoplastic well casing shall conform with American Society for Testing and Materials Specification F480-81 or latest revision as follows:

- (1) Minimum standard dimension ratio shall be twenty-one for casings less than sixteen inches [40.64 centimeters] in diameter. Minimum standard dimension ratio shall be twenty-six for casings sixteen inches [40.64 centimeters] in diameter or larger. Casings with a lower standard dimension ratio (additional thickness) must be used when the minimum standard dimension ratio is not capable of withstanding the stresses encountered during and after installation.
- (2) Minimum pipe stiffness shall be two hundred twenty-four pounds/foot [inch · inch] (kiloneutron/[meter · meter]) when tested according to section 5.4.1 of American Society for Testing and Materials Specification F480.
- (3) All casing five inches [12.7 centimeters] and larger shall be tested for impact resistance and meet or exceed IC-1 impact classification according to section 6.5 and table 6 of American Society for Testing and Materials Specification F480.

- c. **Other materials.** Other well casing materials that may be proposed shall carry the seal of the national sanitation foundation and be approved in writing by the department prior to installation.
4. **Packers.** Packers shall be of a material that will not impart taste, odors, toxic substances, or bacterial contamination to the water in the well.
5. **Screens.** Screens must be constructed of corrosion-resistant material and sufficiently strong to withstand stresses encountered during and after installation. Screen slot openings, screen length, and screen diameter should be sized and designed to provide sufficient open area consistent with strength requirements to transmit sand-free water at a capacity at least equal to one and one-half times the capacity of water anticipated. Screen slot size should be based on sieve analysis of formation samples.

Screens should be installed so that exposure above pumping level will not occur. A screen must be attached or connected to the casing by a threaded, solvent-welded, or welded joint or by threaded fasteners or a nontoxic packer. Solvent-welded joints should not impart taste, odors, toxic substances, or bacterial contamination to the water in the well.

6. **Filter pack.** Material used as a filter pack shall be sand or sand and gravel that is free of foreign material, properly sized, washed, and then disinfected prior to or during placement. Provisions for prevention of leakage of grout into the filter pack or screen shall be provided.
7. **Well development.** Every well shall be developed prior to yield and drawdown testing. Well development includes procedures to apply physical energy to the screen and aquifer formation adjacent to the well. After development, the well should produce sand-free water at a capacity at least equal to one and one-half times the capacity of water anticipated.
8. **Yield and drawdown test.** Every well should be tested for yield and drawdown. The test method to be followed should be clearly outlined in the specifications. The test pump should have a maximum capacity at least equal to one and one-half times the capacity of water anticipated. The test pump should be able to operate continuously until the rate of decline of the pumping water level has stabilized. Test data to be recorded should include:
 - a. Static water level.
 - b. Pumping rate.
 - c. Drawdown during test.
 - d. Recovery water levels.

- e. Depth of pump setting.

Duration of the test shall be determined with due consideration given to pumping of sand, clarity of water pumped, and the obtaining of a representative sample of water for chemical analysis.

- 9. **Chemical conditioning.** When chemical treatment of a public well is proposed, the method of conditioning shall be included in the specifications. The equipment, chemicals, and inhibitors to be used, the method of testing for chemical residuals, and the disposal of waste shall be indicated.
- 10. **Grouting requirements.**
 - a. Neat cement grout. The mixture should consist of one sack of cement (ninety-four pounds [42.64 kilograms]) to not more than six gallons [22.71 liters] of clean water. Bentonite additives up to five pounds [2.27 kilograms] per sack of cement to increase fluidity may be used. Pozzuolana additives up to thirty-three pounds [14.97 kilograms] per sack of cement may be used.
 - b. Heat of hydration. Care must be used when grouting thermoplastic well casing with neat cement grout. Heat caused by hydration during curing of the cement may cause weakening of the well casing. High peak temperatures may be minimized by adding sand or bentonite clay to the neat cement grout mixture to increase the curing time. The amount of sand or bentonite clay added to the neat cement grout may not exceed five pounds [2.27 kilograms] per sack of cement.
 - c. High-solids bentonite clay grout. The mixture must consist of not less than three pounds [1.36 kilograms] of bentonite clay per gallon [3.79 liters] of clean water.

High-solids bentonite clay grout, bentonite chips, or bentonite tablets must be commercially prepared specifically for the purpose of sealing water wells. The use of bentonite drilling fluids as a grouting material is not permitted.
 - d. Grouting guides. Casing that is to be grouted in the drill hole or annular opening shall be provided with sufficient guides welded to the casing to permit the unobstructed flow and uniform thickness of grout.
 - e. Grout application. Grout material must be positively and accurately placed to fill all voids. All grouting should be performed by adding the mixture, from the bottom of the annular space upward, in one continuous operation, until the annular space is filled. Sufficient annular opening shall be provided to permit a minimum of one

and one-half inches [3.81 centimeters] of grout around the casing, including couplings, if used.

Bentonite chips or tablets may be added from the top of the annular space to a maximum depth of thirty feet [9.1 meters] provided the grout material is positively and accurately placed to fill all voids and hydrated after placement.

11. **Plumbness and alignment.** Every well shall be tested for plumbness and alignment upon completion of construction. The casing shall be sufficiently plumb so as not to interfere with the installation and operation of the pump. (See recommended procedures in the appendix to this chapter.)
12. **Well construction data.** The water well contractor shall provide the North Dakota board of water well contractors with an accurate record of well construction data. Drill cuttings should be obtained at five-foot [1.52-meter] intervals, and at all pronounced changes in formation. Well construction data shall include an accurate record of the drill hole diameters and depths, assembled order of size and length of casings and liners, grouting depths, formations penetrated, water levels, location of blast shots, and pumping tests. Well construction report forms are available from the North Dakota board of water well contractors.
13. **Upper terminal of well.** The casing or pitless unit for all ground water sources shall project not less than twelve inches [30.48 centimeters] above the final ground elevation, the well cover slab, or pumphouse floor.

Sites subject to flooding shall have the top of the protective casing, pitless unit, the cover of every dug well, and the floor of the pumphouse at least two feet [60.96 centimeters] above the highest-known flood elevation and be surrounded by earthfill.

14. **Capping.** The well must be protected during construction. A properly fitted cap designed for the type of well casing installed shall be used to protect the well from surface contamination until pumping equipment is installed.
15. **Bacteriological and chemical quality of water.** Every new, modified, or reconditioned ground water source shall be thoroughly cleaned and disinfected after the completion of construction and again after the permanent pump has been installed. The certified water well contractor or pump and pitless unit installer in charge during well construction and pump installation shall advise the well owner that one or more water samples from the source should be submitted to ~~the department or other~~ an approved laboratory for bacteriological analysis and that the

well should not be placed into service until satisfactory bacteriological results are obtained.

Wells intended for use by a public water system shall be sampled for bacteriological analysis and the following chemicals and not placed into service until the results are deemed by the department to comply with the primary drinking water standards established under the Safe Drinking Water Act: antimony, arsenic, barium, beryllium, cadmium, chromium, copper, cyanide, fluoride, lead, mercury, nickel, combined nitrate/nitrite, selenium, thallium, manganese, and sulfate. When it is established that the ground water is subject to continuous or intermittent contamination, or for public water systems that the ground water is under the direct influence of surface water, provisions for continuous disinfection will be required.

16. **Chemical quality of water.** Every new, modified, or reconditioned ground water source should be examined for its chemical characteristics by tests of a representative sample in a department or other approved laboratory. The samples should be collected and tested as soon as practical.
17. **Water level measurement.** Provisions should be made for periodic measurement of the static and pumping water levels in the completed well. The installation shall be made in such manner as to prevent the entrances of foreign material.
18. **Water supply wells, geothermal ground water and return wells, and special purpose water wells.** All wells designed as water supply wells, geothermal ground water or return wells, or special purpose water wells shall be constructed in accordance with this chapter.

Each well shall be protected at its upper terminal to preclude the entrance of foreign materials.

19. **Abandoned wells.** Any abandoned water wells, including test wells, uncompleted wells, and completed wells shall be sealed by restoring, as far as possible, the controlling geological conditions which existed before the wells were drilled.

Sealing of wells results in:

- a. Elimination of physical hazards.
- b. Prevention of contamination of ground water.
- c. Conserving yield and hydrostatic head of aquifers.
- d. Prevention of intermingling of desirable and undesirable waters.

Wherever feasible, the wells should be filled with concrete grout or other approved materials. (Note: recommended grouting procedures are in the appendix to this chapter.)

At no time shall any sewage or other contaminated or toxic materials be discharged into an abandoned well.

20. **Organic polymers.** The use of biodegradable organic polymers as a drilling fluid additive has resulted in persistent microbiological contamination of ground water supplies. Organic polymers shall be used only when approved in writing by the department for a specific well construction project.

History: Amended effective January 1, 1984; September 1, 1986; April 1, 1997; July 1, 2008.

General Authority: NDCC 43-35-19, 43-35-19.1, 43-35-19.2

Law Implemented: NDCC 43-35-19, 43-35-19.1, 43-35-19.2

33-18-01-10. Cross-connection control - Backflow protection. All wells discharging to sources of contamination, such as livestock watering tanks, must be provided with an approved backflow prevention device or an airgap to prevent the backflow or siphonage of contaminants into the well. The airgap should provide a minimum vertical distance between the potable water pipe outlet and the water surface of not less than twice the diameter of the outlet pipe. Greater distances are preferable.

Overflow lines from stock watering tanks or other sources of contamination may not discharge to the well.

Please consult the North Dakota state plumbing code for details.

History: Effective September 1, 1986.

General Authority: NDCC 43-35-19, 43-35-19.1

Law Implemented: NDCC 43-35-19, 43-35-19.1

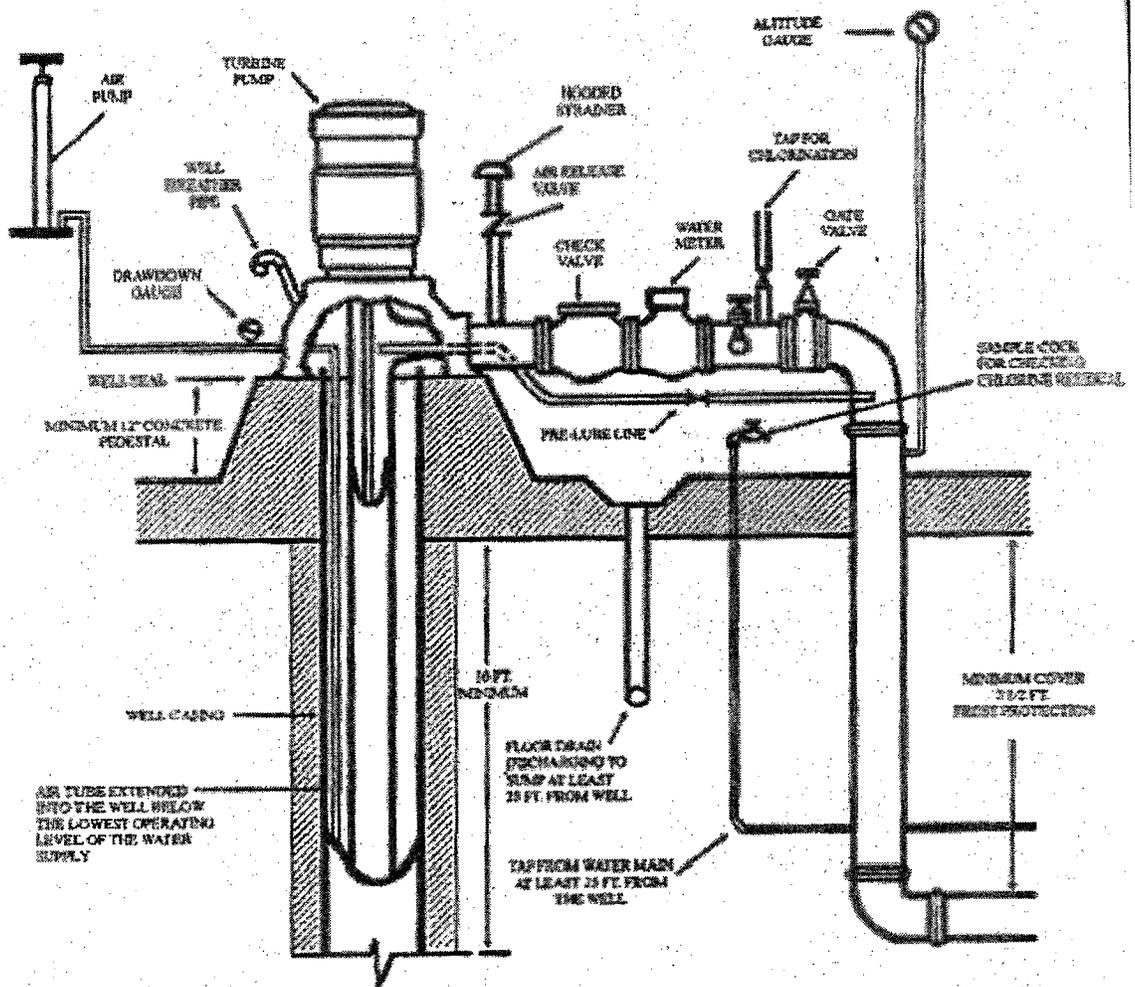


DIAGRAM NO. 1. TURBINE TYPE PUMP AND APPURTENANCES

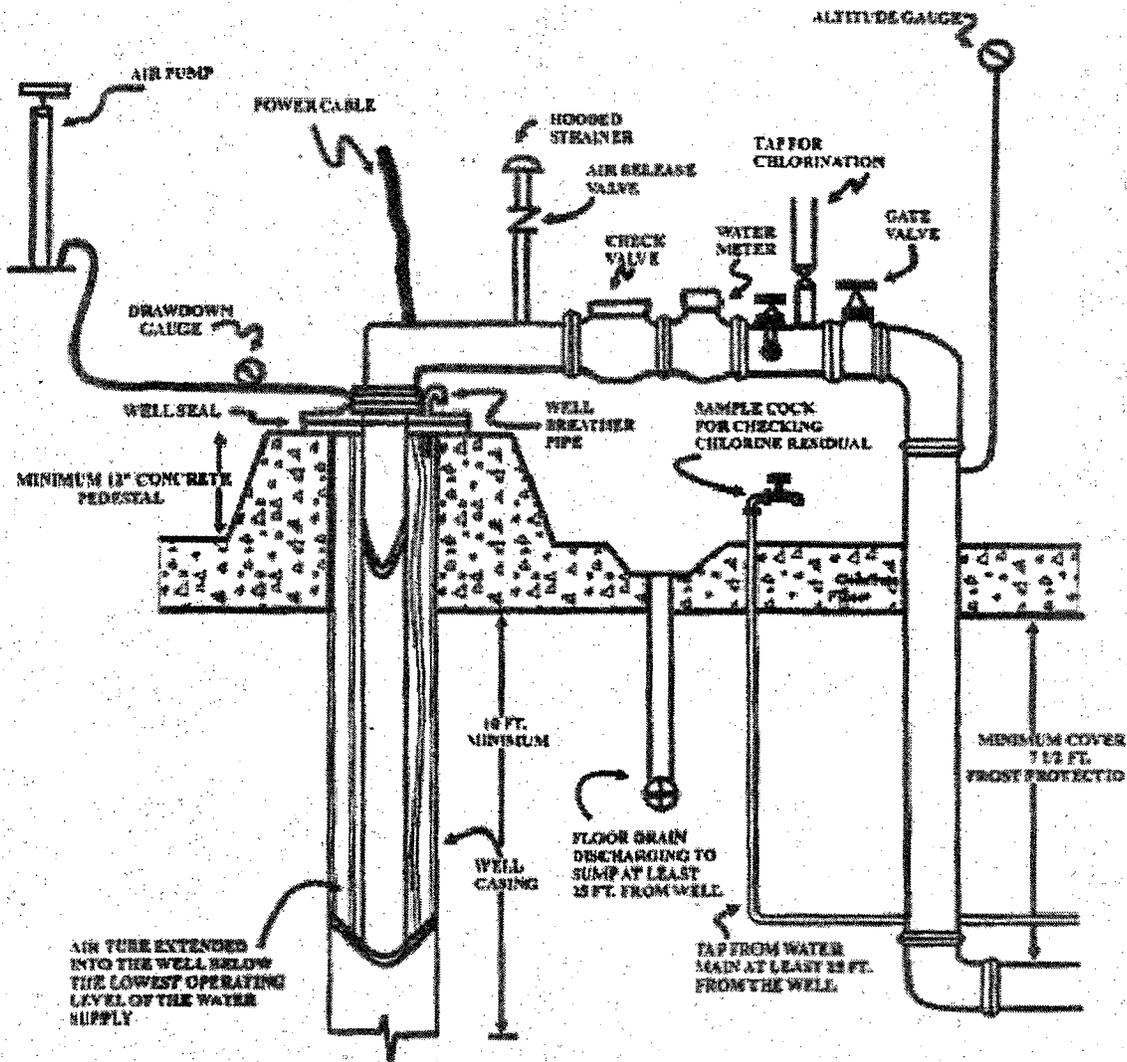


DIAGRAM NO. 2. SUBMERSIBLE TYPE PUMP AND APURTENANCES

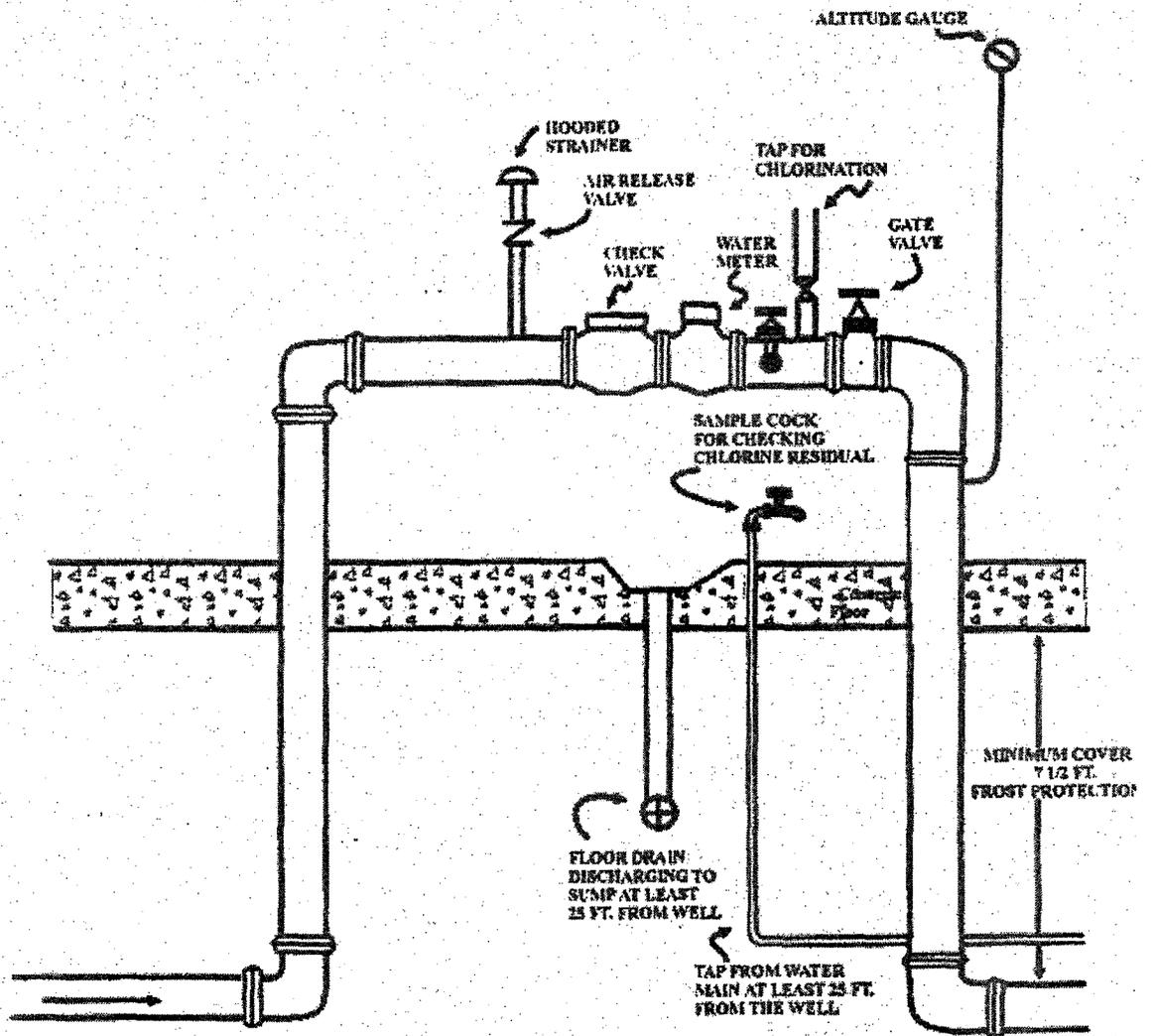


DIAGRAM NO. 3. PITLESS UNIT APPURTENANCES

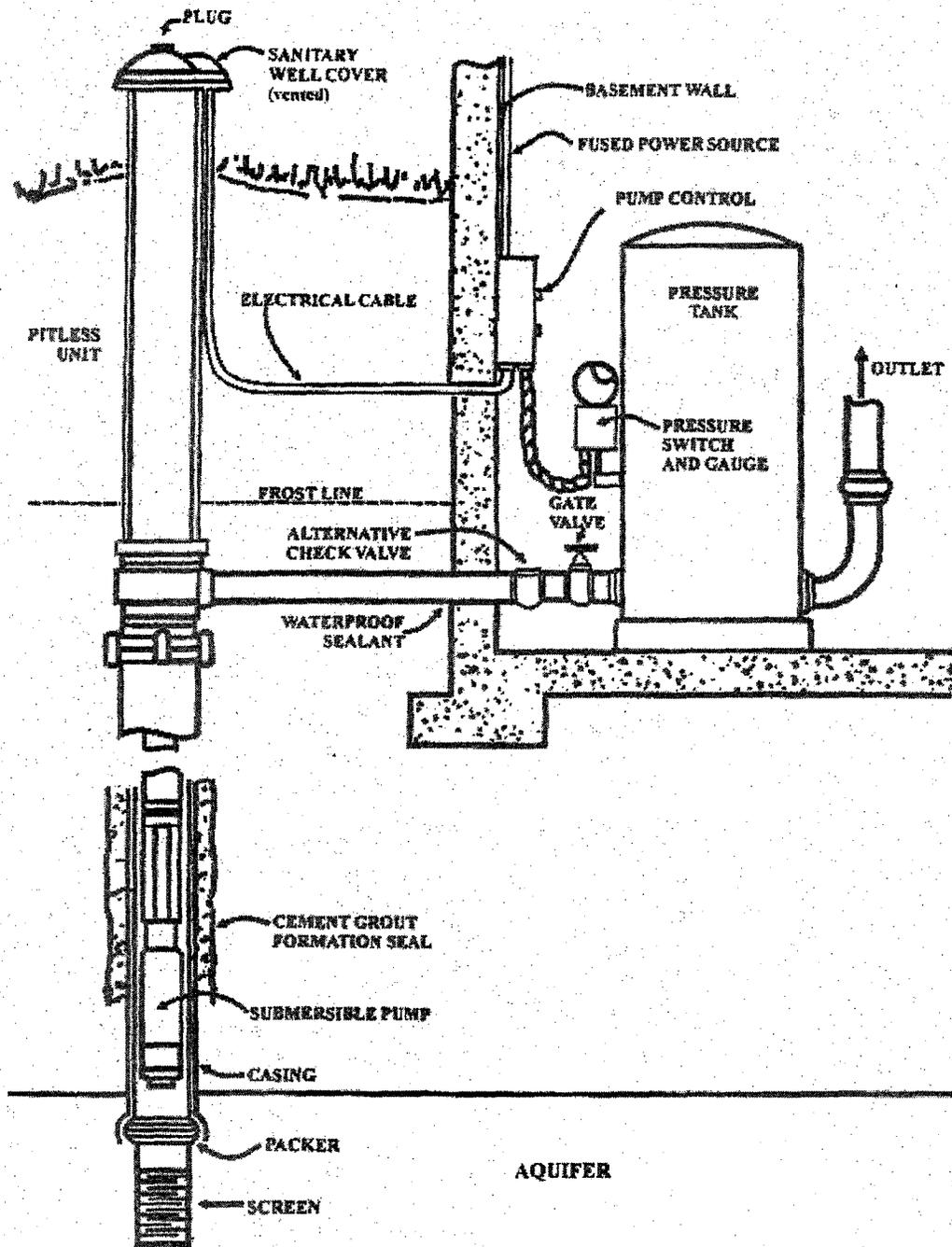


DIAGRAM NO. 4. PITLESS UNIT AND APPURTENANCES FOR PRIVATE WELLS

APPENDIX

I. WELL DISINFECTION

A. General.

Immediately after construction or repair, always disinfect with a strong chlorine solution of fifty to one hundred milligrams per liter. Materials used in construction or repair of a well are contaminated with dirt and bacteria and the water from a well is considered safe to drink only when laboratory tests show that no harmful bacteria are present.

B. Procedure.

1. Determine the amount of water in the well by referring to the table.
2. Add the amount of chlorine compound necessary to give a dosage of fifty milligrams per liter as indicated on the table, into the opening between the casing and the drop pipe. On new well construction, the chlorine should be added just before installation of the pumping equipment.
 - a. Chlorine tablets may be dropped in the top of the well and allowed to settle to the bottom.
 - b. Deep wells with high water levels may require that chlorine solutions be added through a hose inserted down the well casing to ensure proper diffusion of the chlorine.

Chlorine can destroy only the bacteria with which it comes in contact. Agitation of the water in the well may be required to assure thorough mixing. After adding the chlorine, start the pump and operate until the odor of chlorine is detected at the pump discharge.

3. The storage and distribution system should be disinfected along with the well. Open the house faucets and let the water run until the odor of chlorine is apparent.
4. Allow the chlorine solution to remain in the well and distribution system for a period of twenty-four hours. Pump the well and flush the distribution system to remove all traces of chlorine.
5. After pumping, collect a water sample and submit to the ~~North Dakota state department of health~~ a laboratory for a bacteriological analysis to assure the safety of the water supply. ~~Special sample containers are available on request from the department.~~ If contamination is shown to be still present in the water supply, the chlorination procedure should be repeated.

6. When time does not permit well disinfection by the procedure previously described, apply to the entire depth of the well a total volume of 50 mg/l chlorine solution at least four times greater than the volume of water in the well. Allow the chlorine solution to remain in the well for a period of at least two hours. Pump the well and flush the distribution system to remove all traces of chlorine.

**QUANTITY OF DISINFECTANT REQUIRED TO GIVE A DOSE OF
50 MILLIGRAMS PER LITER CHLORINE**

Diameter of Well, Spring, or Pipe, in Inches	Gallons of Water Per Foot of Water Depth	Ounces of Disinfectant Per 10-Ft. Depth of Water	
		65% Calcium Hypochlorite	5 1/4% Sodium Hypochlorite*
2	0.16	0.02	0.21
3	0.37	0.04	0.47
4	0.65	0.07	0.83
5	1.00	0.10	1.30
6	1.47	0.15	1.87
8	2.61	0.27	3.32
10	4.08	0.31	5.19
12	5.88	0.60	7.47
18	13.22	1.36	16.80
24	23.50	2.41	29.87
36	52.88	5.43	67.20
48	94.01	9.65	119.47

*Sodium Hypochlorite, also known as Bleach, Clorox, etc., can be purchased at most drug and grocery stores.

One heaping tablespoon of 65% calcium hypochlorite = approximately 1/2 oz.

Six (6) 65% calcium hypochlorite tablets = approximately 1 oz.

Heavy concentrations of chlorine on or near the well screen with waters very high in iron and/or iron bacteria may result in oxidation of iron on the well screen. Efficiency of the well screen and well output could be reduced under such conditions.

II. LABORATORY SERVICE. Chemical and microbiological laboratory service is provided by the North Dakota state department of health laboratory located at 1205 Avenue A West, Bismarck, North Dakota. Mailing address is:

~~North Dakota Department of Health
Public Health Laboratory~~

~~PO Box 1618~~
~~Bismarck, ND 58502~~

North Dakota State Department of Health
Division of Laboratory Services
P.O. Box 937
Bismarck, ND 58502

Microbiological laboratory service is available from:

First District Health Unit	Southwestern District Health Unit
801 - 11th Ave. SW	Pulver Hall, Dickinson College
PO Box 1268	PO Box 1208
Minot, ND	Dickinson, ND 58601

~~Fargo Community Health Center~~
~~401 - 3rd Ave. N~~
~~PO Box 728~~
~~Fargo, ND 58102~~

First District Health Unit
801 11th Avenue SW
P.O. Box 1268
Minot, ND 58702-1268

Southwestern District Health Unit
2869 Third Avenue West
Dickinson, ND 58601

Fargo Cass Public Health
Environmental Laboratory
435 14th Avenue South
Fargo, ND 58103

Grand Forks Environmental
Laboratory
503 South Fourth Street
Grand Forks, ND 58201

III. RECOMMENDED PROCEDURES.

A. Plumbness and Alignment.

Every public water well, before being officially accepted, should be tested for plumbness and alignment. The test method to be followed should be clearly stated in the specifications. As a minimum, a forty-foot [12.19-meter] section of pipe, or rigid dummy of the same length, having an outside diameter not more than one-half inch [12.7 millimeters] smaller than the diameter of the casing or hole being tested, shall move freely throughout the length of the casing or hole to the lowest anticipated pump setting. The well should not vary from the vertical in excess of two-thirds of the smallest inside diameter of that part of the well being tested, per one hundred feet [30.48 meters] of depth.

B. Abandoned Wells.

For detailed procedures for abandoning wells, see Section A1-13, Sealing Abandoned Wells, AWWA Standards for Deep Wells,

A100-66 or later amendments prepared by the American Water Works Association and the National Water Well Association.

C. Springs.

Springs should be considered as a water supply only when it is not possible to develop an acceptable well. Springs shall be protected from entry of surface water and should be housed in a permanent structure. Continuous chlorination of springs is recommended to assure the bacterial purity of the water supply.

D. Continuous Chlorination of Public Well Water Supplies.

Continuous chlorination is recommended for the safeguarding of public well water supplies. Chlorination not only assists in maintaining the bacterial purity of the water, but also eliminates the growth of taste-and-odor-producing nuisance organisms.

E. Livestock Wells.

A check valve on the pump discharge line is not required on nonpressurized wells for livestock use that would be damaged by freezing. The pump discharge line shall have a minimum airgap equal to twice the effective diameter of the discharge line to prevent backflow or siphonage into the well to prevent contamination of the well.

IV. MEASUREMENT OF WATER WELL DRAWDOWN AND SPECIFIC CAPACITY.

Pumping tests of water supply wells can serve many purposes. Properly planned and conducted tests will reveal information about the performance and efficiency of the well being pumped. In addition, from the data obtained, calculations can be made which interpret ground water aquifer performance.

Measuring each well for pump and well yield, depth to water level, drawdown, and specific capacity should be done on a routine basis. These test results should be compared with previous tests to estimate current well and/or aquifer conditions.

A. Terminology.

It is important to understand the meaning of the terms used relating to the pumping test. Some of these terms are as follows:

1. **Static Water Level.** This is the level at which water stands in the well when no water is being pumped. It is generally expressed as the distance in feet from the ground surface to the water level in the well.

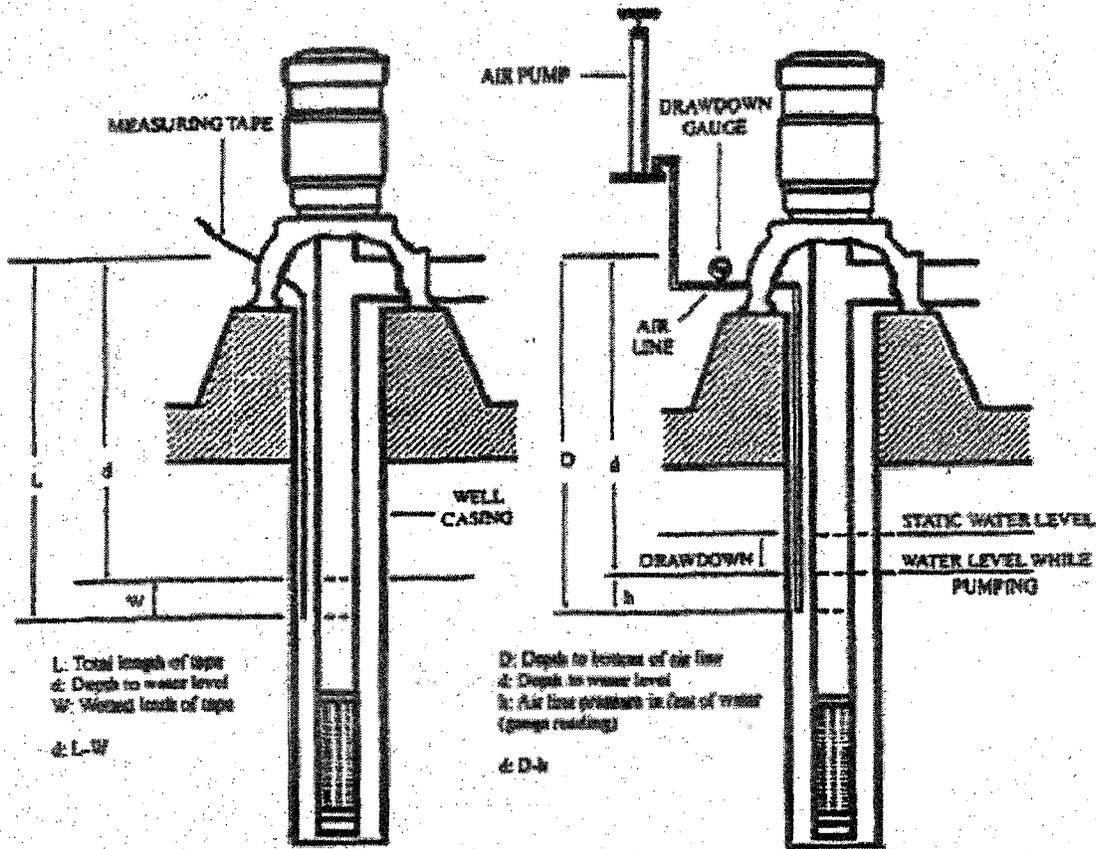
2. Pumping Level. This is the level at which water stands in the well when pumping is in progress. The pumping level may also be referred to as the dynamic water level.
3. Drawdown. When a well is pumped, the water level in the vicinity of the well will be lowered. Drawdown is the difference, measured in feet, between the static water level and the pumping level.
4. Well Yield. The well yield is the volume of water per unit of time discharged from a well either by pumping or by free flow.
5. Specific Capacity. Specific capacity of the well is its yield per unit of drawdown, usually expressed as gallons per minute (gpm) per foot of drawdown.

B. Determination of Depth to Water Level.

1. Wetted Tape Method. The wetted tape method will accurately measure the depth to water in a well and can be used for depths up to one hundred feet [30.5 meters] or more. Attach a lead weight to the end of a steel measuring tape, if needed. Wipe dry the lower three or four feet [.91 or 1.22 meters] of the tape and coat with carpenter's chalk. Lower the tape into the well through the air vent or other opening until part of the chalked section is below water. Continue to lower the tape until the next even foot mark can be held exactly at a reference point and record the number of feet indicated. The tape is then removed from the well and note is made of the footage of chalked section washed away by the water. Subtract this reading from the reading obtained at the top reference point. The difference in these readings is the depth from the reference point to the water level.
2. Air Line Method. The air line method measures depth to water level by determining the air pressure required to push all of the water out of a submerged tube of known length. The air line consists of a one-fourth inch [6.35 millimeters] pipe, copper or plastic tubing, extending from the top of the well to a point several feet below the lowest anticipated water level. To avoid turbulence near the intake of the pump, the lower end of the air line should be at least five feet [1.52 meters] above or below the point where water enters the pump. The exact length of the air line must be known or should be measured as it ~~should be~~ is placed in the well. Make all joints airtight with a nontoxic white lead or piping compound. The upper end of the tube is fitted with suitable connections for an air gauge, a tire valve, and an air pump.

WETTED TAPE METHOD

AIR LINE METHOD



Pump the air into the line until the gauge pressure is constant. This indicates that all of the water has been expelled from the tube. The gauge reading shows the pressure necessary to support a column of water of a height equal to the depth the tube was submerged. If the gauge indicates feet of water, then it shows directly the submerged length of the line in feet. Subtracting the submerged length from the total length of the air line gives the depth to static water level. Gauges calibrated in pounds per square inch (psi) may be converted to feet of water by multiplying by 2.31.

C. Determination of Drawdown.

First, determine the static water level. Second, after the well has achieved a constant pumping rate or yield, measure the depth to the water level. The difference of these readings before and after pumping the well at a specific rate is measured in feet and recorded as feet of drawdown.

Example:	Depth to water before pumping	=	100 feet
	Depth to water after pumping	=	125 feet

$$\begin{aligned}\text{Drawdown} &= \text{Depth after pumping} - \text{depth before pumping} \\ &= 125 \text{ feet} - 100 \text{ feet} = 25 \text{ feet}\end{aligned}$$

D. Determination of Specific Capacity.

Specific capacity is calculated by dividing the yield of the well in gallons per minute by the drawdown. Both measurements shall be taken at the same time.

$$\begin{aligned}\text{Example: Yield of well} &= 160 \text{ gpm} & \text{Drawdown} &= 20 \text{ feet} \\ \text{Specific capacity} &= 160/20 & &= 8 \text{ gpm per foot} \\ & & & \text{of drawdown}\end{aligned}$$

E. Interpretation of Water Well Problems.

With proper records of water well tests, well problems can be interpreted. Some rules to follow are:

1. If the output of the well (gpm) drops, the drawdown decreases, and the specific capacity remains the same, the problem is most likely the pump.
2. If the output of the well (gpm) drops, the static water well level remains the same, the drawdown increases and the specific capacity decreases, the well may be plugging. Acid clean the well when the specific capacity drops about twenty-five percent.
3. If the output of the well (gpm) drops and the static water level is declining, the aquifer may be depleting.

V. GENERAL POLICY - GEOTHERMAL ENERGY

Geothermal energy is the renewable thermal energy of the earth or ground water. Using this form of energy for heating and cooling purposes has become increasingly popular for both commercial and residential purposes. Geothermal regulations are administered by the North Dakota Geological Survey, and require a permit from the State Geologist prior to the installation of a geothermal system. ~~Although a permit is not required for private residential geothermal systems, there is a reporting requirement (NDGG 38-19-04).~~ All construction of geothermal energy systems must comply with the rules contained in Chapter 43-02-07, Geothermal Energy Production. These regulations cover both vertical-loop and horizontal-loop systems. Installers should contact the North Dakota Geological Survey for more information regarding installation of geothermal energy systems.

Because of the potential for contamination of drinking water systems and aquifers, and the pollution of surface waters, the North Dakota state department of health provides the following guidance for users

of geothermal energy. This policy relates primarily to private individual systems. Commercial and industrial projects should be constructed only after consultation with the department regarding water supply and disposal requirements and the North Dakota Geological Survey regarding construction permitting requirements.

1. The department encourages the conservation of ground water resources, therefore, closed-loop geothermal systems are recommended. Closed-loop systems also have fewer maintenance problems. Whenever If an open-loop system is constructed, whenever possible, the water should be reinjected into the supply aquifer or used for other beneficial purposes such as irrigation or stock watering.
2. Users of open-loop geothermal energy systems must be aware of the scale-forming or corrosive nature of some of the highly mineralized water in North Dakota. Some ground water supplies may require treatment prior to use, or serious problems with operation of the heat exchange system can develop. Chemicals used for cleaning the heat exchange system, and the material removed through cleaning, may not be suitable for discharge to the storm sewer system. Problems with the development of scale will often reduce the volume of water that can be disposed into injection wells.
3. All supply and disposal wells shall be constructed to comply with state department of health rules, chapter 33-18-01, "Water Well Construction and Water Well Pump Installation." The geothermal system should be constructed to eliminate all sources of contamination to the water supply system and the ground water aquifer.
4. If municipal water supply systems are to be used as a source of geothermal energy, an approved backflow prevention device shall be used to separate the geothermal energy from the public water supply system.
5. ~~Heat exchange systems containing toxic or flammable substances must be separated from the drinking water supply by two separate thicknesses of metal.~~ To protect the drinking water supply, heat exchangers, unless otherwise permitted under the North Dakota state plumbing code, shall be of double-wall construction with a space between the two walls which is vented to the atmosphere.
6. Geothermal energy systems shall not discharge water to either municipal drinking water or sanitary sewer systems. Discharge to the municipal drinking water system is a cross-connection and could result in chemical and/or microbiological contamination of the system. Nearly all cities in the state have sewer use ordinances specifically prohibiting the connection of clear water discharges to the sewer system.

7. Geothermal energy systems may discharge to municipal storm sewer systems with approval of the municipality, and if the discharge water is compatible with the waters of the receiving stream. Degradation of surface waters by discharges from geothermal energy systems will not be allowed.
8. If water is to be reinjected into the ground water system, the discharge should be made to a similar or inferior quality aquifer.
9. Highly mineralized or saline waters, such as from the Dakota formation, should be returned to those aquifers if secondary use is not possible.
10. Evaporation ponds, which do not discharge, may be used as a means of disposal where other methods of disposal are not feasible.
11. Disposal permits under the Underground Injection Control Program or the National Pollutant Discharge Elimination System Regulations may be required. Users of geothermal energy systems should contact the department to determine whether a permit is required for their installation.

VI. ABANDONMENT OF TEST HOLES, PARTIALLY COMPLETED WELLS, AND COMPLETED WELLS

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Section 1.1 - General

The recommendations contained in this appendix pertain to wells and test holes in consolidated and unconsolidated formations. Each sealing job should be considered as an individual problem, and methods and materials should be determined only after carefully considering the objectives outlined in the standard.

Section 1.2 - Wells in Unconsolidated Formations

Normally, abandoned wells extending only into consolidated formations near the surface and containing water under water-table conditions can be adequately sealed by filling with concrete, grout, neat cement, clay, or clay and sand. In the event that the water-bearing formation consists of coarse gravel and producing wells are located nearby, care must be taken to select sealing materials that will not affect the producing wells. Concrete may be used if the producing wells can be shut down for a sufficient time to allow the concrete to set. Clean, disinfected sand or gravel may also be used as fill material opposite the water-bearing formation. The remainder of the well, especially the upper portion, should be filled with clay, concrete, grout, or neat cement to exclude surface water. The latter method, using clay as the

upper sealing material, is especially applicable to large-diameter abandoned wells.

In gravel-packed, gravel-envelope, or other wells in which coarse material has been added around the inner casing to within twenty to thirty feet [6.1 to 9.1 meters] of the surface, sealing outside the casing is very important. Sometimes this sealing may require removal of the gravel or perforation of the casing.

Section 1.4 - Wells in Noncreviced Rock Formations

Abandoned wells encountering noncreviced sandstone or other water-bearing consolidated formations below the surface deposits may be satisfactorily sealed by filling the entire depth with clay, provided there is no movement of water in the well. Clean sand, disinfected if other producing wells are nearby, may also be used through the sandstone up to a point ten to twenty feet [3.0 to 6.1 meters] below the bottom of the casing. The upper portion of this type of well should be filled with concrete, neat cement, grout, or clay to provide an effective seal against entrance of surface water. If there is an appreciable amount of upward flow, pressure cementing or mudding may be advisable.

Section 1.5 - Multiple Aquifer Wells

Some special problems may develop in sealing wells extending into more than one aquifer. These wells should be filled and sealed in such a way that exchange of water from one aquifer to another is prevented. If no appreciable movement of water is encountered, filling with concrete, neat cement, grout, or alternate layers of these materials and sand will prove satisfactory. When velocities are high, the procedures outlined in section 1.6 are recommended. If alternate concrete plugs or bridges are used, they should be placed in known nonproducing horizons or, if locations of the nonproducing horizons are not known, at frequent intervals. Sometimes when the casing is not grouted or the formation is nocaving, it may be necessary to break, slit, or perforate the casing to fill any annular space on the outside.

Section 1.6 - Wells With Artesian Flow

The sealing of abandoned wells that have a movement of water between aquifers or to the surface requires special attention. Frequently the movements of water may be sufficient to make sealing by gravity placement of concrete, cement grout, neat cement, clay, or sand impractical. In such flow, if preshaped or precast plugs are used, they should be several times longer than the diameter of the well, to prevent tilting.

Since it is very important in wells of this type to prevent circulation between formations or loss of water to the surface or to the annular space outside the casing, it is recommended that pressure cementing, using the

minimum quantity of water that will permit handling, be used. The use of wells, large stone aggregate (not more than one-third of the diameter of the hole), lead wool, steel shavings, a well packer, or a wood or cast-lead plug or bridge will be needed to restrict the flow and thereby permit the gravity placement of sealing material above the formation producing the pressure mudding instead of this process if sometimes permissible.

In wells which the hydrostatic head producing flow to the surface is low, the movement of water may be arrested by extending the well casing to an elevation above the artesian-pressure surface. Previously described sealing methods suitable to the geologic conditions can then be used.

Section 1.7 - Sealing Materials

A number of materials that can be used for sealing wells satisfactorily, including concrete, cement grout, neat cement, clay, sand, or combinations of these materials, are mentioned in this appendix. Each material has certain characteristics and distinctive properties; therefore, one material may be especially suited for doing a particular job. The selection of the material must be based on the construction of the well, the nature of the formations penetrated, the material and equipment available, the location of the well with respect to possible sources of contamination, and the cost of doing the work.

Concrete is generally used for filling the upper part of the well or water-bearing formations, for plugging short sections of casings, or for filling large-diameter wells. Its use is cheaper than neat cement or grout, and it makes a stronger plug or seal. However, concrete will not penetrate seams, crevices, or interstices. Furthermore, if not properly placed, the aggregate is likely to separate from the cement.

Cement grout or neat cement and water are far superior for sealing small openings, for penetrating any annular space outside of casings, and for filling voids in the surrounding formation. When applied under pressure, they are strongly favored for sealing wells under artesian pressure or those encountering more than one aquifer. Neat cement is generally preferred to grout because it does not separate.

Clay, as a heavy mud-laden or special clay fluid applied under pressure, has most of the advantages of cement grout. Its use is preferred by some competent authorities, particularly for sealing artesian wells. Others feel that it may, under some conditions, eventually be carried away into the surrounding formations.

Clay in a relatively dry state, clay and sand, or sand alone may be used advantageously as sealing materials, particularly under water-table conditions where diameters are large, depths are great, formations are caving, and there is no need for achieving penetration of openings in

casings, liners, or formations, or for obtaining a watertight seal at any given spot.

Frequently combinations of these materials are necessary. The more expensive materials are used when strength, penetration, or watertightness are needed. The less expensive materials are used for the remainder of the well. Cement grout or neat cement is now being mixed with bentonite clays and various aggregates. Superior results and lower cost are claimed for such mixtures.

ASTM STANDARD A 53*
Welded and Seamless Steel
Pipe Schedule 40 - Standard Weight

Nominal Size (Inches)	External Diameter (Inches)	Internal Diameter (Inches)	Wall Thickness (Inches)	Weight Per Foot (lb)	
				Plain End	Threads and Couplings
1 1/4	1.660	1.380	0.140	2.27	2.28
1 1/2	1.900	1.610	0.145	2.72	2.73
2	2.375	2.067	0.154	3.65	3.68
2 1/2	2.875	2.469	0.203	5.79	5.82
3	3.500	3.068	0.216	7.58	7.62
3 1/2	4.000	3.568	0.226	9.11	9.20
4	4.500	4.026	0.237	10.79	10.89
5	5.563	5.047	0.258	14.62	14.81
6	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	65.30
18	18.000	17.250	0.375	70.59	73.00
20	20.000	19.250	0.375	78.60	81.00
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

ASTM STANDARD A 589*

Water-Well Reamed and Drifted Pipe

Nominal Size (Inches)	External Diameter (Inches)	Internal Diameter (Inches)	Wall Thickness (Inches)	Weight Per Foot (lb)	
				Plain End	Threads and Couplings
1 1/4	1.660	1.380	0.140	2.27	2.30
1 1/2	1.900	1.610	0.145	2.72	2.75
2	2.375	2.067	0.154	3.65	3.75
2 1/2	2.875	2.469	0.203	5.79	5.90
3	3.500	3.068	0.216	7.58	7.70
3 1/2	4.000	3.548	0.226	9.11	9.25
4	4.500	4.026	0.237	10.79	11.00
5	5.563	5.047	0.258	14.62	15.00
6	6.625	6.065	0.280	18.97	19.45
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15

*From "1973 Annual Book of ASTM Standards"

SDR RATED PVC CASING - WEIGHTS AND DIMENSIONS

NOMINAL SIZE	STANDARD DIMENSION RATIO (SDR)	AVERAGE INCHES O.D.	MIN. INCHES WELL	WEIGHT (LBS/FT)		MINIMUM I.D.					
				AIR	S.P.C.-1	ROUND	I.D. AT ADDITIONAL % OUT OF ROUND				
							1%	2%	3%	4%	5%
4"	21	4.500	.214	1.875	855	3.961	3.921	3.882	3.842	3.803	3.763
	17	4.500	.268	2.292	878	3.882	3.843	3.804	3.765	3.726	3.686
	13.5	4.500	.333	2.831	838	3.730	3.693	3.655	3.618	3.580	3.544
5"	21	5.583	.285	2.570	850	4.909	4.860	4.811	4.762	4.713	4.664
	17	5.583	.327	3.497	1.038	4.791	4.743	4.695	4.647	4.599	4.552
	13.5	5.583	.412	4.341	1.285	4.601	4.555	4.509	4.463	4.417	4.371
6"	21	6.625	.318	4.074	1.206	5.858	5.797	5.738	5.680	5.621	5.563
	17	6.625	.390	4.968	1.470	5.705	5.648	5.590	5.534	5.478	5.420
	13.5	6.625	.491	6.144	1.819	5.481	5.428	5.371	5.317	5.262	5.207
8"	21	8.625	.410	6.884	2.038	7.817	7.741	7.664	7.588	7.512	7.436
	17	8.625	.508	8.421	2.489	7.427	7.353	7.278	7.204	7.130	7.056
10"	21	10.750	.511	10.883	3.165	9.516	9.421	9.325	9.230	9.135	9.040
12"	21	12.750	.608	15.042	4.482	11.302	11.189	11.075	10.963	10.848	10.736
18"		18.000	.782	23.748	7.029	14.235	14.093	13.950	13.808	13.666	13.523

Pvc / Vinyl Chloride (PVC) casing for water wells will carry the following labels for compliance with the American Society for Testing and Materials (ASTM) specification F480-81.

8" WELL CASING PVC 1120 SDR 21 IC2 F480 NSF-WC

This label includes the SDR, IC number, and the NSF-WC logo.

8" WELL CASING PVC 1120 200 PSI SDR 21 IC2 F480 NSF-WC D2241 NSF-PW

This label is the same as the first except it has also been tested as ASTM D2241 pressure pipe; therefore, the label includes the NSF-PW logo, as well as the NSF-WC logo.

NOTE: A label will also include the manufacturer's name and production code number, which are not included in the above labels.

TITLE 37
DEPARTMENT OF TRANSPORTATION

JULY 2008

CHAPTER 37-06-04

37-06-04-01.1. Authorized combinations of vehicles exceeding seventy-five feet, not to exceed ninety-seven feet. The following combinations of vehicles exceeding seventy-five feet [22.86 meters], but not exceeding ninety-seven feet [29.56 meters] in overall length may be operated on those highways described in section 37-06-04-02.

1. A motor vehicle may draw up to three motor vehicles attached to the towing motor vehicle by a saddlemount. In such a mount, the front wheels of the towed motor vehicle are mounted upon the bed of the towing vehicle, with any other towed motor vehicles being mounted in a like manner on the preceding motor vehicle.
2. A motor vehicle may draw up to three motor vehicles with no more than one smaller vehicle fully mounted on the frame of the first or last vehicle in the saddlemount. The drawn vehicles shall each be connected by a saddlemount. This combination of vehicles is commonly referred to as a drive-away saddlemount with fullmount vehicle transporter combination.

History: Effective July 1, 2008.

General Authority: NDCC 39-12-04

Law Implemented: NDCC 39-12-04; 49 USC 31111

37-06-04-02. Routes of operation. Authorized combinations of vehicles may be operated on all four-lane divided state highways and on those state highways designated by the ~~commissioner~~ director as shown on special highway maps available at the highway patrol and ~~highway~~ department of transportation headquarters in Bismarck and at the respective district offices in Williston, Minot, Devils Lake, Grand Forks, Fargo, Valley City, Jamestown, and Dickinson. Authorized combinations of vehicles may travel off the designated system a distance of ten miles [16.09 kilometers] on a state highway for the purpose of

procuring food, fuel, repairs, obtaining sleeping quarters (rest), or going to a terminal or points of loading or unloading.

History: Effective October 1, 1983; amended effective November 1, 1987; July 1, 2008.

General Authority: NDCC 39-12-04

Law Implemented: NDCC 39-12-04

37-06-04-05. Signing requirement. The last trailer or vehicle in any three three-unit or ~~four-unit~~ four-unit combination must have a "LONG LOAD" sign mounted on the rear. The "LONG LOAD" sign must be a minimum twelve inches [30.48 centimeters] in height and sixty inches [152.4 centimeters] in length. The lettering must be eight inches [20.32 centimeters] in height with one-inch [2.54-centimeter] brushstrokes. The letters must be black on yellow background.

History: Effective October 1, 1983; amended effective May 1, 1999; July 1, 2008.

General Authority: NDCC 39-12-04

Law Implemented: NDCC 39-12-04

CHAPTER 37-09-01

37-09-01-01. Definitions. The definitions provided in North Dakota Century Code title 39 apply to this article, except:

1. ~~"Damage" is the change in the body or structure of a motor vehicle, generally resulting from a vehicular crash or accident, including loss by fire, vandalism, weather, or submersion in water, resulting in damage of three thousand dollars or greater in one occurrence. The term does not include body or structural modifications, normal wear and tear, glass damages, hail damage, or items of normal maintenance and repair.~~
2. ~~"Motor motor vehicle" is exclusive of motorcycles, all-terrain off-highway vehicles, snowmobiles, and house cars low-speed vehicles.~~

History: Effective April 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 24-02-01.2, 39-02-03

Law Implemented: NDCC 39-05-17.2

37-09-01-03. Damage disclosure statement - When required. A damage disclosure statement must be completed prior to the transfer of the title on all current year models of motor vehicles and those models manufactured in the ~~four~~ seven years previous to the current model year.

History: Effective April 1, 1992; amended effective July 1, 2008.

General Authority: NDCC 24-02-01.2, 39-02-03

Law Implemented: NDCC 39-05-17.2

ARTICLE 37-12

MOTOR VEHICLE DIVISION

Chapter

<u>37-12-01</u>	<u>Motor Vehicle Dealer Licensing</u>
<u>37-12-02</u>	<u>Special Motor Vehicles</u>
<u>37-12-03</u>	<u>Compulsory Security Requirements of the North Dakota Auto Accident Reparations Act</u>
<u>37-12-04</u>	<u>Obtaining Certificate of Title for Untitled Vehicles</u>
<u>37-12-05</u>	<u>Inspection of Salvage Vehicles</u>

CHAPTER 37-12-01

MOTOR VEHICLE DEALER LICENSING

Section

<u>37-12-01-01</u>	<u>General Considerations and Dealer Qualifications</u>
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37-12-01-01. General considerations and dealer qualifications.

1. **Definitions.** The terms used throughout this chapter have the same meaning as in North Dakota Century Code title 39, except "new motor vehicle" means a motor vehicle which has never been taxed and titled.
2. **Dealer's license certificate.** Every dealer license shall be evidenced by a certificate furnished by the motor vehicle division director. For a new or used motor vehicle dealer's license, the certificate shall be form MVD-28. Each dealer shall be required to prominently display the certificate in the office area of the place of business.

History: Effective July 1, 2008.

General Authority: NDCC 39-22-10(2)

Law Implemented: NDCC 39-05-01, 39-22-02, 39-22-04, 39-22-05

CHAPTER 37-12-02
SPECIAL MOTOR VEHICLES

<u>Section</u>	
<u>37-12-02-01</u>	<u>General Considerations</u>
<u>37-12-02-02</u>	<u>Body Requirements</u>
<u>37-12-02-03</u>	<u>Chassis Requirements</u>
<u>37-12-02-04</u>	<u>Electrical Systems Requirements - Horn</u>

37-12-02-01. General considerations.

1. **Scope.** Vehicles constructed, reconstructed, or modified shall comply with all provisions of North Dakota Century Code chapter 39-21 and any other applicable provision of North Dakota Century Code title 39, unless specifically excepted. The requirements of this chapter shall not supersede the original and unaltered design, construction, or equipment standards of motor vehicles manufactured by a recognized manufacturer.

2. **Definitions.** The terms used throughout this chapter have the same meaning as in North Dakota Century Code title 39, except:
 - a. "Recognized manufacturer" means a manufacturer of motor vehicles intended for use on the public roadways and for distribution and sale in interstate commerce.

 - b. "Recognized manufacturer or assembler" means every fabricator of a special vehicle assembled in its entirety as a complete product for use on the public roadways.

 - c. "Special motor vehicles" means those passenger vehicles and trucks with an unladen weight of six thousand pounds [2721.55 kilograms] or less equipped with two or more axles having at least two wheels per axle, and which are intended for use on public highways. The term "special motor vehicle" includes the following types:
 - (1) Type I - Those vehicles which are restored to or retain their original configuration but which may contain changed steering, brake, power train, or suspension systems.

 - (2) Type II - Those vehicles changed from the recognized vehicle manufacturer's original body configuration but which retain the general appearance, including changes to the body chassis or engine of the original vehicle. This type may also include changes and modifications to engine, chassis, brake system, power train, steering, and suspension systems.

- (3) Type III - Other than type I and type II special vehicles, those vehicles custom built with fabricated parts, or parts taken from existing vehicles.

3. **Manufacturer's certification.** The manufacturer or assembler of a special vehicle (type I, II, or III) shall provide a certification of fact that the vehicle is designed and manufactured for use on the public roadway and complies with the performance and equipment requirements of this chapter. Nothing contained in this chapter shall preclude the motor vehicle division director from requiring a certificate of inspection to ensure compliance with the standard.

History: Effective July 1, 2008.

General Authority: NDCC 39-02-03

Law Implemented: NDCC 39-02-03

37-12-02-02. Body requirements.

1. **Door latches.** Every special motor vehicle that is equipped with doors leading directly into a compartment that contains one or more seating accommodations shall be equipped with mechanically actuated door latches which firmly and automatically secure the door when pushed closed and which allow each door to be opened from the inside by the actuation of a convenient lever, handle, or other suitable device.
2. **Floor pan.** Every special vehicle shall be equipped with a floor pan under the entire passenger-carrying compartment. The floor pan shall support the weight of the number of occupants that the vehicle is designed to carry. The floor pan shall be so constructed that it prevents the entry of exhaust fumes.
3. **Hood latches.** A front-opening hood shall be equipped with a primary and secondary latching system to hold the hood in a closed position.
4. **Instrumentation and controls.** Every special vehicle shall be equipped with a circular steering wheel with an outside diameter of not less than thirteen inches [33.02 centimeters].
5. **Rearview mirror.** Every special vehicle shall be equipped with two rearview mirrors having substantially unit magnification. One shall be mounted on the inside of the vehicle in such a position that it affords the driver a clear view of a straight level road surface at least two hundred feet [60.96 meters] to the rear. The other shall be mounted on the outside of the vehicle on the driver's side in such a position that it affords the driver a clear view to the rear. When an inside mirror does not give a clear view to the rear, the right-hand outside mirrors shall be required in lieu thereof. The mirror mounting shall provide for mirror adjustment by tilting in both horizontal and vertical directions. Each mirror shall have a

minimum of ten square inches [64.52 square centimeters] of reflective surface.

History: Effective July 1, 2008.

General Authority: NDCC 39-02-03

Law Implemented: NDCC 39-02-03

37-12-02-03. Chassis requirements.

1. **Brakes.** Every special motor vehicle shall be equipped with parking brakes operating on at least two wheels on the same axle which when applied shall be capable of producing a tire to road braking force of not less than twenty-five percent of the gross vehicle weight on a level, dry, concrete or asphalt surface free from loose material. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.

2. **Bumpers.** Every special motor vehicle shall be equipped with a bumper both on the front and rear of the vehicle with the exception of type I and type II special vehicles where the original or predominant body configuration, provided by a recognized manufacturer, did not include such bumper or bumpers in the design of the vehicle. Type I and type II special vehicles, not excepted as noted above, and all type III special vehicles shall be equipped with horizontal load-bearing bumpers or customized bumpers or grill bars of a sturdy construction which have at least an evenly distributed portion of their horizontal load-bearing width within fourteen inches and twenty-two inches [35.56 centimeters and 55.88 centimeters] above a level road surface and which extend no less than the width of their respective wheel track distances, when these distances are measured to the width of standard size tires. The horizontal bumper or customized bumper or grill bar structure shall be at least four and one-half inches [11.43 centimeters] in vertical height and centered on the vehicle's centerline, and attached to the vehicle frame to effectively transfer impact when engaged.

3. **Exhaust system.**
 - a. Every special motor vehicle shall be equipped with an exhaust system that is free of leaks, including the exhaust manifolds (including headers), the piping leading from the flange of the exhaust manifolds, the mufflers, and the tailpiping.

 - b. Exhaust systems on property-carrying vehicles shall discharge the exhaust fumes to the rear of that part of the vehicle designed for, and normally used for, carrying the driver and passengers.

 - c. Exhaust systems on passenger vehicles shall discharge the exhaust fumes at a location to the rear of the vehicle body or direct

the exhaust fumes outward from the side of the vehicle body at a location rearward of any operable side windows.

d. No part of the exhaust system shall pass through any area of the vehicle that is used as a passenger-carrying compartment.

4. **Fenders.** All wheels of every special motor vehicle shall be equipped with fenders designed to cover the entire tire tread width that comes in contact with the road surface. Coverage of the tire tread circumference shall be from at least fifteen degrees in front to at least seventy-five degrees to the rear of the vertical centerline at each wheel measured from the center of wheel rotation. At no time shall the tire come in contact with the body, fender, or chassis of the vehicle.

5. **Fuel system.**

a. Every special motor vehicle shall have all fuel system components (tank, tubing, hoses, clamps, etc.) securely fastened to the vehicle with fasteners designed for that purpose, and fastened to assure that the fuel system shall be leakproof and fastened so as not to interfere with the vehicle operation.

b. Fuel lines shall be positioned so as not to be in contact with high temperature surfaces or moving components.

6. **Steering and suspension.**

a. A special motor vehicle shall have no parts extending below the wheel rims in their lowest position, excepting tires and electric grounding devices designed for the purpose.

b. The steering system shall remain unobstructed when turned from lock to lock.

c. The steering wheel shall have not less than two turns nor more than six turns when turning the road wheels from lock to lock.

d. While the vehicle is in a sharp turn at a speed between five miles and fifteen miles [8.05 kilometers and 24.14 kilometers] per hour, release of the steering wheel shall result in a distinct tendency for the vehicle to increase its turning radius.

e. No special motor vehicle shall be constructed or loaded so that the weight on the wheels of any axle is less than thirty percent of the gross weight of the vehicle.

f. Special vehicles shall be equipped with a damping device at each wheel location providing a minimum relative motion between the unsprung axle and wheel and the chassis body of plus and minus

two inches [5.08 centimeters]. When each corner of the vehicle is depressed and released, the damping device shall stop vertical body motion within two inches [5.08 centimeters].

7. **Tires.** The front tires on special motor vehicles must measure a minimum of sixty percent of the tread width of the rear tires.

History: Effective July 1, 2008.

General Authority: NDCC 39-02-03

Law Implemented: NDCC 39-02-03

37-12-02-04. Electrical systems requirements - Horn. Every special vehicle shall be equipped with a horn that is electrically operated and that will emit a minimum sound level of eighty-five decibels measured at a distance of two hundred feet [60.96 meters] directly in front of the vehicle under clear weather conditions. The switch used to actuate the horn shall be easily accessible to the driver when operating the vehicle.

History: Effective July 1, 2008.

General Authority: NDCC 39-02-03

Law Implemented: NDCC 39-02-03

CHAPTER 37-12-03
COMPULSORY SECURITY REQUIREMENTS OF THE NORTH DAKOTA
AUTO ACCIDENT REPARATIONS ACT

Section

<u>37-12-03-01</u>	<u>Definitions</u>
<u>37-12-03-02</u>	<u>Information Requirements</u>
<u>37-12-03-03</u>	<u>Suspension and Surrender of Registration Certificate and License Plates</u>

37-12-03-01. Definitions. The terms used throughout this chapter have the same meaning as in North Dakota Century Code title 39, except:

1. "Insurance policy" means security as required by North Dakota Century Code chapter 26.1-41, either by a policy issued by a basic no-fault insurer or a plan of self-insurance.
2. "Insurer" means a basic no-fault insurer or qualified self-insurer.

History: Effective July 1, 2008.

General Authority: NDCC 26.1-41-02

Law Implemented: NDCC 26.1-41-01

37-12-03-02. Information requirements.

1. **Basic information.** Every owner when applying for registration, reregistration, or transfer of ownership shall supply any information the motor vehicle division director reasonably requires to determine that the vehicle is covered by security. Such information shall be furnished by the owner by completing either form SFN 2475, SFN 2870, SFN 2872, or SFN 2875.
2. **Additional information.** The owner shall provide such additional information as the motor vehicle division director shall request when the records of the department indicate that an insurance policy is not in effect or as circumstances indicate such information is necessary.
3. **Insurance policy effective date.** All insurers shall comply with all written requests from the department to furnish information concerning the effective date of an insurance policy.

History: Effective July 1, 2008.

General Authority: NDCC 26.1-41-02

Law Implemented: NDCC 26.1-41-02

37-12-03-03. Suspension and surrender of registration certificate and license plates.

1. **Reason for suspension.** If the department records indicate that any owner has ceased to maintain an insurance policy, the motor vehicle division director shall suspend the registration certificate and license plates for the vehicle and shall demand their immediate surrender by the owner. The motor vehicle division director may direct any peace officer to serve an order of suspension and secure any registration certificate and license plates not surrendered.

2. **Replacement certificate and plates.** Upon certification that the vehicle is covered by an insurance policy and application and payment of the applicable fees, the motor vehicle division director shall issue a replacement registration certificate and license plates to the owner of a vehicle for which the registration certificate and license plates have been suspended.

History: Effective July 1, 2008.

General Authority: NDCC 26.1-41-02

Law Implemented: NDCC 39-04-05(7), 39-04-06

CHAPTER 37-12-04
OBTAINING CERTIFICATE OF TITLE FOR UNTITLED VEHICLES

Section

37-12-04-01

Procedure

37-12-04-01. Procedure. If a North Dakota resident owns a vehicle for which the resident is unable to obtain a proper certificate of title, the motor vehicle division will use the following forms and procedures to determine ownership of a vehicle and issue a certificate of title:

1. A check of the records of the motor vehicle division, as well as the records of other appropriate states, will be conducted to determine if a certificate of title has previously been issued.
2. If no record of a previous certificate of title is found, the motor vehicle division will issue a North Dakota certificate of title to the applicant upon receipt of:
 - a. A notarized bill of sale.
 - b. A vehicle statement of ownership from the applicant (form SFN 2903).
 - c. An inspection of the vehicle by the North Dakota highway patrol (form SFN 2486).
 - d. Appropriate title fee, license fees, and motor vehicle excise tax.
3. When there is no record of a previous title, the motor vehicle division will check the national crime information center computer to determine that the vehicle is not listed as a stolen vehicle.
4. If a record of a previous certificate of title is found, the motor vehicle division will advise the applicant of the name and address of the last owner of the vehicle but will take no further action to issue a certificate of title. The applicant must obtain the certificate of title from the last owner or obtain an order of the court awarding ownership to the applicant.

History: Effective July 1, 2008.

General Authority: NDCC 39-05-20(1)

Law Implemented: NDCC 39-05-20(1)

CHAPTER 37-12-05
INSPECTION OF SALVAGE VEHICLES

Section

37-12-05-01

Procedure

37-12-05-01. Procedure. A highway patrol officer, when inspecting a salvage vehicle under the provisions of North Dakota Century Code section 39-05-20.2, must inspect the following equipment to determine it is in compliance with the provisions of North Dakota Century Code chapter 39-21 and North Dakota Administrative Code article 52-04: headlights, turn signals, windshield, mirrors, horn, brakes, exhaust system, taillights, stoplights, license plate lights, clearance lights and reflectors, bumper heights, tires, fenders, steering wheel, steering and suspension, hood latches, door latches, floor pan, and fuel system. In addition to inspecting the listed equipment, a highway patrol officer may require an additional statement from the rebuilder of the salvage vehicle prior to the completion of the certificate of inspection. The additional signed statement, as a part of form SFN 2486, shall require the rebuilder to certify the following:

1. The frame of the salvage vehicle was not in need of repair or has been repaired in such a manner that the repairs will not detract from the overall performance of the vehicle and the frame is now in a condition that would be comparable to the frame of a similar vehicle which had not been damaged in an accident.

2. The wheel alignment is within the tolerances allowed for vehicles of the same make, year model, and style. Highway patrol officers may require this additional certification when they determine the salvage vehicle may have suffered damage to frame, chassis, or wheel alignment as a result of an accident.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02, 39-02-03

Law Implemented: NDCC 39-05-20.2

TITLE 54
BOARD OF NURSING

JULY 2008

CHAPTER 54-01-03

54-01-03-01. Definitions. The terms used in this title have the same meaning as in North Dakota Century Code chapter 43-12.1 and apply to North Dakota Administrative Code title 54 unless the context indicates otherwise.

1. "Abandonment" means accepting the client assignment and disengaging the nurse and client relationship without giving notice to a qualified person.
2. "Abuse" means any behavior that is designed to harass, intimidate, or injure another human being through the use of verbal, sexual, emotional, or physical harm.
3. "Accreditation" means the official authorization or status granted by a nationally recognized agency other than a state board of nursing.
4. "Activities of daily living" includes interventions associated with nutrition and hydration, elimination, maintaining mobility, assistance with self-administration of routine regularly scheduled medications, and personal cares. Personal care includes bathing, hair care, nail care, shaving, dressing, oral care, and supporting a safe and healthy environment.
5. "Acts or omissions" means patterns of unsafe behavior, nursing practice deficits, failure to comply with acceptable standards of nursing practice, or grounds for discipline identified in North Dakota Century Code chapter 43-12.1 or these rules.
6. "Applicant" means an individual seeking official action by the board.
7. "Approved" means that the standards established by the board are met.
8. "Assignment Assign" means a licensed nurse designates the responsibility for performance of nursing interventions to another licensed nurse.

9. "Assignment" means the distribution of work that each staff member is to accomplish.
10. "Assisting with self-administration of routine, regularly scheduled medications" means helping the client with one or more steps in the process of taking medications. Examples of "assisting" include opening the medication container or reminding the client of the proper time to take the medication. Assisting with the administration of medication may be a delegated intervention.
- ~~40.~~ 11. "Authority" means legal authority to provide nursing care granted through licensure as a registered nurse, licensure as a practical nurse, or through delegation of nursing interventions from the licensed nurse.
- ~~41.~~ 12. "Certification" means a process of voluntary recognition by a national nursing organization of the person's specialty knowledge, skills, and abilities in a defined area of nursing practice. The certification process measures the theoretical and clinical content denoted in the specialty scope of practice and is developed in accordance with generally accepted standards of validity and reliability.
- ~~42.~~ 13. "Client" means the recipient of nursing care, which may include an individual, family, group, or a community.
- ~~43.~~ 14. "Competence" means the application and integration of knowledge, skills, ability, and judgment necessary to meet standards.
- ~~44.~~ 15. "Consultative nurse" means a licensed nurse who provides guidance and information related to nursing procedures and interventions to the facility or agency but is not individually responsible to direct the plan of care for the client.
- ~~45.~~ 16. "Continuing education" means planned, organized learning experiences designed to augment the knowledge, skills, and abilities for the delivery of safe and effective nursing care for the citizens of North Dakota which meets the criteria and reporting requirements established by the board.
- ~~46.~~ 17. "Criminal history record information" shall have the same meaning as the phrase is defined in North Dakota Century Code section 12-60-16.1.
18. "Delegation" means the authorization for the performance of selected nursing interventions from a licensed nurse to an unlicensed assistive person.
- ~~47.~~ 19. "Denial" means the board's refusal to issue or renew a current license or registration.

- ~~18.~~ 20. "Direction" means the provision of written or verbal guidance, or both, and supervision by a licensed nurse who is responsible to manage the provision of nursing interventions by another person.
- ~~19.~~ 21. "Encumber" means to place on probation.
- ~~20.~~ 22. "Evidence-based practice" means integration of research findings with clinical expertise and client values for optimum care.
- ~~21.~~ 23. "Impaired" means the ability to practice nursing safely has been affected by the use or abuse of alcohol or other drugs, psychiatric or physical disorders, or practice deficiencies.
- ~~22.~~ 24. "Incompetence" means conduct that deviates from either standards of nursing practice approved by the board or the definition of competence in this section.
- ~~23.~~ 25. "Instate nursing program", "nursing program", or "nursing education program" means a nurse program with faculty or facilities located in North Dakota and approved by the board.
- ~~24.~~ 26. "Interdisciplinary team" means a group of health care professionals currently licensed under North Dakota Century Code title 43.
- ~~25.~~ 27. "Licensed nurse" means a person licensed pursuant to North Dakota Century Code chapter 43-12.1 and North Dakota Administrative Code title 54.
- ~~26.~~ 28. "Licensed practitioner" means a person lawfully authorized to prescribe medications or treatments under North Dakota Century Code title 43.
- ~~27.~~ 29. "Licensee" means a person who has met all the requirements to practice as a licensed nurse pursuant to North Dakota Century Code chapter 43-12.1 and has been issued a license to practice nursing.
- ~~28.~~ 30. "Licensure" means the process by which the board grants legal privilege to an individual to engage in the practice of nursing upon finding that the individual has attained the essential degree of education and competence necessary to ensure that the public health, safety, and welfare will be protected.
- ~~29.~~ 31. "Limit" means to restrict, qualify, or otherwise modify the license or registration.
- ~~30.~~ 32. "Major incident" means an act or omission in violation of North Dakota Century Code chapter 43-12.1 or this title which indicates an applicant licensee's or registrant's continuing to practice poses a high risk of harm to the client or another person.

- ~~31.~~ 33. "Medication administration" means the delivery of medication by a licensed nurse or an individual delegated to and supervised by a licensed nurse, to a client whose use of that medication must be monitored and evaluated applying specialized knowledge, skills, and abilities possessed by a licensed nurse.
- ~~32.~~ 34. "Medication assistant" means an individual who has a current registration as an unlicensed assistive person, has had additional training in administration of medication, and possesses a current registration from the board as one of the following medication assistants:
- a. Medication assistant I is a person who has completed all the requirements for a medication assistant program I. A medication assistant I is limited to employment in a setting in which a licensed nurse is not regularly scheduled.
 - b. Medication assistant II is a person who has completed additional training past the medication assistant program I and met all the requirements for a medication assistant program II. A medication assistant II may be employed both in a setting in which a licensed nurse is regularly scheduled and a setting in which a licensed nurse is not regularly scheduled.
 - c. Medication assistant III is a person who has completed two semesters of an approved nursing education program, each of which must have included a clinical nursing component, or a graduate of a board-recognized medical assistant program. A medication assistant III may be employed both in a setting in which a licensed nurse is regularly scheduled and a setting in which a licensed nurse is not regularly scheduled.
- ~~33.~~ 35. "Medication assistant program" means a program of study and clinical practice in the administration of routine, regularly scheduled medications which meets board requirements.
- ~~34.~~ 36. "Minor incident" means an act or omission in violation of North Dakota Century Code chapter 43-12.1 or this title which indicates an applicant licensee's or registrant's continuing to practice poses a low risk of harm to the client or another person.
- ~~35.~~ 37. "Misappropriation of property" means the patterned or knowing, willful, or intentional misplacement, exploitation, or wrongful, temporary, or permanent use of a client's, employer's, or any other person's or entity's belongings, money, assets, or property without consent.
- ~~36.~~ 38. "Neglect" means a disregard for and departure from the standards of care which has or could have resulted in harm to the client.

- ~~37.~~ 39. "Nurse administrator" means a person responsible for organized nursing services and who manages from the perspective of the organization as a whole.
- ~~38.~~ 40. "Nursing intervention" means the initiation and completion of client-focused actions necessary to accomplish the goals defined in the plan of care which may include activities of daily living.
- ~~39.~~ 41. "Out-of-state nursing program" means a program whose faculty and facilities are located outside North Dakota but within the United States, which is approved by the licensing board for nurses in the particular state or United States territory and is equivalent to an "instate nursing program".
- ~~40.~~ 42. "Practice deficiency" means a practice activity that does not meet the standards of nursing practice.
- ~~41.~~ 43. "Practice site" means a facility that signs a written agreement with the nursing education program to provide practice experiences for students.
- ~~42.~~ 44. "Probation" means issuance of a current license or registration marked "encumbered" and identification of specific requirements, restrictions, or limitations against a nursing license or registration for a period of time.
- ~~43.~~ 45. "Professional boundaries" means the provision of nursing services within the limits of the nurse and client relationship which promote the client's dignity, independence, and best interests and refrain from inappropriate involvement in the client's or client's family personal relationships.
- ~~44.~~ 46. "Professional misconduct" means any practice or behavior that violates the applicable standards governing the individual's practice necessary for the protection of the public health, safety, and welfare.
- ~~45.~~ 47. "Reactivation" means issuance of a previously active license or registration.
- ~~46.~~ 48. "Registrant" means an unlicensed assistive person as defined in North Dakota Century Code section 43-12.1-02.
- ~~47.~~ 49. "Regularly scheduled presence of a licensed nurse" means that a licensed nurse is present a minimum of eight hours in a twenty-four-hour period of time in a setting where nursing care is continuously delivered.
- ~~48.~~ 50. "Reinstatement" means activation of a board-sanctioned license or registration.
- ~~49.~~ 51. "Reprimand" means action of the board stating the board's concerns regarding the professional conduct of the licensee or registrant.

- 50- 52. "Revocation" means the withdrawal by the board of the license or registration of the right to practice nursing or assist in the practice of nursing for a specified length of time of no less than one year. If no specified length of time is identified by the board, revocation is permanent.
- 51- 53. "Routine, regularly scheduled medication" means the components of an identified medication regimen for an individual or groups of individuals with stable conditions which are administered on a routine basis and do not require determination of need, drug calculation, or dosage conversion.
- 52- 54. "Scope of practice" means the delineation of the nature and extent of practice.
- 53- 55. "Sponsor institution" means the governing organization that provides necessary administrative and fiscal resources for a nursing program.
- 54- 56. "Stable" means a situation in which the client's clinical and behavioral status and nursing care needs are determined by the registered nurse or licensed practitioner to be predictable, nonfluctuating, and consistent or in which the fluctuations are expected and the interventions are planned.
- 55- 57. "Stay" means the action of the board that does not immediately take place and may not take place if other conditions, such as probation terms, are met. Violations of the terms and conditions may result in lifting of the stay and imposition of the sanction.
- 56- 58. "Supervision" means maintaining accountability to determine whether or not nursing care is adequate and delivered appropriately. Supervision includes the assessment and evaluation of the client's condition and responses to the nursing plan of care and evaluation of the competence of the person providing nursing care.
- a. "Condition of supervision" means the method of supervision as direct or indirect, the identification of the persons to be supervised as well as the nursing interventions being provided, and the stability or predictability, or both, of the client's condition.
 - b. "Direct supervision" means that the responsible licensed nurse or licensed practitioner is physically present in the clinical client care area and is available to assess, evaluate, and respond immediately. Direct supervision does not mean that the responsible licensed nurse or licensed practitioner must be in the same room or "looking over the shoulder" of the persons providing nursing care.

- c. "Indirect supervision" means that the responsible licensed nurse or licensed practitioner is available through periodic inspection and evaluation or by telecommunication, or both, for direction, consultation, and collaboration.
- ~~57:~~ 59. "Survey" means an onsite visit or a paper review of a program approved by the board of nursing.
- ~~58:~~ 60. "Suspension" means withholding by the board of the license or registration of the right to practice nursing or assist in the practice of nursing for a specified or indefinite period of time.
- ~~59:~~ 61. "Technician" means an unlicensed assistive person who may perform limited nursing functions within the ordinary, customary, and usual roles in the person's field. Examples may include surgical and dialysis technicians and medical assistants.
- ~~60:~~ 62. "Temporary suspension" means action by the board when there are reasonable grounds to believe the licensee or registrant has violated a statute or rule the board is empowered to enforce and continued practice by the licensee or registrant would constitute a continuing and imminent threat to the public welfare.
- ~~61:~~ 63. "Unlicensed assistive person registry" means a listing of all persons who are authorized by the board or included on another state registry, which has been recognized by the board to perform nursing interventions delegated and supervised by a licensed nurse.
- ~~62:~~ 64. "Voluntary surrender" means an agreement by a licensee or registrant, approved by the board, to relinquish the license or registration to the board.
- ~~63:~~ 65. "Workplace impairment program" means the program administered by the board as set out in the Nurse Practices Act permitting nurses with chemical dependency, psychiatric or physical disorders, or practice deficiencies to seek treatment and remediation and participate in monitored practice, voluntarily or by the board's order.
- ~~64:~~ 66. "Workplace impairment program agreement" means an individualized written agreement between the nurse and the program. The agreement must include the terms and conditions for successful completion of the program.

History: Effective June 1, 2002; amended effective April 1, 2004; August 1, 2005; July 1, 2008.

General Authority: NDCC 43-12.1-08(2)

Law Implemented: NDCC 43-12.1-08

CHAPTER 54-02-01

54-02-01-09. Foreign graduates. The ~~A~~ certificate issued by the ~~commission on graduates of foreign nursing schools~~ a credentials evaluation service approved by the board shall be required of any graduate from a foreign country, except for English-speaking Canadian programs, for admission to the national council licensure examination. Eligible foreign graduates will be issued an authorization to practice nursing when declared eligible for licensure by examination and upon written verification of nursing employment in a North Dakota health care facility.

History: Effective November 1, 1979; amended effective June 1, 1982; February 1, 1998; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-09(2)

54-02-01-13. Authorization to practice nursing. Authorization to practice nursing between the dates of program completion and notification of results of the licensing examination will be issued to individuals accepted as candidates for the first licensing examination after program completion for which the candidate is eligible. Eligibility will be determined by the following criteria:

1. The applicant has submitted a completed application, the appropriate fee, and official transcript verifying program completion to the board office.
2. The applicant's registration with the testing center has been reported to the board office.

Upon receipt ~~electronic posting~~ of the work authorization, the applicant may use the appropriate title of graduate nurse or graduate practical nurse or the appropriate abbreviation of "G.N." or "G.P.N.". The applicant must practice under the supervision of a registered nurse while the authorization to practice is valid. The work authorization to practice will expire in ninety days or upon notification of the testing results, whichever occurs first. The work authorization is nonrenewable and available only to graduates who complete application for licensure within sixty days of graduation.

History: Effective October 1, 1989; amended effective December 1, 1991; January 1, 1994; May 1, 1996; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-09(1)

54-02-01-14. Recognition of programs from other jurisdictions. For the purpose of licensure by examination to practice as a registered nurse or licensed practical nurse, the board will recognize programs ~~approved by other jurisdictions unless otherwise directed by the board.~~ that are approved by another jurisdiction; and

1. Meet or exceed the education requirements set out in article 54-03.2 and have clinical education equivalent in amount and time to the board-approved programs; or
2. As otherwise approved by the board.

History: Effective April 1, 2004; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-09(2)

CHAPTER 54-02-05

54-02-05-05.2. Limited license. The board may initiate the issuance of a limited license when good cause exists to do so.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(f)

54-02-05-06. Reactivating a license. A nurse previously licensed in North Dakota who applies for reactivation must meet board requirements and includes the following:

1. Complete the application- and submit to a criminal history record check according to section 54-02-12-01;
2. Pay the nonrefundable renewal fee and thirty dollar reactivation fee-; and
3. ~~An applicant who is applying for reactivation must meet~~ Meet the requirements in section 54-02-05-05.1, practice requirements for license renewal, and section 54-02-05-08, continuing education requirement for license renewal-; or
4. Submit other evidence which would provide proof of nursing competence acceptable to the board.

History: Amended effective June 1, 1982; June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 12-60-24.2(o), 43-12.1-08

Law Implemented: NDCC 43-12.1-10(1), 43-12.1-20, 43-12.1-09.1

CHAPTER 54-02-06

54-02-06-01. Application and fee for license by endorsement.

Applicants for license by endorsement must ~~submit~~ meet board requirements, including the following:

1. Submit a completed ~~notarized~~ application and ~~pay~~ submit to a criminal history record check according to chapter 54-02-12;
2. Pay the nonrefundable endorsement fee of one hundred ten dollars: ~~Applicants for licensure by endorsement must have completed;~~
3. Completed a state-approved nursing education program which meets or exceeds those requirements outlined in article 54-03.2; and
4. Has nursing practice to demonstrate continued competency which meets or exceeds four hundred hours within the preceding four years.

A licensee from another jurisdiction ~~with an inactive license~~ that does not meet the practice hours must meet the requirements in section 54-02-05-05, relating to nonpracticing nurses.

History: Amended effective November 1, 1979; March 1, 1986; March 1, 1992; May 1, 1996; February 1, 1998; June 1, 2001; June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 12-60-24.2(o), 43-12.1-08

Law Implemented: NDCC ~~43-12.1-09(2)~~ 43-12.1-09(2)(b)

CHAPTER 54-02-07

54-02-07-03.1. Reporting violations. Protection of the public is enhanced by reporting of incidents that may be violations of North Dakota statutes or grounds for discipline by the board. Licensees, registrants, applicants, or citizens should use the following process to report any knowledge of the performance by others of acts or omissions that violate North Dakota Century Code chapter 43-12.1 or these rules:

1. **Minor incident.** If the act or omission meets the criteria for management of a minor incident, the applicant, licensee, or registrant should be aware of and follow the established policy within the practice setting for minor incidents. The established policy in the licensee's or registrant's practice setting should detect patterns of unsafe behavior that may be considered minor incidents and take corrective action resulting in safe practice.
 - a. A minor incident may be handled in the practice setting with a corrective action process if all the following factors exist:
 - (1) Potential risk of harm to others is low;
 - (2) There is no pattern of recurrence;
 - (3) The licensee or registrant exhibits evidence of remediation and adherence to standards of nursing practice; and
 - (4) The corrective action process results in the licensee or registrant possessing the knowledge, skills, and abilities to practice nursing safely.
 - b. Other factors may be considered in determining the need to report such as the significance of the event in the particular practice setting, the situation in which the event occurred, and the presence of contributing or mitigating circumstances in the nursing care delivery system.
 - c. Nothing in this rule is intended to prevent reporting of a minor incident or potential violation directly to the board.
2. **Major incident.** If the act or omission is a major incident or factors are present that indicate a duty to report, the licensee, applicant, or registrant and the licensee's, applicant's, or registrant's supervisor must contact report the alleged violation to the board office in the manner and form provided by the board. The report should include requested information about the act or omission, the individuals involved, and the action taken within the practice setting.

3. **Termination of employment.** When a licensee, applicant, or registrant terminates from the practice setting, either voluntarily or by request, due to conduct that may be grounds for discipline under the Nurse Practices Act, a report shall be made to the board by the licensee, applicant, or registrant and by the licensee's, applicant's, or registrant's supervisor in the manner and form provided by the board.

History: Effective December 1, 1995; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-11

54-02-07-04. Investigation. Complaints, requests for investigation, and reports of acts or omissions that are in violation of North Dakota Century Code chapter 43-12.1 or are grounds for disciplinary action will be investigated by the board or by its direction in order to determine whether sufficient grounds exist to file a complaint according to North Dakota Century Code chapter 28-32. The board or its investigative panel may subpoena witnesses, records, and any other evidence relating to the investigation.

History: Effective August 1, 1988; amended effective December 1, 1995; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-13

54-02-07-04.1. Evidence and evaluation of treatment. The board may require the individual subject to an investigation to submit to a mental health, chemical dependency, or physical evaluation if, during the course of the investigation, there is reasonable cause to believe that any licensee, registrant, or applicant is unable to practice with reasonable skill and safety or has abused alcohol or drugs.

1. Upon failure of the person to submit to the evaluation within thirty days of the request, the board may temporarily suspend the individual's license or registration or deny or suspend consideration of any pending application until the person submits to the required evaluation.
2. The licensee, registrant, or applicant shall bear the cost of any mental health, chemical dependency, or physical evaluation and treatment required by the board.
3. The board may suspend or revoke an individual's license or registration if it is determined that the individual is unsafe to practice. The suspension or revocation will remain in effect until the individual demonstrates to the satisfaction of the board the ability to safely return to the practice of nursing or assist in the practice of nursing.
4. The board may deny the individual's application for licensure or registration if it is determined that the individual is unsafe to practice.

The denial will remain in effect until the individual demonstrates to the satisfaction of the board the ability to safely practice nursing or assist in the practice of nursing.

History: Effective June 1, 2002; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-14

54-02-07-05.1. Disposition. Requests for investigation may result in:

1. Informal resolution and disposition by the board;
2. Formal resolution and disposition by the board. The board may use an administrative law judge to preside over the entire administrative proceeding and prepare recommended findings of fact, conclusions of law, and recommended order for board consideration, or the board may use a procedural hearing officer for the conduct of the hearing at which a majority of board members must be present at the hearing;
3. Dismissal;
4. Referral to another agency; or
5. Other action as directed by the board.

~~If the board determines after investigation that the facts alleged in a potential violation report are without merit, the board may expunge the report and the investigative file from the record of the licensee or registrant.~~

History: Effective December 1, 1995; amended effective June 1, 2002; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-14

54-02-07-05.4. Cease and desist order. When it appears by credible evidence that a cease and desist order may be necessary, the executive director of the board or the executive director's authorized designee may issue an order temporarily suspending the license or registration or otherwise directing the licensee or registrant to cease and desist certain actions.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-14

54-02-07-12. Unlicensed assistive persons on board-recognized registries. Individuals listed on a board-recognized registry ~~must~~ may be

considered to be on the board's registry for purposes of investigation of an unlicensed assistive person and any board action that may result.

History: Effective December 1, 1995; amended effective June 1, 2002; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-14

CHAPTER 54-02-10

54-02-10-02. Definitions. As used in this compact:

1. "Adverse action" means a home or remote state action.
2. "Alternative program" means a voluntary, nondisciplinary monitoring program approved by a nurse licensing board.
3. "Board" means a party state's regulatory body responsible for issuing nurse licenses.
4. "Compact" means the nurse licensure compact.
4. ~~5.~~ "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards.
5. ~~6.~~ "Current significant investigative information" means:
 - a. Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - b. Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
6. ~~7.~~ "Home state" means the party state which is the nurse's primary state of residence.
7. ~~8.~~ "Home state action" means any administrative, civil, equitable, or criminal action permitted by the home state's laws which are imposed on a nurse by the home state's licensing board or other authority, including actions against an individual's license such as revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.
9. "Information system" means the coordinated licensure information system.
8. ~~10.~~ "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

- ~~9.~~ 11. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical or vocational nurse in such party state. All party states have the authority, in accordance with existing state due process law, to take actions against the nurse's privilege such as revocation, suspension, probation, or any other action which affects a nurse's authorization to practice.
- ~~10.~~ 12. "Nurse" means a registered nurse or licensed practical or vocational nurse, as those terms are defined by each party's state practice laws.
- ~~11.~~ 13. "Party state" means any state that has adopted this compact.
- ~~12.~~ 14. "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes or domicile.
- ~~13.~~ 15. "Public" means any individual or entity other than designated staff or representatives of party state boards or the national council of state boards of nursing, incorporated.
- ~~14.~~ 16. "Remote state" means a party state, other than the home state:
- a. Where the patient is located at the time nursing care is provided; or
 - b. In the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
- ~~15.~~ 17. "Remote state action" means:
- a. Any administrative, civil, equitable, or criminal action permitted by a remote state's laws which are imposed on a nurse by the remote state's licensing board or other authority, including actions against an individual's multistate licensure privilege to practice in the remote state; and
 - b. Cease and desist and other injunctive or equitable orders issued by remote states or the licensing boards thereof.
18. "Single state license" means a license issued by a state board of nursing that authorizes practice only in the state of issuance.
- ~~16.~~ 19. "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.
- ~~17.~~ 20. "State practice laws" means those individual party's state laws and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. "State practice laws" does not include the initial qualifications

for licensure or requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

History: Effective May 1, 2003; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-51

54-02-10-02.1. Issuance of a license by a compact party state. For purposes of this compact as of July 1, 2005, an applicant for initial licensure will not be issued a compact license granting a multistate privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX® examination or predecessor examination used for licensure.

1. A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include:
 - a. Driver's license with a home address;
 - b. ~~Voter registration card displaying a home address;~~
 - c. Federal income tax return declaring the primary state of residence;
 - d. Military form number 2058 - state of legal residence certificate; or
 - e. W2 form from United States government or any bureau, division, or agency thereof indicating the declared state of residence.
2. A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state.
3. A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state that issued the license.
4. When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states, e.g., a single state license, the license shall be clearly marked with words indicating that it is valid only in the state of issuance.
5. A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty days.

calendar

6. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the thirty-day period shall be stayed until resolution of the pending investigation.
7. The former home state license shall no longer be valid upon the issuance of a new home state license.
8. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten business days and the former home state may take action in accordance with that state's laws and rules.

History: Effective August 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-51

54-02-10-02.2. Limitations on multistate licensure privilege. A home state board shall include in all licensure disciplinary orders or agreements that limit practice or require monitoring the requirement that the licensee subject to said order or agreement will agree to limit the licensee's practice to the home state during the pendency of the disciplinary order or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from the boards of both the home state and the other party state.

1. An individual who has a license or privilege to practice which is or was surrendered, revoked, suspended, or denied may be issued a single state license in the current primary state of residence until such time as the individual would be eligible for reinstatement in the prior state or states of adverse action.
2. Once eligible for licensure in the prior states, a multistate license may be issued.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-51

54-02-10-07.1. Information system - Levels of access.

1. The public shall have access to nurse licensure information in accordance with North Dakota Century Code Chapter 44-04, including:
 - a. The nurse's name;
 - b. Jurisdictions of licensure;
 - c. License expiration dates;

- d. Licensure classification and status;
 - e. Public emergency and final disciplinary actions, as defined by contributing state authority; and
 - f. The status of multistate licensure privileges.
2. Nonparty state boards shall have access to all information system data except current significant investigative information and other information as limited by contributing party state authority.
 3. Party state boards shall have access to all information system data contributed by the party states and other information as limited by contributing nonparty state authority.
 4. The licensee may request in writing to the home state board to review the data relating to the licensee in the information system. In the event a licensee asserts that any data relating to that licensee is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The board shall verify and within ten business days correct inaccurate data to the information system.
 5. The board shall report to the information system within ten business days:
 - a. Disciplinary action, agreement, or order requiring participation in alternative programs or which limit practice or require monitoring, except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority;
 - b. Dismissal of complaint; and
 - c. Changes in status of disciplinary action or licensure encumbrance.
 6. Current significant investigative information shall be deleted from the information system within ten business days upon report of disciplinary action, agreement, or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.
 7. Changes to licensure information in the information system shall be completed within ten business days upon notification by a board.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-51, 44-04

CHAPTER 54-02-12
CRIMINAL HISTORY RECORD CHECKS FOR LICENSURE

Section

54-02-12-01

Criminal History Record Checks

54-02-12-01. Criminal history record checks. Individuals must submit a set of fingerprints to the board or its agent for the purpose of obtaining a state and federal criminal history record check in the manner provided by North Dakota Century Code section 12-60-24 and as set forth by the board. An authorization and release form must be signed by the applicant authorizing the release of the criminal history record information to the board. The fingerprint card, authorization and release form, and fee for the criminal history record check must be submitted with the application for licensure.

1. The following individuals must submit to a criminal history record check:
 - a. Applicants for initial licensure, including licensure by examination or endorsement.
 - b. Applicants for initial licensure or reactivation of advanced practice licensure or specialty practice licensure who is not currently licensed as a registered nurse in North Dakota.
 - c. Applicants for reactivation or reinstatement of RN or LPN license.
2. The following individuals may be required to submit to a criminal history record check:
 - a. Applicants for renewal of license.
 - b. Applicants for advanced practice or specialty practice licensure.
 - c. An individual who is under investigation for violation of North Dakota Century Code chapter 43-12.1. If a criminal history record check is required as part of a disciplinary investigation or proceeding, the fingerprint card, authorization and release form, and fee for the criminal history record check must be submitted within twenty days of the request.

History: Effective July 1, 2008.

General Authority: NDCC 12-60-24.2(o)

Law Implemented: NDCC 43-12.1-09.1

CHAPTER 54-03.2-01

54-03.2-01-03. Standards for nursing education. Programs of nursing shall prepare nurses to deliver client-centered care as members of an interdisciplinary team emphasizing evidence-based practice, quality improvement approaches, and information management consistent with scope of practice and level of licensure sought.

1. The purpose and outcomes of the nursing program must be consistent with the Nurse Practices Act and administrative rules and other relevant statutes.
2. The purpose and outcomes of the nursing program must be consistent with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered.
3. The input from the community of interest must be considered in the development and evaluation of the purpose and outcomes of the program.
4. The nursing program shall implement a comprehensive, systematic plan for ongoing evaluation that is based on program and student learning outcomes and incorporates continuous improvement.
5. The faculty and students shall participate in program planning, implementation, evaluation, and continuous improvement.
6. The curriculum must be evidence-based and provide diverse learning experiences consistent with program and student learning outcomes.
7. The fiscal, human, physical, and learning resources must be adequate to support program processes and outcomes.
8. The nursing program administrator must be a registered nurse who is academically qualified and has institutional authority with administrative responsibility for the program.
9. Academically qualified and registered nurse faculty must be sufficient in numbers and expertise to accomplish program outcomes and quality improvement.
10. Program information communicated by the nursing program must be fair, accurate, inclusive, consistent, and readily available to the public.

History: Effective April 1, 2004; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

CHAPTER 54-03.2-02

54-03.2-02-05. Nursing program evaluation. A comprehensive nursing education program evaluation must be ongoing and must include student achievement of program and student learning outcomes, multiple measures of student success after graduation, licensing examination pass rates, and evaluating program resources. Use of evaluation findings for relevant decisionmaking must be evident.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

CHAPTER 54-03.2-03

54-03.2-03-05. Unqualified Employment of unqualified administrator.

The board may approve a nursing program that employs an administrator who does not meet the educational requirements in section 54-03.2-03-02 or 54-03.2-03-03 in the following circumstances:

1. The sponsoring institution demonstrates to the satisfaction of the board that substantial effort was used to recruit a candidate with the required credentials; and
 - a. The candidate is currently enrolled in a master's or doctoral degree program offered by an accredited institution and can demonstrate to the satisfaction of the board a specific plan of completion within four years for a master's degree and seven years of hire for a doctoral degree; and
 - b. The institution demonstrates to the satisfaction of the board that eighty-five percent of the nursing program's regular faculty have the required degree; or
 - c. A faculty of seven or fewer members will have no more than one faculty member that is unqualified.
2. Other circumstances as approved by the board.

History: Effective April 1, 2004; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17

CHAPTER 54-03.2-04

54-03.2-04-01. Faculty responsibilities. There must be sufficient number of qualified faculty to meet the objectives and outcomes of the nursing program. Nursing program faculty responsibilities include the following:

1. Plan, implement, evaluate, and update the program and curriculum using a written plan;
2. ~~Design, implement, evaluate, and update the curriculum using a written plan~~;
3. Develop, implement, evaluate, and update policies for student admission, progression, retention, and graduation in keeping with the policies of the sponsor institution;
4. ~~3.~~ Participate in academic advisement and guidance of students;
5. ~~4.~~ Provide theoretical instruction and practice experiences;
6. ~~5.~~ Select, monitor, and evaluate preceptors and the student learning experience as defined in section 54-03.2-04-07;
7. ~~6.~~ Evaluate student achievement of curricular outcomes related to nursing knowledge and practice;
8. ~~7.~~ Evaluate student learning outcomes and participate in the evaluation of program outcomes; and
9. ~~8.~~ Participate in activities that facilitate maintaining the faculty members' own nursing competence and professional expertise in the area of teaching responsibility.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-04-04. Baccalaureate or graduate nurse program faculty qualifications. There must be sufficient faculty with graduate preparation and nursing expertise to achieve the purpose of the program.

1. Nurse faculty must have a minimum of a master's degree from an accredited institution. If the master's degree is in a discipline other than nursing, evidence of acceptable graduate level coursework in nursing must be submitted to the board;
2. ~~a.~~ The majority of graduate program faculty must hold an earned doctoral degree;

3. b. Nurse faculty must be registered nurses with a current unencumbered license;
4. c. Evidence of prior nursing practice experience; and
5. 2. Clinical faculty that supervise ~~clinical~~ nursing practice experiences of students ~~must hold a minimum of a master's~~ enrolled in a program leading to practice as baccalaureate or graduate degree registered nurse shall meet the same requirements.
 - a. A minimum of a master's degree from an accredited institution. If the master's degree is in a discipline other than nursing, evidence of acceptable graduate level coursework in nursing shall be submitted to the board;
 - b. A current unencumbered registered nurse license; and
 - c. Evidence of prior nursing practice experience.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(3)

54-03.2-04-08. Unqualified Employment of unqualified faculty. The program may receive continued approval with faculty who do not meet the educational requirements in section 54-03.2-04-03 or 54-03.2-04-04 in the following circumstances:

1. The administrator demonstrates to the satisfaction of the board that substantial effort was used to recruit a candidate with the required credentials; and
 - a. The candidate is currently enrolled in a master's or doctoral degree program offered by an accredited institution and can demonstrate to the satisfaction of the board a specific plan of completion within four years of hire for the master's degree or seven years for a doctorate degree; and
 - b. The administrator demonstrates to the satisfaction of the board that eighty-five percent of the nursing program's regular faculty have the required degree; or
 - c. A faculty of seven or fewer members will have no more than one faculty member who is unqualified.
2. Other circumstances as approved by the board.

3. A program with faculty holding less than a baccalaureate degree in nursing shall not be approved.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

CHAPTER 54-03.2-06

54-03.2-06-01. General curriculum. The curriculum must:

1. Be planned, implemented, and evaluated by the faculty with provisions for student input;
2. Reflect the mission and purpose of the nursing education program;
3. Be organized and sequenced to meet the program outcomes;
4. Require a number of credits consistent with other programs at the same degree level;
5. Facilitate articulation for upward mobility;
6. Have a syllabus for each nursing course; and
7. Have written, measurable program outcomes, which include student learning outcomes that reflect the role of the graduate.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-06-07. Curriculum Nursing curriculum. The curriculum of the nursing education program must assure the development of evidence-based practice for the level and scope of nursing practice. The program outcomes must reflect the scope of practice and level of licensure sought as defined in chapters 54-05-01, 54-05-02, and 54-05-03.1.

1. The curriculum of all practical nurse programs must include:
 - a. Content regarding biological, physical, social, and behavioral sciences and legal and ethical responsibilities for practical nursing practice;
 - b. Nursing process concepts;
 - c. Communication and documentation skills;
 - d. Pharmacologic concepts and medication administration;
 - e. Nutritional concepts;
 - f. Theory and clinical experience related to health promotion and disease prevention for individual clients across the lifespan and

in a variety of clinical settings, including basic safety and infection control;

9. Learning experiences that promote client-centered care that:
 - (1) Involves clients in decisionmaking, self-care, and healthy lifestyles;
 - (2) Respects client differences, values, preferences, and expressed needs; and
 - (3) Is based on scientific evidence;
 - h. Learning experiences that promote supervision skills and socialization consistent with role and scope of practice and:
 - (1) Promotes functioning as a part of an interdisciplinary team; and
 - (2) Supervised clinical practice that includes management and care of groups of clients and delegation and supervision of unlicensed assistive persons;
 - i. Sufficient practice experiences to assure the development of nursing competencies of the specific role and scope; and
 - j. Learning experiences and methods of instruction which are consistent with the written curriculum plan.
2. Additional requirements for associate degree practical nurse programs include:
- a. Historical trends in nursing;
 - b. Theory and clinical experience related to section 54-05-01-06 relating to role of the licensed practical nurse intravenous therapy;
 - c. Data collection skills;
 - d. Use of available health information:
 - (1) Contributing to plan of care and care implementation; and
 - (2) Computer literacy;
 - e. Management skills; and
 - f. Courses that meet the sponsoring institution's general education requirements for the associate degree.

3. The curriculum of an associate degree program leading to registered nurse licensure must include content and sufficient clinical experience to prepare the graduate to:
 - a. Deliver client-centered care that respects client differences, values, preferences, and expressed needs and is based on scientific evidence:
 - (1) Biological, physical, social, and behavioral sciences, including disease process, nutrition, and pharmacology;
 - (2) Content regarding legal, ethical responsibilities and historical trends in nursing;
 - (3) Nursing process;
 - (4) Written, verbal, and therapeutic communication;
 - (5) Basic decisionmaking skills;
 - (6) Data collection skills to obtain obvious information; and
 - (7) Health promotion and maintenance for the individual and families.
 - b. Function effectively in an interdisciplinary team:
 - (1) Group dynamics;
 - (2) Goal-setting strategies; and
 - (3) Management concepts, including delegation and supervision of other members of the health care team.
 - c. Deliver evidence-based practice, including application of evidence in managing common clinical problems.
 - d. Apply quality improvement concepts in nursing care:
 - (1) Basic safety and infection control standards; and
 - (2) Quality improvement processes.
 - e. Use available health information:
 - (1) Documentation of care plan, nursing care implementation, and evaluation of care provided; and
 - (2) Computer literacy.

- f. Inform and counsel patients and families:
 - (1) Concepts of informational readiness;
 - (2) Discharge planning; and
 - (3) Implementation of preestablished patient teaching plans.
 - g. Demonstrate nursing values and roles consistent with the scope of practice:
 - (1) Registered nurse standards of practice; and
 - (2) Ethical concepts.
 - h. Courses that meet the sponsoring institution's general education requirements for the associate degree.
4. The curriculum of a baccalaureate nurse program must include:
- a. Content regarding legal and ethical issues; history, trends, and theories in nursing; biological, physical, social, and behavioral sciences, including pharmacotherapy; nutritional therapy; and pathophysiology;
 - b. Nursing process;
 - c. Didactic instruction and clinical experience in health promotion, prevention, restoration, and maintenance of clients across the lifespan and in a variety of clinical settings:
 - (1) Communicate, manage knowledge, and support decisionmaking using information technology; and
 - (2) Provide client-centered care that:
 - (a) Respects client differences, values, preferences, and expressed needs;
 - (b) Involves clients in decisionmaking and care management;
 - (c) Coordinates an interdisciplinary team to cooperate, collaborate, communicate, and integrate client care and health promotion;
 - (d) Employs evidence-based practice to integrate best research with clinical expertise and client values for optimal care; and

- (e) Applies quality improvement processes:
 - [1] Quality improvement theory;
 - [2] Measurement of quality in terms of structure, process, and client outcomes; and
 - [3] Participation in development of changes in processes through utilization of change theory and systems of care with the objective of improving quality;
- d. Experiences that promote the development of leadership and management skills and professional socialization:
 - (1) Responsibilities as a member of the profession;
 - (2) Management and leadership theory;
 - (3) Group dynamics and group leadership skills; and
 - (4) Systems and organizational theory;
- e. Learning experiences and clinical practice to include management and care of groups of clients and delegation and supervision of health care providers:
 - (1) Infection control and safety;
 - (2) Epidemiology;
 - (3) Community Public or community health theory; and
 - (4) Case management theory;
- f. Sufficient practice experiences to assure the development of nursing competencies to:
 - (1) Provide development of client-centered care;
 - (2) Provide opportunities to participate in interdisciplinary teams;
 - (3) Utilize or integrate research with clinical experience;
 - (4) Apply the principles of quality improvement; and
 - (5) Utilize technology and information management;

- g. Learning experiences and methods of instruction must be consistent with the written curriculum plan; and
 - h. Courses that meet the sponsoring institution's general education requirements for the baccalaureate degree.
5. The curriculum preparing for licensure as an advanced practice registered nurse must include content and sufficient experience from nursing and related academic disciplines to meet requirements for a graduate degree with a nursing focus:
 - a. Advanced theory and research appropriate to the area of nursing specialization;
 - b. Advanced nursing practice experience relevant to the focus of nursing specialization;
 - c. Adequate role preparation for advanced nursing practice; and
 - d. Courses to meet the sponsoring institution's requirements for a graduate degree.
6. Delivery of instruction by distance education methods must meet the standards for nursing education according to article 54-03.2, be congruent with the nursing program curriculum plan, and enable students to meet the goals, competencies, and objectives of the education program and standards of the board.
7. Out-of-state prelicensure programs provided in this state must meet the standards for nursing education according to article 54-03.2.

History: Effective April 1, 2004; amended effective August 1, 2005; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17

CHAPTER 54-03.2-07

54-03.2-07-02. Initial approval status. The board may grant initial approval status to a proposed nursing education program that complies with chapter 54-03.2-08.

1. Before a nursing education program is permitted to admit students, the program shall submit evidence of the ability to meet the standards for nursing education according to chapter 54-03.2-01.
2. The board may continue initial approval status:
 - a. Prior to the graduation of the first class, when review of materials specified in article 54-03.2, the most recent annual report, and the most recent survey report reveals compliance with the rules; or
 - b. After graduation of the first class, when review of the criteria for full approval reveals time is needed to fully comply with the rules.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-07-03. Full approval status. The board may grant full approval status under the following circumstances to:

1. A program with initial approval status that demonstrates compliance with the rules after:
 - a. The most recent annual report;
 - b. The most recent survey report;
 - c. The first class graduates; and
 - d. The program pass rate for first-time writers of the licensing examination is eighty percent or greater in the first fiscal year.
2. A program with full approval status that demonstrates continued compliance with the rules by:
 - a. The most recent annual report;
 - b. The most recent survey report; and

- c. The program pass rate for first-time writers of the licensing examination do not fall below an average of eighty percent pass rate for two consecutive fiscal years.
3. A program with conditional approval status that demonstrates compliance with the rules by:
 - a. The most recent annual report;
 - b. The most recent survey report; and
 - c. The program pass rate for first-time writers of the licensing examination do not fall below an average of eighty percent pass rate for two consecutive fiscal years.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-07-03.1. Program delivery. The board may grant approval for changes or expansion in program delivery as long as the program:

1. Holds full approval status;
2. Demonstrates to the satisfaction of the board that there is sufficient qualified faculty available; and
3. Has sufficient resources to maintain compliance with the standards for nursing education according to this article.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-07-04. Conditional approval status. If the board determines that a program does not meet board rules, the nursing program must be notified in writing detailing the deficiencies requiring correction within a given time period set by the board. The board may impose conditional approval for a length of time to be determined by the board but not to exceed two years following the date of written notification. Conditional approval status allows the program to continue to operate while the program corrects the deficiencies and works toward full approval. If at the end of that time period established by the board the deficiencies have not been corrected, board approval shall be withdrawn and a date to discontinue the program shall be set by the board.

The deficiencies are evidenced by:

1. The review of the most recent annual report;

2. The most recent survey report; or
3. The program pass rate for first-time writers of the licensing examination fall below an average of eighty percent pass rate for two consecutive fiscal years.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-07-07. Certificate of approval. Following the board's review and action regarding the survey report, a certificate shall be issued by the board to the program indicating the ~~level of board approval~~ approval status.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-07-08. Publishing approval status. The board shall annually publish a list of programs and the ~~level of approval~~ approval status for each program.

History: Effective November 1, 1996; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

CHAPTER 54-03.2-08

54-03.2-08-02. Initial requirements of a new program. The sponsor institution shall employ a qualified nurse administrator to develop the program and submit a written application for approval to the board at least six months before the proposed starting date or at such earlier time as the board and the nursing program may agree. The written application must include evidence of meeting the requirements in article 54-03.2. ~~Fifteen~~ Three copies of the ~~proposal~~ application for the new program must be submitted to the board.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

54-03.2-08-04. Board review and initial approval. The board shall act on the ~~proposal~~ application and the surveyor's report within three months of the survey. The program must be notified in writing of the board's decision whether to grant or deny initial approval.

History: Effective November 1, 1996; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-17

Law Implemented: NDCC 43-12.1-17(1)

CHAPTER 54-04.1-02

54-04.1-02-01. Qualifications. To qualify for a nursing education loan, the applicant must:

1. Have all necessary application forms completed and on file in the board office by July first of the year in which the applicant wishes to be considered by the board for a nursing education loan; and
2. Demonstrate one of the following:
 - a. Be accepted into and enrolled in a North Dakota board-approved undergraduate nursing education program for practical nurses or registered nurses;
 - b. Have a current North Dakota license and have been accepted into and enrolled in an educational program that is accredited by a United States department of education-recognized regional accreditation entity and acceptable to the board; or
 - c. Be a resident of North Dakota for refresher courses and accepted into a refresher course that meets board requirements.

History: Effective October 1, 1987; amended effective October 1, 1989; March 1, 1992; November 1, 1996; May 1, 2003; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(2)(h)

CHAPTER 54-04.1-04

54-04.1-04-01. Repayment of loan by employment. The loan may be repaid by nursing employment as a licensed nurse in North Dakota or by holding a North Dakota nursing license while serving in any branch of the United States military after graduation. The repayment rate will be one dollar per hour of employment.

History: Effective October 1, 1987; amended effective March 1, 1992; May 1, 2003; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(2)(h)

CHAPTER 54-05-01

54-05-01-02.1. Licensed practical nurse's contribution to, and responsibility for, the nursing process. The licensed practical nurse assists in implementing the nursing process. The licensed practical nurse under the direction of the registered nurse, advanced practice registered nurse, or licensed practitioner:

1. Contributes to the assessment of health status of individuals including interactions of individuals with family members or group members, by:
 - a. Collecting basic objective and subjective data from observations, examinations, interviews, and written records. The scope and the depth of data collection is determined by the knowledge, skills, and abilities of the licensed practical nurse and by the client's immediate condition or needs. Data collection will consider:
 - (1) Physical and emotional status;
 - (2) Growth and development;
 - (3) Cultural, spiritual, and socioeconomic background;
 - (4) Health history;
 - (5) Information collected by other health team members;
 - (6) Client understanding of health status and self-care needs;
 - (7) Ability to perform activities of daily living and personal care;
 - (8) Environmental factors (e.g., physical, social, emotional, and ecological);
 - (9) Available and accessible human and material resources; and
 - (10) Such additional data as may be necessary to assess health status.
 - b. Recording and reporting the data.
 - c. Assisting with validating, refining, and modifying the data by utilizing available resources including interactions with the client, family, significant others, and health team members.
2. Contributes to establishing nursing diagnoses that identify the needs of the client by:

- a. Identifying signs and symptoms of deviations from normal health status; and
 - b. Identifying overt learning needs.
3. Participates in the development of the plan of care for individuals which includes:
- a. Recognition of the client's physical, psychological, social, cultural, ethnic, and spiritual needs;
 - b. Recognition of the client's beliefs and rights to choice;
 - c. Contributing to the identification of priorities;
 - d. Contributing to setting goals and outcomes;
 - e. Assisting in identification of measures to maintain comfort;
 - f. Assisting in supporting human functions and response;
 - g. Assisting in maintaining an environment conducive to well-being;
 - h. Consideration of the overt learning needs of the client; and
 - i. Contributing to the identification of community resources for continued care.
4. Participates in implementing the nursing plan of care and the nursing interventions for the client under the licensed practical nurse's care by:
- a. Caring for clients whose conditions are stable or predictable;
 - b. Assisting with clients whose conditions are critical or unpredictable;
 - c. Implementing nursing care according to the priority of needs and established practices;
 - d. ~~Assigning or delegating components of nursing care to other members of the nursing care team~~ interventions as defined in ~~chapter 54-05-04~~ section 54-05-01-02.2;
 - e. Delegating components of nursing care to other members of the nursing care team as defined in chapter 54-05-04;
 - f. Providing an environment conducive to safety and health;
 - f. g. Documenting nursing interventions and client responses to care;

- g. h. Communicating nursing interventions and responses to care to appropriate members of the health care team; and
 - h. i. Administering medications and treatments prescribed by a licensed practitioner.
5. Contributes to the evaluation of the responses of individuals to nursing interventions by:
- a. Documenting the evaluation data;
 - b. Communicating the evaluation data to appropriate members of the health care team; and
 - c. Assisting in the modification of the plan of care based upon the evaluation.

History: Effective February 1, 1998; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-18

54-05-01-02.2. Assigning of nursing interventions. In the administration and management of nursing care, licensed practical nurses may assign the responsibility for performance of nursing interventions to other persons. Assigned nursing interventions are made by licensed practical nurses to others who are authorized to provide nursing care through licensure as a licensed practical nurse.

1. The licensed practical nurse shall:
 - a. Assign only those nursing interventions authorized by the level of nurse licensure;
 - b. Assign only those nursing interventions for which the nurse receiving the assigned nursing intervention is competent to provide; and
 - c. Supervise the performance and documentation of the assigned nursing intervention.
2. Standards for licensed practical nurses include the following:
 - a. Accept only those assigned nursing interventions authorized by the level of nurse licensure;
 - b. Accept only those assigned nursing interventions for which the nurse has the required knowledge, skills, and abilities;

- c. Acknowledge personal limitations in knowledge and skills, and communicate the need for specialized instruction prior to accepting any assigned nursing interventions; and
- d. Accept assigned nursing interventions only when direction by a registered nurse, advanced practice registered nurse, or licensed practitioner has been provided.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1)

CHAPTER 54-05-02

54-05-02-02.1. Registered nurse responsibility to implement the nursing process. The registered nurse utilizes the nursing process to assess, diagnose, establish a plan with outcome criteria, intervene, evaluate, and document human responses to actual or potential health problems in nursing practice settings. The registered nurse:

1. Conducts and documents nursing assessments of health status of individuals, families, groups, and communities by:
 - a. Collecting objective and subjective data from observations, examinations, interviews, and written records. The scope and depth of the nursing assessment is determined by the knowledge, skills, and abilities of the registered nurse and by the client's immediate condition or needs. The assessment will consider:
 - (1) Biophysical and emotional status including patterns of coping and interacting;
 - (2) Growth and development;
 - (3) Cultural, spiritual, and socioeconomic background;
 - (4) Health history;
 - (5) Information collected by other health team members;
 - (6) Client knowledge and perception about health status and potential, or maintaining health status;
 - (7) Ability to perform activities of daily living and personal care;
 - (8) The client's health goals;
 - (9) Environmental factors (e.g., physical, social, emotional, and ecological);
 - (10) Available and accessible human and material resources; and
 - (11) Such additional data as may be necessary to assess health status.
 - b. Sorting, selecting, reporting, and recording the data.
 - c. Validating, refining, and modifying the data by utilizing available resources including interactions with the client, family, significant others, and health care team.

2. Analyzes the assessment data to establish or modify nursing diagnoses to be used as a basis for nursing interventions.
3. Develops a plan of care based on nursing assessment and diagnosis that prescribes interventions to attain expected outcomes. Planning nursing interventions will consider:
 - a. Identification of the physical, psychological, social, cultural, ethnic, and spiritual needs of the client;
 - b. Identification of the client's decisions regarding treatment;
 - c. Identification of priorities;
 - d. Collaborating with the client to establish goals and outcomes;
 - e. Identifying measures to maintain comfort;
 - f. Supporting human functions and responses;
 - g. Maintaining an environment conducive to safety and well-being;
 - h. Providing health teaching and counseling;
 - i. Identifying community resources for continued care; and
 - j. Such additional interventions as may be necessary to achieve the expected outcomes.
4. Implements the plan of care and the nursing interventions for the client under the registered nurse's care by:
 - a. Writing nursing orders;
 - b. Giving direct care;
 - c. Assisting with care;
 - d. Determining the responsibilities that can properly and safely be assigned or delegated as defined in chapter 54-05-04 as defined in section 54-05-02-02.2;
 - e. Determining the responsibilities that can safely be delegated as defined in chapter 54-05-04;
 - f. Providing an environment conducive to safety and health;
 - f. g. Documenting nursing interventions and client responses to care;

- g. h. Communicating interventions and responses to other members of the health team; and
 - h. i. Executing the regimen prescribed by a licensed practitioner.
5. Evaluates the responses of individuals, families, groups, and communities to nursing interventions. The evaluation data must be:
- a. Documented and communicated to appropriate members of the health care team; and
 - b. Used as a basis for:
 - (1) Reassessing client health status;
 - (2) Measuring outcomes and goal attainment;
 - (3) Modifying nursing diagnoses;
 - (4) Revising strategies of care; and
 - (5) Prescribing changes in nursing interventions.

History: Effective February 1, 1998; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-18

54-05-02-02.2. Assigning of nursing interventions. In the administration and management of nursing care, licensed registered nurses may assign the responsibility for performance of nursing interventions to other persons. Assigning of nursing interventions may be made by licensed registered nurses to others who are authorized to provide nursing care through licensure as a registered nurse or licensed practical nurse.

- 1. The licensed registered nurse shall:
 - a. Assign only those nursing interventions authorized by the level of nurse licensure;
 - b. Assign only those nursing interventions which the nurse receiving the assigned nursing intervention is competent to provide; and
 - c. Provide direction to licensed nurses. Direction includes supervising the performance and documentation of the assigned nursing intervention.

2. The nursing service administrator is responsible to determine that licensed nurses have the required competencies expected for the nurses' current nursing practice roles.
3. Standards for licensed registered nurses include the following:
 - a. Accept only those assigned nursing interventions authorized by the level of nurse licensure;
 - b. Accept only those assigned nursing interventions for which the nurse has the required knowledge, skills, and abilities; and
 - c. Acknowledge personal limitations in knowledge and skills, and communicate the need for specialized instruction prior to accepting any assigned nursing interventions.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1)

CHAPTER 54-05-03.1

54-05-03.1-03.2. Scope of practice as an advanced practice registered nurse.

1. Practice as an advanced practice registered nurse may include:
 - a. Perform a comprehensive assessment of clients and synthesize and analyze data within a nursing framework;
 - b. Identify, develop, plan, and maintain evidence-based, client-centered nursing care;
 - c. Prescribe a therapeutic regimen of health care, including diagnosing, prescribing, administering, and dispensing legend drugs and controlled substances;
 - d. Evaluate prescribed health care regimen;
 - e. Participate in nursing care management according to chapter 54-05-04 relating to standards for assignment and delegation and section 54-05-02-02.2 assigning of nursing interventions;
 - f. Promote a safe and therapeutic environment;
 - g. Provide health teaching and counseling to promote, attain, and maintain the optimum health level of clients;
 - h. Communicate and collaborate with the interdisciplinary team in the management of health care and the implementation of the total health care regimen;
 - i. Manage and evaluate the clients' physical and psychosocial health-illness status;
 - j. Manage, supervise, and evaluate the practice of nursing;
 - k. Utilize evolving client information management systems;
 - l. Integrate quality improvement principles in the delivery and evaluation of client care;
 - m. Teach the theory and practice of nursing;
 - n. Analyze, synthesize, and apply research outcomes in practice; and
 - o. Integrate the principles of research in practice.

2. Notwithstanding the above, all services rendered by the licensee shall be commensurate with the academic preparation, knowledge, skills, and abilities of the advanced practice licensed nurse's experience, continuing education, and demonstrated competencies. The nurse must recognize individual limits of knowledge, skills, and abilities and plan for situations beyond the licensee's expertise.

History: Effective April 1, 2004; amended effective March 24, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

54-05-03.1-04. Initial requirements for advanced practice registered nurse licensure. Applicants for advanced practice registered nurse licensure must:

1. Possess a current license to practice as a registered nurse in North Dakota or in a compact state;
2. Submit evidence of completion of an advanced practice track within the nursing education program accredited by a national accrediting body;
3. Submit evidence of current certification by a national nursing certifying body in the specialty appropriate to educational preparation;
4. Submit a completed notarized application and pay the fee of one hundred dollars; and
5. Submit a scope of practice statement according to established board guidelines for review and approval by the board of nursing.

Applicants who have been issued a registered nurse temporary permit and meet all of the qualifications for advanced licensure may be issued a temporary advanced practice registered nurse license with the same date of expiration. The advanced practice registered nurse license will be issued to coincide with the renewal date of the initial registered nurse license.

Applicants for whom there is no appropriate certifying examination may submit other evidence verifying initial competence as established by the board. Evidence of an equivalent mechanism will not be accepted after January 1, 2005, and individuals will no longer be licensed without an approved advanced practice registered nurse examination.

History: Effective March 1, 1992; amended effective November 1, 1996; December 1, 1997; June 1, 2001; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-09(2)(b)(c)(d)

54-05-03.1-06.1. Reactivation of a license. An advanced practice registered nurse previously licensed in North Dakota who applies for reactivation of APRN only must meet board requirements and includes the following:

1. Complete the application and submit to a criminal history record check according to section 54-02-12-01;
2. Pay the nonrefundable renewal fee and thirty dollar reactivation fee; and
3. Meet the requirements in section 54-02-05-05.1, practice requirements for license renewal, section 54-02-05-08, continuing education requirement for license renewal and section 54-05-03.1-06 requirements for advanced practice registered nurse licensure renewal; or
4. Submit other evidence the applicant wishes to submit which would provide proof of nursing competence acceptable to the board.

History: Effective July 1, 2008

General Authority: NDCC 12-60-24.2(o), 43-12.1-08

Law Implemented: NDCC 43-12.1-09.1, 43-12.1-10(1), 43-12.1-20

CHAPTER 54-05-03.2

54-05-03.2-04. Initial requirements for specialty practice registered nurse licensure. The board of nursing shall restrict the issuance of the specialty license to the registered nurse who has submitted evidence of specialization within a defined area of nursing practice.

Applicants for specialty practice registered nurse licensure must:

1. Possess a current license to practice as a registered nurse in North Dakota or a compact state;
2. Submit evidence of experiential expertise gained through the clinical aspect of coursework or employment or submit evidence of additional educational preparation in continuing education programs or formal education in a board-approved program;
3. Submit evidence of current certification by a national certifying body in the specific area of nursing practice;
4. Submit a completed notarized application and pay the fee of one hundred dollars;
5. Submit a scope of practice statement for review and approval by the board; and
6. Submit other activities as approved by the board.

History: Effective June 1, 2002; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-09(7)

54-05-03.2-05.1. Reactivation of a license. A specialty practice registered nurse previously licensed in North Dakota who applies for reactivation must meet board requirements, including the following:

1. Complete the application and submit to a criminal history record check according to section 54-02-12-01;
2. Pay the nonrefundable renewal fee and thirty dollar reactivation fee; and
3. Meet the requirements in section 54-02-05-05.1 regarding practice requirements for license renewal, section 54-02-05-08 regarding continuing education requirements for license renewal, and section 54-05-03.2-05 regarding requirements for specialty practice registered nurse licensure renewal; or

4. Submit other evidence the applicant wishes to submit which would provide proof of nursing competence acceptable to the board.

History: Effective July 1, 2008.

General Authority: NDCC 12-60-24.2(o), 43-12.1-08

Law Implemented: NDCC 43-12.1-09.1, 43-12.1-10(1), 43-12.1-20

CHAPTER 54-05-04

54-05-04-01. Statement of intent. These rules govern the provision, administration, and management of nursing care by licensed nurses and by unlicensed assistive persons providing nursing services. Licensed nurses are directly accountable and responsible to clients for the nature and quality of all nursing care rendered. It is not the setting or the position title that determines a nursing practice role, but rather the application of nursing knowledge. Licensed nurses provide nursing care through a variety of roles including:

1. The direct provision of care;
2. The indirect provision of care through administering, managing, and supervising the practice of nursing;
3. The teaching of health care practice to clients; and
4. Collaboration and consultation with other health care professionals in the management of health care.

Registered nurses practice nursing independently and interdependently through the application of the nursing process. Registered nurses also practice nursing dependently through the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. The administration and management of nursing by registered nurses is an independent and interdependent practice and includes assigning and delegating nursing interventions that may be performed by others.

Licensed practical nurses practice nursing dependently under the direction of registered nurses, advanced practice registered nurses, or licensed practitioners through the application of the nursing process and the execution of diagnostic or therapeutic regimens prescribed by licensed practitioners. The administration and management of nursing by licensed practical nurses includes assigning and delegating nursing interventions that may be performed by others.

Unlicensed assistive persons complement the licensed nurse in the performance of nursing interventions but may not substitute for the licensed nurse. Unlicensed assistive persons are generally responsible to the licensed nurse to assist with client care ~~rather than be independently accountable to the client~~ but may be responsible to an individual directing the individual's own care or to the legally responsible person directing an individual's care for services provided to that individual.

History: Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1), 50-24.1-18.1

54-05-04-02. Assignment. ~~Repealed effective July 1, 2008. In the administration and management of nursing care, licensed nurses may assign the responsibility for performance of nursing interventions to other persons. Assignments of nursing interventions are made by licensed nurses to others who are authorized to provide nursing care through licensure as a registered nurse or licensed practical nurse.~~

1. ~~Standards for assignments by a licensed nurse to other licensed nurses include the following:~~
 - a. ~~The nursing service administrator is responsible to determine that licensed nurses have the required competencies expected for the nurses' current nursing practice roles.~~
 - b. ~~Registered nurses shall assign the responsibility for supervision of the delegation plan to other licensed nurses only if the conditions of the supervision have been communicated.~~
 - c. ~~The licensed nurse shall:~~
 - (1) ~~Assign only those nursing interventions authorized by the level of nurse licensure;~~
 - (2) ~~Assign only those nursing interventions for which the nurse receiving the assignment is competent to provide; and~~
 - (3) ~~Supervise the performance and documentation of the assigned nursing intervention.~~
2. ~~Standards for licensed nurses accepting assignments include the following:~~
 - a. ~~Accept only those assignments authorized by the level of nurse licensure;~~
 - b. ~~Accept only those assignments for which the nurse has the required knowledge, skills, and abilities; and~~
 - c. ~~Acknowledge personal limitations in knowledge and skills and communicate the need for specialized instruction prior to accepting any assignments.~~

History: Effective February 1, 1998.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1)

54-05-04-03. Delegation process for nursing interventions. A licensed nurse may delegate a nursing intervention to a competent unlicensed assistive person if the licensed nurse utilizes a decisionmaking process to delegate in a

manner that protects public health, welfare, and safety. Such a process must include:

1. Assessment of clients and human and material resources by:
 - a. Identifying the needs of the client;
 - b. Consulting the plan of care;
 - c. Considering the circumstances and setting; and
 - d. Assuring the availability of adequate resources, including supervision.
2. Planning for delegation that must include:
 - a. Criteria for determining nursing interventions that may be delegated and includes:
 - (1) The nature of the specific nursing intervention, its complexity, and the knowledge and skills required to perform the intervention;
 - (2) The results of the intervention are predictable;
 - (3) A determination that the potential risk to client is minimal; and
 - (4) A standard and unchangeable procedure which does not require any exercise of independent nursing judgment.
 - b. Selection and identification of unlicensed assistive persons to whom nursing interventions may be delegated. Licensed nurses who assess and identify the unlicensed assistive person's training, experience, and competency to provide a selected nursing intervention shall:
 - (1) Teach the nursing interventions; or
 - (2) Verify the unlicensed assistive person's competency to perform the nursing intervention; and
 - (3) Observe the unlicensed assistive person's demonstration of current competence to perform the nursing intervention; and
 - (4) Document the unlicensed assistive person's competency to perform the nursing intervention.
 - c. Selection and identification of the methods of supervision and the licensed nurses responsible to provide supervision.

- (1) Direct supervision means that the responsible licensed nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately.
 - (2) Indirect supervision means that the responsible licensed nurse is available through periodic inspection and evaluation of telecommunication, or both, for direction, consultation, and collaboration.
- d. The method of supervision and the frequency of assessment, inspection, and evaluation must be determined, but not limited to the following:
- (1) The willingness and ability of the client to be involved in the management of the client's own care;
 - (2) The stability of the client's condition;
 - (3) The experience and competency of the unlicensed assistive person providing the nursing intervention; and
 - (4) The level of nursing judgment required for the delegated nursing intervention.
3. Implementation of the delegated nursing interventions by providing direction and supervision.
- a. Direction must include:
- (1) The unlicensed assistive person's access to written instructions on how the nursing intervention is to be performed, including:
 - (a) Reasons why the nursing intervention is necessary;
 - (b) Methods used to perform the nursing intervention;
 - (c) Documentation of the nursing intervention; and
 - (d) Observation of the client's response.
 - (2) The licensed nurse's:
 - (a) Monitoring to assure compliance with established standards of practice and policies; and
 - (b) Evaluating client responses and attainment of goals related to the delegated nursing intervention.

- b. Supervision may be provided by the delegating licensed nurse or by other licensed nurses. The degree and method of supervision required must be determined by the licensed nurse after an evaluation of the appropriate factors involved, including:
 - (1) The number of clients for whom nursing interventions are delegated;
 - (2) The stability of the client;
 - (3) The training and competency of the unlicensed assistive person to whom the nursing intervention is delegated;
 - (4) The nature of the nursing intervention delegated; and
 - (5) The proximity and availability of the licensed nurse when the nursing intervention is performed.
- 4. Evaluation of the delegated nursing interventions through:
 - a. Measurement of the client's response and goal attainment related to the delegated interventions;
 - b. Modification of nursing interventions as indicated by client's response;
 - c. Evaluation of the performance of the intervention by the unlicensed assistive person;
 - d. Feedback from unlicensed assistive person; and
 - e. Provision of feedback to unlicensed assistive person.
- 5. Consumer-directed service providers. A nurse licensed under North Dakota Century Code chapter 43-12.1 may verify the competence of an unlicensed assistive person to perform nursing interventions for individuals directing their own care or for individuals who have a legally responsible person acting on their behalf, when the licensed nurse is requested to train the unlicensed assistive person to provide services authorized by North Dakota Century Code section 50-24.1-18.1 to individuals found eligible by the North Dakota department of human services to direct their own care or who have designated a legally responsible person to make health care decisions on their behalf.

History: Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1), 50-24.1-18.1

54-05-04-04. Accountability and responsibility within the delegation process. It is the responsibility of the licensed nurse delegating the intervention to determine that the unlicensed assistive person is able to safely perform the nursing intervention.

1. The registered nurse administrator shall:
 - a. Select nursing service delivery models for the provisions of nursing care which do not conflict with this chapter.
 - b. Assess the health status of groups of clients, analyze the data, and identify collective nursing care needs, priorities, and necessary resources.
 - c. Be responsible to determine that licensed nurses have the required competencies expected for the nurses' current nursing practice roles.
 - d. Establish training, supervision, and competency requirements of all individuals providing nursing care. The nurse administrator shall identify nursing personnel by a position title, job description and qualifications, and includes licensed nurse delegation to technician. A licensed nurse may delegate an intervention to a technician who may perform limited nursing functions within the ordinary, customary, and usual roles in the individual's field provided the individual:
 - (1) Is enrolled in or has completed a board-recognized formal training program;
 - (2) Is registered or certified by appropriate board-recognized national bodies; or
 - (3) Has completed other education that may be approved by the board.
 - d. e. Communicate nursing service delivery models and training and competency requirements to nursing personnel.
 - e. f. Be accountable to provide adequate human and material resources to carry out the delegation process.
2. The registered nurse shall:
 - a. Assess the client's individual health status, analyze the data, and identify the client's specific goals, nursing care needs, and necessary interventions.

- b. Instruct the unlicensed assistive person using step-by-step directions in the delegated nursing intervention and verify the unlicensed assistive person's competence to perform the nursing intervention on an individual and client-specific basis.
 - c. ~~Determine the method of supervision on an individual basis and identify any other licensed nurses who have been assigned the responsibility for supervision~~ Assign the responsibility for supervision of the delegated nursing interventions to other licensed nurses only if the conditions of the supervision have been communicated.
 - d. Communicate decisions regarding selected interventions and the conditions of supervision to licensed nurses responsible to provide supervision and to unlicensed assistive persons responsible to provide nursing interventions as appropriate and on an individual basis.
 - e. Retain accountability for individual delegation decisions and evaluation of the outcomes.
3. The licensed practical nurse shall:
- a. Contribute to the assessment of client's individual health status, nursing care needs, and interventions.
 - b. Assist in instructing unlicensed assistive persons in the delegated nursing intervention and verify the unlicensed assistive person's competence to perform the nursing intervention on an individual and client-specific basis.
 - c. Assist in the supervision on an individual basis.
 - d. Communicate decisions regarding selected interventions to the unlicensed assistive person responsible to provide nursing interventions as appropriate and on an individual basis.
 - e. Retain accountability for individual delegation decisions and evaluation of the outcomes.
4. The unlicensed assistive person shall:
- a. Retain accountability for the action of self.

- b. Not transfer the authority of a delegated nursing intervention to another unlicensed assistive person.

History: Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-02(5)

Law Implemented: NDCC 43-12.1-08(1)

54-05-04-06. Training of medicaid recipient-directed care providers.

~~Repealed effective July 1, 2008. A licensed nurse may train a person to provide care authorized by North Dakota Century Code section 50-24.1-18.1 using the same teaching process described in subsections 1 through 5 of section 54-07-03.1-02. A licensed nurse shall not be accountable for the supervision or implementation of any services provided by another care provider to individuals found eligible by the department of human services to direct their own care.~~

~~**History:** Effective April 1, 2007.~~

~~**General Authority:** NDCC 43-12.1-02(5)~~

~~**Law Implemented:** NDCC 43-12.1-08(1)~~

CHAPTER 54-07-01

54-07-01-04. Medicaid recipient-directed care waiver recipient service providers. A person who provides care services authorized by North Dakota Century Code section 50-24.1-18.1 to individuals found eligible by the department of human services to direct their own care ~~is not or to individuals who have designated a legally responsible person to make health care decisions on their behalf shall be~~ required to register as an unlicensed assistive person ~~and is not subject to these rules governing unlicensed assistive persons on a registry recognized by the board and the North Dakota department of human services.~~

History: Effective April 1, 2007; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

CHAPTER 54-07-02

54-07-02-01. Unlicensed assistive person registry. The board shall establish and maintain an unlicensed assistive person registry. The board shall enter identifying demographic information on each individual on the unlicensed assistive person registry upon receipt of information required.

1. An applicant for initial registry status shall submit a completed application and fee that includes verification of competency by an employer or licensed nurse. A national nurse aide competency evaluation testing program may be used in lieu of the employer or licensed nurse validation of competency.
2. Upon receipt of the required information, and a fee of ~~fifteen~~ thirty dollars, an initial registry listing card will be sent to the unlicensed assistive person.
3. Initial registry listing will be subject to renewal on or before June thirtieth of the second year and every two years thereafter.

History: Effective November 1, 1992; amended effective September 1, 1994; February 1, 1998; June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(2)(i)

54-07-02-01.1. Renewal of registration. Each registration to practice as an unlicensed assistive person shall be renewed every two years prior to the expiration date. Failure to receive the renewal notification does not relieve the registrant of the obligation to renew the registration by the expiration date.

1. An applicant must submit:
 - ~~1.~~ a. A completed application form;
 - ~~2.~~ b. The nonrefundable renewal fee of ~~fifteen~~ thirty dollars; and
 - ~~3.~~ c. Verification of competency.
2. The registration fee for any practicing unlicensed assistive person will be doubled for any renewal application received in the board office after the expiration date.

History: Effective April 1, 2004; amended effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-10(2)

54-07-02-02.1. Unlicensed assistive person registry status.

1. Unlicensed assistive persons who carry out delegated nursing interventions must hold current registry status. An unlicensed assistive person may not work as an unlicensed assistive person with an expired registration.
2. Individuals holding current registry status on a board-recognized registry meet this requirement.
3. Individuals who are employed to perform nursing interventions delegated by a licensed nurse who have never held registry status have four months from the date of initial employment to achieve registry status.
4. ~~A lapsed registry status may be reactivated by meeting the renewal requirements and payment of the required fee.~~

History: Effective February 1, 1998; amended effective June 1, 2002; April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08

54-07-02-02.2. Reactivation of a registration. An unlicensed assistive person previously registered in North Dakota who applies for reactivation must meet board requirements and includes the following:

1. Complete the application and submit to a criminal history record check according to section 54-07-02.1-01.
2. Pay the nonrefundable renewal fee and thirty dollar reactivation fee.
3. Submit documentation of competency or evidence of certification or evaluation acceptable to the board.

History: Effective July 1, 2008.

General Authority: NDCC 12-60-24.2(o), 43-12.1-08

Law Implemented: NDCC 43-12.1-10(2)

54-07-02-03. Limited registration. The board may initiate the issuance of a limited registration when good cause exists to do so.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(f)

CHAPTER 54-07-02.1
CRIMINAL HISTORY RECORD CHECKS FOR REGISTRATION

Section

54-07-02.1-01

Criminal History Record Checks

54-07-02.1-01. Criminal history record checks. Individuals must submit a set of fingerprints to the board or its agent for the purpose of obtaining a state and federal criminal history record check in the manner provided by North Dakota Century Code section 12-60-24 and as set forth by the board. An authorization and release form must be signed by the applicant authorizing the release of the criminal history record information to the board. The fingerprint card, authorization and release form, and fee for the criminal history record check must be submitted with the application.

1. The following individuals for registration must submit to a criminal history record check:
 - a. Applicants for initial unlicensed assistive person registration.
 - b. Applicants for reactivation or reinstatement of unlicensed assistive person or medication assistant registration.
 - c. Applicants for initial medication assistant registration who are not currently registered as a certified nurse aide by the North Dakota state department of health or current on the unlicensed assistive person registry and has not been subjected to a criminal history record check for the purpose of registration.

2. The following individuals for registration may be required to submit to a criminal history record check:
 - a. Applicants for renewal of unlicensed assistive person.
 - b. Applicants for medication assistant registration.
 - c. An individual who is under investigation for violation of North Dakota Century Code chapter 43-12.1. If a criminal history record check is required as part of a disciplinary investigation or proceeding, the fingerprint card, authorization and release form, and fee for the criminal history record check must be submitted within twenty days of the request.

History: Effective July 1, 2008.

General Authority: NDCC 12-60-24.2(o), 43-12.1-08(1)

Law Implemented: NDCC 43-12.1-09.1

CHAPTER 54-07-05

54-07-05-07. Reactivation of a lapsed medication assistant registration. An individual with previous medication assistant training who has not performed medication assistant duties within the last two years and was previously registered in North Dakota who applies for reactivation must meet board requirements, including the following:

1. Complete the application and submit to a criminal history record check according to section 54-02.1-01.
2. Pay the nonrefundable renewal fee and thirty dollar reactivation fee; and
3. Demonstrate performance of medication administration to a licensed nurse within the employing facility by satisfactory completion of a board-approved clinical skills checklist; or
- ~~2.~~ 4. Complete a board-approved medication assistant program I or II that is appropriate to the practice setting; or
- ~~3.~~ 5. Submit documentation of continued competency and verification of current certification from the American association of medical assistants or successor organization or current registration from the American medical technologists or successor organization.

History: Effective September 1, 1994; amended effective May 1, 1999; April 1, 2004; August 1, 2005; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-10(2)

54-07-05-09. Routes or types of medication administration.

1. Administration of the initial dose of a medication that has not been previously administered to the client must be administered according to organization policy.
2. Medication assistant students and medication assistants may administer medications by the following routes to individuals or groups of individuals with stable, predictable conditions according to organization policy:
 - a. Oral, sublingual, and buccal medications;
 - b. Eye medications;
 - c. Ear medications;
 - d. Nasal medications;

- e. Rectal medications and enemas;
 - f. Vaginal medications;
 - g. Skin ointments, topical medications, including patches and transdermal medications;
 - h. Metered hand-held inhalants; and
 - i. Unit dose nebulizers.
3. Medication assistants III may administer medications by the following routes to individuals or groups of individuals with stable, predictable conditions according to organization policy:
- a. Intramuscular injections;
 - b. Subcutaneous injections;
 - c. Intradermal injections;
 - d. Gastrostomy; and
 - e. Jejunostomy.
4. Medication ~~assistant students and medication~~ assistants I or II may only administer medications by the following routes only when specifically delegated by a licensed nurse for a specific client:
- a. Gastrostomy;
 - b. Jejunostomy; ~~and~~
 - c. Subcutaneous; and
 - d. Premeasured injectable medication for allergic reactions.
5. Medication assistant students and medication assistants I or II may not administer medications by the following routes:
- a. Central lines;
 - b. Colostomy;
 - c. Intramuscular injection;
 - d. Intravenous;

- e. Intravenous lock;
 - f. Nasogastric tube;
 - g. Nonmetered inhaler;
 - h. Intradermal;
 - i. Nonunit dose aerosol/nebulizer; or
 - j. Urethral catheter.
6. Medication assistants III may not administer medications by the following routes:
- a. Central lines;
 - b. Colostomy;
 - c. Intravenous;
 - d. Intravenous lock;
 - e. Nasogastric tube;
 - f. Nonmetered inhaler;
 - g. Nonunit dose aerosol/nebulizer; or
 - h. Urethral catheter.
7. Medication assistant students and medication assistants may not administer the following kinds of medications:
- a. Barium and other diagnostic contrast media;
 - b. Chemotherapeutic agents except oral maintenance chemotherapy;
or
 - c. Through any medication pumps, nor assume responsibility for medication pumps, including client-controlled analgesia.

History: Effective May 1, 1999; amended effective April 1, 2004; August 1, 2005; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

54-07-05-11. Medication interventions that may not be delegated. The following acts shall not be delegated to a medication assistant:

1. Conversion or calculation of medication dosage;
2. Assessment of client need for or response to medication. See section 54-07-03.1-04. Unlicensed assistive person's contribution to the nursing process; and
3. Nursing judgment regarding the administration of PRN medication.

History: Effective July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

CHAPTER 54-07-06.1

54-07-06.1-03. Curriculum. The medication assistant program I curriculum for delegated medication administration must include:

1. Medication concepts:
 - a. Terminology and ~~commonly used~~ standardized abbreviations;
 - b. Classification of medications;
 - c. Generic and trade names;
 - d. Dosage, range, and action;
 - e. Side effects;
 - f. Medication routes; and
 - g. References and sources of information.
2. Roles, responsibilities, legal aspects, and limitations of medication assistant I and licensed nurse:
 - a. Scope of duties for a medication assistant I;
 - b. Licensed nurse responsibilities in relationship to a medication assistant I;
 - c. Client rights, including the right to refuse medication;
 - d. Laws related to medication administration; and
 - e. Knowledge of organization policy related to medication administration.
3. Methods for medication packaging.
4. Storage and disposal of medication.
5. Administering and charting medications:
 - a. Preparation and administration of medications;
 - b. ~~Six~~ Safety and six rights;
 - c. Use of medication administration record to:

- (1) Administer medications; and
 - (2) Documentation of medication administration; and
- d. Medication Prevention of medication errors; and reporting techniques.
 - e. Causes and reporting of medication errors.
6. Standard precautions for infection control.
 7. An overview of the major ~~categories~~ classes of medications and related to body systems.
 8. Additional instruction must include those categories of medications relevant to the health care setting where the medication assistant will be employed.
 9. Clinical instruction for the purpose of demonstration of medication administration and evaluation of individual competence.

History: Effective May 1, 1999; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

CHAPTER 54-07-07

54-07-07-03. Curriculum. The medication assistant program II curriculum for delegated medication administration must include:

1. Medication concepts:
 - a. Terminology and commonly used standardized abbreviations;
 - b. Classification of medications;
 - c. Generic and trade names;
 - d. Dosage, range, and action;
 - e. Side effects;
 - f. Medication routes; and
 - g. References and sources of information.
2. Roles, responsibilities, legal aspects, and limitations of medication assistant II and licensed nurse:
 - a. Scope of duties for a medication assistant II;
 - b. Licensed nurse responsibilities in relationship to a medication assistant II;
 - c. Client rights, including the right to refuse medication;
 - d. Laws related to medication administration; and
 - e. Knowledge of organization policy related to medication administration.
3. Methods for medication packaging.
4. Storage and disposal of medication.
5. Administering and charting medications:
 - a. Preparation and administration of medications;
 - b. ~~Six~~ Safety and six rights;
 - c. Use of medication administration record to:

- (1) Administer medications; and
 - (2) Document medication administration; ~~and~~
- d. ~~Medication~~ Prevention of medication errors; and reporting techniques.
- e. Causes and reporting of medication errors.
6. Standard precautions for infection control.
7. Major ~~categories~~ classes of medications related to body systems, including:
 - a. Cardiovascular;
 - b. Endocrine;
 - c. Gastrointestinal;
 - d. Integumentary;
 - e. Musculoskeletal;
 - f. Nervous;
 - g. Reproductive;
 - h. Respiratory;
 - i. Sensory; and
 - j. Urinary.
8. Additional instruction must include those categories of medications relevant to the health care setting where the medication assistant will be employed.
9. Laboratory and clinical instruction for the purpose of demonstration of medication administration and evaluation of individual competence.

History: Effective May 1, 1999; amended effective April 1, 2004; July 1, 2008.

General Authority: NDCC 43-12.1-08

Law Implemented: NDCC 43-12.1-08(1)

TITLE 56
STATE BOARD OF OPTOMETRY

JULY 2008

CHAPTER 56-02-01

56-02-01-02. Examination questions concerning optometric jurisprudence. The board shall refuse to admit an applicant to its examination for license to practice optometry unless and until the applicant shall have answered in the affirmative each of the following questions pertaining to optometric jurisprudence, and shall have satisfied the board of the applicant's honesty and good faith in so answering the questions:

1. Do you consider optometry a profession?
2. Would you sacrifice profit for the benefit of your patient?
3. Will you cooperate with practitioners of other professions in your work as an optometrist?
4. Will you continue as a student and take advantage of all educational opportunities to the best of your ability?
5. Will you endeavor to raise the standard of optometry and assist in every way possible to create a better understanding among fellow optometrists, professionally, educationally, and ethically?
6. Do you realize that ~~you cannot be employed as a practicing optometrist by a firm, corporation, partnership, or individual who is not a registered optometrist or physician or as an employee of a professional corporation rendering the service of optometry or medical services, without violating the North Dakota optometry law~~ under North Dakota law, you can only be employed by a licensed optometrist, a physician licensed under chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians?
7. Would you consult a fellow optometrist in the interest of your patient's welfare?

8. Will you familiarize yourself with the North Dakota optometry law and the rulings of the board, abide by the same, and assist the board and other officers in enforcement of the law?

History: Amended effective December 1, 1987; April 1, 1990; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22, 43-13-28

CHAPTER 56-02-02

56-02-02-01. Postgraduate educational requirements. As a condition of the annual renewal of the license to practice optometry, every registered optometrist shall have attended during the three-year period preceding the date of renewal ~~thirty-six~~ fifty classroom hours of optometric educational programs required by North Dakota Century Code section 43-13-20, hereinafter called educational requirements. ~~Effective January 1, 2001, the educational requirements for the three-year period immediately preceding January 1, 2001, and for each reporting period thereafter, shall be fifty classroom hours.~~

History: Amended effective December 1, 1987; April 1, 1990; November 1, 1997; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-20

CHAPTER 56-02-03

56-02-03-02. Code of ethics. Unethical conduct is conduct contrary to the ethics of the optometric profession as hereinafter set forth. The following code of ethics is adopted as a standard by the board of optometry. It shall be the ideal, the resolve, and the duty of all holders of certificates of registration to practice optometry in North Dakota to:

1. Keep the visual welfare of the patient uppermost at all times.
2. Keep inviolate all confidences committed to the optometrist in the optometrist's professional relationship with the patient.
3. Support organized optometry in its efforts to advance and promote the highest ideals of professional service.
4. Refrain from any exaggeration of a patient's condition.
5. Keep informed as to developments in the profession and to contribute the optometrist's share to the general knowledge and advancement of the profession by all means within the optometrist's power.
6. Refrain from all criticism reflecting upon the skill of a colleague.
7. Refuse to be employed, ~~except as an associate of a registered optometrist or physician by a person other than a licensed optometrist, a physician licensed under North Dakota Century Code chapter 43-17, a hospital, or a clinic operated by licensed optometrists or by licensed physicians.~~
8. Refrain from employing fraud, deceit, misrepresentation, or fraudulent advertising in the practice of optometry.
 - a. No person licensed to practice as an optometrist may:
 - (1) Seek to obtain patients by advertising or other forms of solicitation in a manner that is false, fraudulent, deceitful, misleading, or deceptive.
 - (2) On the person's own behalf or on behalf of a partner, associate, association, corporation, organization, group, individual, or any other optometrist affiliated with the person, use or participate, directly or indirectly, in a false, fraudulent, deceitful, misleading, or deceptive statement or claim.
 - b. No person licensed to practice as an optometrist may, directly or indirectly, make any false, fraudulent, deceitful, misleading, or deceptive statements to any person or the public which:

- (1) Create false, fraudulent, misleading, deceptive, or unjustified expectations of favorable results.
 - (2) Make comparisons with other optometrists which are false, fraudulent, deceitful, misleading, or deceptive.
 - (3) Contain representations that would be likely to cause a reasonable person to misunderstand or be deceived.
- c. Any public statement or advertisement concerning ophthalmic services or materials, including, but not limited to, lenses, frames, spectacles, contact lenses, or parts thereof, must include the following explanation, warnings, or disclaimers.
- (1) Any advertisement of prescription spectacles or contact lenses is required to contain language to the effect that an eye doctor's prescription is required for the purchase of such prescription spectacles or contact lenses.
 - (2) Any price advertisement of prescription spectacles or contact lenses is required to contain the following information or be subject to the following conditions:
 - (a) A statement of whether or not the cost of an examination by an eye doctor is included in the price.
 - (b) If any advertised goods are to be available to the public at the advertised price, the advertisement must state the time limitation on the offer.
 - (c) The total quantity available under any advertisement shall be the amount reasonably anticipated to meet the anticipated market demand therefor unless "rainchecks" are given and filled within a reasonable time. If limited quantities are available, the advertisement must so state and give the number available whenever reasonably possible.
 - (d) Any statement or advertisement which offers a discount on the price of ophthalmic materials or services (collectively "items") must specify the regular price of the materials or services if the total discounted items included in such statement or advertisement are five or less. For any such materials or services so advertised, the regular price must be conspicuously posted at the location where such materials and services are available for purchase and made available by telephone or other reasonable inquiry. If the total discounted items exceed five and the regular price is

not so specified, then the statement or advertisement must include the statement that the "regular price is available upon request".

- (e) Any statement or advertisement which involves professional services shall be deemed to include the usual and customary services. If such services are not included, then it must be disclosed what services are included in the price quoted and specifically whether the price includes professional examination and prescription and whether additional charges may be made for related or subsequent services required in individual cases.
 - (f) When contact lenses are advertised, a statement must be included giving the brand name, whether the price or discounted price includes an eye examination and all required accessories and, if not, what the examination, fitting, and followup care is, consists of, and what accessories are included in the advertised price.
- d. Any statement or advertisement which purports to provide a "guaranteed cure" of any condition as a result of ophthalmic services or materials is false and misleading. This provision is not to be construed as prohibiting the advertising and giving of refunds to dissatisfied customers.
- e. Any statement or advertisement which makes unsubstantiated claims comparing prices or quality of services or materials, or both, such as "best examination", or "lowest prices" as an inducement shall be presumed to be misleading. All offers of "free" merchandise or service must be made with extreme care so as to avoid any possibility that consumers will be misled or deceived. When making "free" or similar offers, all the terms, conditions, and obligations upon which receipt and retention of the "free" item are contingent must be set forth clearly and conspicuously at the outset of the offer so as to leave no reasonable probability that the terms of the offer might be misunderstood. If an offer is introductory:
- (1) No "free" offer should be made in connection with the introduction of a new product or service offered for sale at a specified price unless the offerer expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which it was promoted with the "free" offer; and
 - (2) In such offers, no representation may be made that the price is for one item and that the other is "free" unless the

offerer expects, in good faith, to discontinue the offer after a limited time and to commence selling the product or service promoted, separately, at the same price at which it was promoted with a "free" offer.

- f. Any optometrist who practices optometry under, or uses in connection with the practice of optometry as allowed by law and these regulations, any assumed name, corporate name, partnership name, trade name, or any name other than the name under which the optometrist is certified and licensed to practice optometry in North Dakota shall file an affidavit with the secretary of the North Dakota state board of optometry on forms provided by it stating such name and the individual names of optometrists practicing under such name; provided, however, that optometrists may practice under the name of a properly certified and registered professional corporation and that optometrists practicing as partners may practice under the full or last names of the partners. Optometrists who are employed by other licensed resident optometrists shall practice in their own names, but may practice in an office listed under the name of the individual optometrists or partnership of optometrist or professional corporation by whom they are employed. No optometrists may practice under any name that falsely, fraudulently, deceitfully, misleadingly, or deceptively portrays the services rendered or goods sold under such name.
 - g. Copies (photocopies, tape recordings, videotapes, or other original or accurate reproductions) of all advertising disseminated by or on behalf of an optometrist in this state must be kept as a part of the business records of such optometrist for one year from the date of such advertising.
9. A licensee may only practice optometry in the following settings:
- a. As an individual optometrist in a private practice.
 - b. As an employee of an optometrist or physician licensed to practice in the state of North Dakota.
 - c. As an employee of a clinic operated by licensed optometrists or by licensed physicians.
 - d. As an employee of a hospital.
 - e. As a member of a group composed of optometrists or physicians licensed to practice in North Dakota.
 - f. As an optometrist practicing under an independent contract in a setting which is not a hospital or clinic operated by licensed

optometrists or licensed physicians, provided the optometrist is responsible for the following:

- (1) The type, extent, availability, and quality of optometric services.
- (2) The type of ophthalmic materials available, prescribed, or dispensed.
- (3) Files and records relating to patients and the optometric practice.
- (4) Optometric prescriptions.
- (5) Scheduling and availability of optometric services.
- (6) Time limitations on patient examinations.
- (7) Volume of optometric patients.
- (8) Fee schedules for optometric services and materials, and the establishment thereof, including billing methods.
- (9) Information disseminated to the public regarding optometric services.

History: Amended effective December 1, 1987; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22(6)

CHAPTER 56-02-04

56-02-04-03. Minimum prescription and fee standards.

1. Optometrists shall make available to their patients a copy of their spectacle (not contact lenses) prescription upon request. Every spectacle prescription shall have noted thereon an expiration date not to exceed thirty-six months.
2. Optometrists, ~~in their sole discretion, may~~ shall make available to their patients a copy of their contact lens prescription upon request completion of the fitting. An optometrist may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the optometrist requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment. Every contact lens prescription shall have noted thereon an expiration date not to exceed twelve months ~~and may only be released in written form.~~
3. Every licensed optometrist shall make available to the patient, upon request, information showing how the fee was calculated, including the amount charged for professional services rendered and for the laboratory cost of the ophthalmic materials used.

History: Amended effective December 1, 1987; January 1, 1995; July 1, 2008.

General Authority: NDCC 43-13-13

Law Implemented: NDCC 43-13-22

TITLE 67.1
EDUCATION STANDARDS AND PRACTICES BOARD

JULY 2008

CHAPTER 67.1-02-01

67.1-02-01-01. Student teachers. A student teacher is one who teaches in a regular classroom situation as part of the requirements in professional preparation.

1. All college students in education must have classroom-related preprofessional experience prior to student teaching. This experience must be provided as early as possible. Formal admittance to the teacher education program includes meeting appropriate state program approval requirements. A criminal background investigation including the bureau of criminal investigation and federal bureau of investigation must be completed prior to any student teaching experience.
2. The student teacher should be assigned by a college or university to a cooperating school on a full-time block. A full-time block is construed as a full day for ten consecutive weeks with exceptions documented through program approval. The student teacher must be placed in a classroom where the cooperating teacher is regularly assigned. Additional student teaching experiences shall be determined by the training institution.
3. In the event of an emergency, the student teacher may once during the student teaching semester be placed as a substitute in the student teacher's regularly assigned classroom for a period of time not to exceed two consecutive days.
4. Student teachers may be placed only in accredited schools.
5. Teaching experience cannot be used for a waiver of student teaching, except as specified in subdivision d of subsection 1 of section 67.1-02-02-02.
6. Student teachers may receive a stipend from the school where they have student taught.

7. A student teacher will be eligible for a forty-day provisional license upon completion of all requirements for the student teacher's bachelor's degree minus the awarding of the degree and the official transcript as documented by the institution of higher education registrar. Once the degree has been awarded and the official transcript has been received, the student teacher will receive the initial two-year license.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10

67.1-02-01-03. College supervisors. A college supervisor is the college faculty member who is in charge of guiding, helping, and directing the student teacher.

1. The college supervisor must have early childhood, elementary, middle level, or secondary teaching experience at the level of supervision.
2. A college supervisor, after meeting with the administration of the school in which student teaching is to be done, shall meet with the cooperating teacher and provide a copy of the state student teaching guidelines.
3. The college supervisor shall make a copy of the student teacher's file available to the cooperating teacher prior to the arrival of the student teacher. Such file may contain a brief biography and general information, but may not contain any specific information that would be in violation of a student's right to privacy.
4. A college supervisor shall make at least two visitations during the student's teaching experience, after which the college supervisor shall hold a joint conference with the cooperating teacher and the student teacher, or provide each a written critique of the visitation.
5. The teacher education program staff may provide consultation and assistance for the first year teacher in North Dakota.

History: Effective July 1, 1995; amended effective October 1, 1998; July 1, 2008.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10

67.1-02-01-05. Program approval standards. The education standards and practices board shall adopt a set of North Dakota teacher education program approval standards.

1. The standards will be the criteria used to evaluate undergraduate and graduate education programs leading to North Dakota educational licensure.

2. The standards must be reviewed and revised at least every five years with input from the state-approved institutions and kindergarten through grade twelve educators and with consideration of recommendations from professional organizations. Public hearings must be provided in accordance with North Dakota Century Code chapter 28-32.
3. New standards become mandatory two years after their publication by the office of the legislative council in accordance with North Dakota Century Code section 28-32-19. During the two-year transition period following publication, institutions may elect to be reviewed either under the previously published standards or the newly published standards.
4. Full text of the North Dakota standards for program approval may be reviewed in North Dakota Administrative Code title 67.1 or at the office of the education standards and practices board.
5. Graduates successfully completing all the requirements of programs approved by the education standards and practices board must have completed the criminal background investigation including the bureau of criminal investigation and the federal bureau of investigation and be recommended by their degree granting institution for North Dakota licensure on that basis. Graduates of programs other than those approved by the North Dakota education standards and practices board are subject to meeting the same standards criteria through the review of official transcripts.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; August 1, 2002; July 1, 2008.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10

CHAPTER 67.1-02-02

67.1-02-02-01. Life certificates.

1. First grade and second grade professional life certificates issued prior to July 1, 1976, are valid for life. However, it is recommended that teachers show professional gain by college attendance, workshops, conferences, travel, and other professional activities.
2. A life license will be issued to those teachers who have been licensed to teach in North Dakota for a period of thirty years. The application for the life license must be accompanied by a fee as pursuant to the five-year renewal fee in section 67.1-02-02-04. The application for the thirty-year life license may be submitted six months prior to the expiration of the current license or as soon as the teacher qualifies for the thirty-year life license. Documentation of the thirty years of certification or licensure must be submitted with the application.

History: Effective July 1, 1995; amended effective August 1, 2002; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-12.1

67.1-02-02-02. Initial licenses.

1. Initial teacher licensure for in-state graduates or graduates of out-of-state programs requires a minimum of a four-year bachelor's degree from a state agency-approved teacher education program. The approved program must include a general studies component, a North Dakota recognized program area major, and a professional pedagogy core as defined in this section and the North Dakota standards for teacher education program approval:
 - a. The general studies component includes liberal arts preparation in the areas of the humanities, fine arts, mathematics, natural sciences, behavioral sciences, and symbolic systems as prerequisite to entrance into the professional education program.
 - b. North Dakota recognized program area majors are printed on the application form and include content-specific majors at the secondary level, content-specific kindergarten through grade twelve majors as listed below, majors in middle level education, or majors in elementary education. Majors that are transcribed by state-approved teacher education programs using terminology not appearing on the application form must be compared to the North Dakota standards for teacher education program approval to determine whether they meet the same criteria as the listed recognized majors. Majors must include a minimum of thirty-two semester hours of coursework specific to the major beyond the

introductory level. All official transcripts from all institutions of higher education must be submitted to the education standards and practices board.

- (1) The secondary content-specific major must include a minimum of four semester hours in special methods of teaching at the secondary level and special methods of teaching in the specific content area. Effective July 1, ~~2006~~ 2008, all initial secondary licensure applicants grades seven through twelve in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II as set by the education standards and practices board. For purposes of this section, English, reading and language arts, mathematics, science, foreign languages, music, visual arts, history, civics and government, geography, and economics are considered core academic areas. All other areas are considered non-core academic areas.
- (2) The middle level major must include study of middle level foundations, adolescent development, reading in the content areas at the middle level, and twenty-four semester hours of content coursework in one of the content areas of English and language arts, social studies, science, or mathematics meeting the teacher education program approval standards, and special methods of teaching at the middle level. Study of these areas must total a minimum of thirty-two semester hours, which includes at least two semester hours of special methods of teaching at the middle level and middle level classroom field experience. Effective July 1, ~~2006~~ 2008, all initial middle level licensure applicants grades five through eight in the core and non-core academic areas will need to meet or exceed the cut scores for the praxis II as set by the education standards and practices board.
- (3) The elementary major must include special methods of teaching elementary content areas with a minimum of twelve semester hours specific to teaching elementary school mathematics, science, social studies, reading, and language arts. Effective July 1, 2006, all initial elementary licensure applicants grades one through six or grades one through eight restricted license will need to meet or exceed the cut scores for the praxis II elementary test 10011 and the praxis II principles of learning and teaching test 30522. For the school year 2005-06 and beyond, all elementary teachers new to the professional profession, but previously licensed, will need to complete the praxis II elementary test 10011 and praxis II principles of learning and teaching test 30522 during the school year. Classroom teaching experience will

be accepted from all other states toward the requirements of this paragraph.

- (4) ~~Kindergarten~~ Prekindergarten through grade twelve preparation programs in special education, foreign language, art, music, physical education, business education, technology education, and computer education must include a minimum of four semester hours of special methods of teaching inclusive of kindergarten through grade twelve, special methods of teaching in the specific content area, and student teaching in elementary and secondary schools, ~~grades kindergarten~~ prekindergarten through grade twelve. Effective July 1, 2006, all applicants in foreign language, art, and music will need to meet or exceed the cut scores for the praxis II tests as set by the education standards and practices board.
 - (5) The early childhood major must include study of child development, birth through age eight, and include special methods of teaching at the early childhood level.
 - (6) The special education major for regular licensure meeting or exceeding the teacher education program approval standards must include a second major in early childhood, elementary, middle level, or secondary education. ~~Special education licensure will not be based upon a minor or endorsement. The applicant must apply to the department of public instruction for special education credentials. Effective July 1, 2008, all applicants in special education majors or endorsements must meet or exceed the praxis II test cut scores as set by the education standards and practices board.~~
- C. The professional education component includes a minimum of twenty-two semester hours of pedagogical study of teaching and learning in addition to the program-specific major. This coursework must be from the areas of educational foundations, educational psychology, child development, teaching and learning theory, educational diagnosis and assessment, inclusive education, educational technology, classroom and behavioral management, and human relations specific to teaching. The professional education component must also include classroom professional experience prior to student teaching and a minimum of ten weeks of full-time successful participation in student teaching at appropriate grade levels. The professional education component, including student teaching, must be completed under the supervision of a teacher training institution approved by the education standards and practices board in North Dakota or the appropriate state,

provincial, or similar jurisdictional authority for out-of-state institutions.

- d. Student teaching exception - Internship. An applicant who graduated from a state-approved teacher education program prior to January 1, 1988, which did not include a minimum of ten weeks of full-time student teaching may qualify under one of the two options under this subdivision. These options are available only if the applicant has met all other requirements for licensure of the education standards and practices board and North Dakota Century Code sections 15.1-18-02 and 15.1-18-03, except the requirement of ten weeks of student teaching.
 - (1) The applicant must document a minimum of eight full weeks of student teaching at the appropriate level in the major field of study under the supervision of a state-approved teacher education program and document five years of successful teaching within the last ten years; or
 - (2) An applicant who can document a minimum of eight weeks of successful student teaching but cannot document a minimum of five years of successful teaching experience must either complete the additional student teaching hours or may choose to complete an internship under the supervision of a state-approved college of teacher education to fulfill the additional hours.
 - (a) The internship contact hours in the classroom must consist of classroom time blocks not less than one-half day and when added to the applicant's existing student teaching hours total a minimum of ten weeks of full-time equivalent student teaching and supervised internship experience.
 - (b) The internship must occur in a regular kindergarten through grade twelve classroom setting and allow the intern to experience the full range of curriculum and classroom operations.
 - (c) The internship must be approved by the education standards and practices board and transcribed through a state-approved teacher education institution.
- e. Teaching minors. A teaching minor may only be earned or added to a teaching major. An individual may not be licensed or change grade levels of licensure with only a teaching minor.

A teaching minor is defined as a minimum of sixteen semester or twenty-four quarter credit hours in a single designated academic

area and the methods of teaching the content area. These sixteen semester or twenty-four quarter credit hours must be in courses for which the institution gives credit toward graduation in the major and be included in the teacher education program approval process.

2. An applicant must have a minimum overall grade point average of 2.50. The education standards and practices board will use the college-figured grade point average if all previous college coursework is on the transcript. If the student has transferred from another institution, and the grade point average calculated by the institution granting the degree is only for those credits at that institution, the education standards and practices board will refigure the grade point average using all previous college coursework.
3. An applicant shall provide three positive recommendations that include consideration of the applicant's character, adequate educational preparation, and general fitness to teach. Two of the recommendations must be secured from the most recent employing board or the applicant's credentialed principal or superintendent. One of the recommendations may be a person of the applicant's choice with knowledge of the applicant's teaching potential and character. If the applicant has not taught in the last three years or it is impossible to secure recommendations from a principal or superintendent, the recommendations must be secured from individuals who can speak with regard to the teaching potential and character of the applicant. All recommendations or letters of recommendation must be dated within six months of submitting the application for licensure.
4. Verification of eligibility for home state licensure may be requested.
5. Acceptable translations for preparations received in foreign institutions will be requested at the applicant's expense.
6. Application form.
 - a. An application fee of thirty dollars must accompany a request for an initial application form.
 - b. The original completed application form, including the original signature of the applicant, original signatures of the recommenders or original college placement file, and recommendation by the state-approved teacher education program will be considered for licensure by the education standards and practices board.
 - c. A fee of seventy dollars must accompany the application for initial licensure for in-state and out-of-state graduates. An additional fee of one hundred seventy-five dollars for transcript review from out-of-state graduates must also accompany the licensure application.

- d. The application will be kept on file at the education standards and practices board office for six months. Upon expiration of the six-month period, applicable fees will be refunded to the applicant if the license has not been issued.
7. All initial licenses are valid for at least two consecutive years and will expire on the applicant's birthdate.
8. Fingerprinting. In addition to completing the licensure application process outlined in this section, an applicant applying for licensure in North Dakota for the first time after August 1, 1997, must submit to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14.
 - a. An applicant graduating from a North Dakota teacher preparation program may obtain the fingerprinting materials from college officials. Previous graduates and out-of-state graduates must contact the education standards and practices board directly for the fingerprinting materials. Fingerprint screening reports from other agencies are not available to the education standards and practices board. Applicants must complete the process with cards and release forms designating the education standards and practices board as the agency to receive the report.
 - b. The applicant must have the fingerprinting done by an authorized law enforcement agency such as a sheriff's office, police department, or campus police. Both cards are to be completed with a ten-finger check. The criminal record inquiry authorization form must also be completed, including an original signature. The fingerprint cards and authorization form must be returned directly to the education standards and practices board office.
 - c. Unofficial, incomplete, altered, or damaged cards and forms will not be accepted.
 - d. The applicant is responsible for all local, state, and federal law enforcement agency fees related to the fingerprint background check.
 - e. The applicant is advised to allow a minimum of eight weeks for the fingerprint screening process. An applicant must hold a valid North Dakota license to be employed or permitted to teach in North Dakota. Individuals who have completed all requirements for the professional educator's license except final completion of the fingerprint background check may obtain a provisional license under section 67.1-02-04-04.

- f. Fingerprint screening reports must be recent and may only be used for licensure for ~~six~~ eighteen months from the date the report is received by the education standards and practices board.
9. Reeducation for initial licensure. Applicants who hold nonteaching degrees in content areas taught in public schools may receive initial licensure by completing the professional education requirements at a state-approved program authorized through program approval to recommend applicants for licensure in ~~that~~ the approved program area. This reeducation may be completed at the undergraduate or graduate level. The institution with the approved program must document that the applicant's specialty area degree is equivalent to its approved program's specialty area requirements in subdivisions b and c of subsection 1, and recommend the applicant for licensure. Applicants applying under this section must file a completed application form as other initial applicants, comply with the fingerprint background check in subsection 9, complete all tests, and pay all applicable fees.
10. Preprofessional skills test. On July 1, 2002, all initial applicants for licensure will be required to submit their test scores for the PPST in reading, writing, and mathematics. Beginning July 1, 2003, all applicants for initial licensure will need to submit their test scores for the PPST in reading, writing, and mathematics which meet or exceed the state cut score or composite score. Documentation of the ETS PPST scores must be submitted with the application form.

History: Effective July 1, 1995; amended effective October 1, 1998; October 16, 1998; April 14, 1999; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-08, 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12, 15.1-13-14

67.1-02-02-04. Two-year and five-year renewals.

1. Two-year renewal license.

- a. A two-year renewal license will be issued to applicants with less than eighteen months of successful contracted teaching in North Dakota who pay the required fee of fifty dollars and submit the same recommendations as are required by paragraph 3 of subdivision a of subsection 2. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years after the applicant's birthdate.
- b. A two-year reentry license will be issued to an applicant reentering the profession after an absence of five years. Prior to applying for the reentry license, the applicant must submit to a fingerprint screening for criminal records in accordance with North Dakota

Century Code section 15.1-13-14. An applicant reentering the profession must complete eight semester hours of reeducation credit during the applicant's first two years of contracted employment as stated in this section and in section 67.1-02-02-09. The fee for the reentry license is seventy dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's birthdate.

- c. A two-year reentry license will be issued to an applicant from out of state who has had an absence from the profession of more than five years, or to an applicant who cannot submit four semester hours of credit taken during each of the past two five-year periods if employed in education out of state. Such an applicant must meet the requirements of North Dakota initial licensure as stated in section 67.1-02-02-02 and must also complete the requirements for reentry education as stated in this section and in section 67.1-02-02-09. The fee for the reentry license is seventy dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's birthdate.
- d. A two-year renewal license will be issued for substitute teaching. A substitute teacher must maintain a valid teaching license using the two-year renewal cycle, but is not required to submit reeducation hours unless the person signs a contract. The fee for this two-year renewal is fifty dollars. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of two years on the applicant's birthdate.
- e. In extraordinary circumstances, the board may waive or extend the time for completion of the reeducation credits.

2. **Five-year renewal license.**

- a. The initial five-year renewal will be issued to those applicants who have successfully taught eighteen months in the state on a valid North Dakota license. Applications for renewal may only be submitted six months prior to the expiration of the current license and will expire after a minimum of five years on the applicant's birthdate.
 - (1) All five-year license applications must be accompanied by a fee of one hundred twenty-five dollars.
 - (2) Succeeding five-year renewals require evidence of thirty teaching days of contracted service and completion of a minimum of four semester hours of reeducation credit to

avoid reverting to entry status. All reeducation credit must be documented by college transcripts.

- (3) Three recommendations are required. Two of the recommendations must be secured from the most recent employing board and the applicant's credentialed principal and superintendent. One of the recommendations may be a person of the applicant's choice with knowledge of the applicant's teaching potential and character. If the applicant has not taught in the last three years or it is impossible to secure recommendations from credentialed principals or superintendents, then recommendations must be secured from individuals who can speak with regard to the teaching potential and character of the applicant. Signatures on recommendations must be within a six-month period of the submission of the application for renewal.
- b. A renewal applicant who has completed the four semester hours of credit but has not been contracted for at least thirty days under the five-year license will revert to the two-year renewal cycle.
 - c. Probationary license. An applicant who has failed to complete the four semester hours of reeducation credit, whether the application has been contracted or not, will either not be renewed, or may agree to be placed on a two-year probationary license. Eight semester hours of reeducation semester credit must be supplied as a condition of the two-year probationary license. A second probationary license will not be issued.
 - d. If recommendations are not adequate to issue a five-year license, the education standards and practices board shall provide a hearing following North Dakota Century Code chapter 28-32. Following the hearing procedure, the education standards and practices board shall make a determination whether to issue a renewal to the applicant or deny relicensure.
 - e. In extraordinary circumstances, the board may waive or extend the time for completion of the reeducation credits.
 - f. Once the requirements have been met for the probationary license, a two-year renewal license will be issued.

History: Effective July 1, 1995; amended effective October 1, 1998; October 16, 1998; April 14, 1999; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10, 15.1-13-11

67.1-02-02-09. Reentry. Prior to applying for the reentry license, the applicant must submit to a fingerprint screening for a statewide and nationwide criminal history record check in accordance with North Dakota Century Code sections 15.1-13-14 and 20-60-24. An applicant who has been out of teaching for a period of more than five years must earn a total of eight semester hours or twelve quarter hours of college or university credit, as documented by college transcripts, in the area in which the teacher wishes to renew licensure during the first two years of reentry contracted service. Substitute teachers are exempt from the eight semester hour requirement until the individual accepts a contracted position. The fee for the two-year reentry license is seventy dollars. Reentry applicants should also refer to information in subsection 1 of section 67.1-02-02-04, regarding two-year and five-year renewals.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10, 15.1-13-11

67.1-02-02-10. Substitute teachers.

1. **Qualifications.** A substitute teacher must hold a valid North Dakota educator's professional license based upon the same qualifications as a contracted teacher. A substitute teacher holding a regular license may substitute in any area requiring regular elementary or secondary licensure. An individual with a restricted license may substitute only in the individual's area of restriction.
2. **Reeducation.** A substitute teacher who has not been under contract at any time during the person's current license does not need to submit reeducation hours to renew licensure. A substitute teacher who has been under part-time or full-time contract at any time during the person's current license, or who enters into a contract, must meet the reeducation requirements for contracted teachers.
3. **Shortages.** Interim licensure may be granted for substitute teachers as detailed in section 67.1-02-04-02 when a shortage of regularly licensed substitutes exists.
4. **Student teachers.** A student teacher will be eligible for a forty-day provisional license upon completion of all requirements for the student teacher's bachelor's degree minus the awarding of the degree and the official transcript as documented by the institution of higher education registrar. Once the degree has been awarded and the official transcript

has been received, the student teacher will receive the initial two-year license.

History: Effective October 16, 1998-April 14, 1999; amended effective June 1, 1999; March 1, 2000; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-09, 15.1-13-10

CHAPTER 67.1-02-03

67.1-02-03-03. Secondary endorsement. Reeducation for secondary schoolteaching may be accomplished in one of the following ways:

1. By completing the minimum requirements for a degree in secondary education, including student teaching in grades seven through twelve or the clinical practice option as described in section 67.1-02-04-07, and a North Dakota-recognized content area major.
2. An individual who already has a North Dakota-recognized content area major meeting the state-approved teacher education standards may complete the secondary endorsement by presenting a minimum of twenty-two semester hours of secondary education professional courses for the endorsement in addition to the major or minor field. The applicant must have a minimum of one year successful teaching experience in grades seven through twelve or have five weeks supervised student teaching as part of the above program or the clinical practice option as described in section 67.1-02-04-07.
3. An individual who has a bachelor's degree in elementary education with a transcribed recognized content minor may complete the coursework necessary for the major in the core academic areas, secondary methods coursework, and a minimum of five weeks of student teaching in grades seven through twelve or the interim licensure clinical practice option under section 67.1-02-04-07.
4. An individual who has a bachelor's degree in elementary education with a transcribed recognized core content minor may complete the praxis II test and a minimum of five weeks of student teaching in grades seven through twelve or the interim licensure clinical practice under section 67.1-02-04-07.

Reeducation for the secondary endorsement must be completed prior to assignment to teach in the secondary content area. An official transcript documenting the major must be attached to the endorsement form. Effective July 1, ~~2006~~ 2009, all applicants for a secondary endorsement must complete the praxis II test in the core academic areas meeting or exceeding the cut scores set by the education standards and practices board.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-18-03

67.1-02-03-04. Middle school pedagogical endorsement for grades five through eight. The middle school pedagogical endorsement is mandatory for teachers licensed for grades seven through twelve to qualify for work with grades five and six in the subject fields of their licensure and voluntary for work with students in grades seven and eight. Elementary teachers licensed to teach grades one through six must complete the middle school pedagogical endorsement to teach in grades seven and eight. Endorsement for teaching in middle school is available on a voluntary basis to teachers licensed to teach elementary grades one through eight or to specialty areas licensed to teach grades one through twelve under paragraph 1, 3, or 4 of subdivision b of subsection 1 of section 67.1-02-02-02. A review of past coursework will be conducted and a program of studies study needed for completion will be established. The middle school pedagogical endorsement requires a minimum of ten semester hours, including all of the following:

1. Development of young adolescents.
2. Philosophy and curriculum (foundations) of middle school education.
3. Teaching reading and other study or learning skills in the content areas.
4. Methods or strategies of teaching in the middle grades, two semester hours minimum.
5. Reeducation for the middle level endorsement must include a twenty clock-hour field experience in grades five through eight in a school setting where middle level philosophy has been implemented, or successful teaching in grades five through eight in a school setting where middle level philosophy has been implemented.

Reeducation for the middle school endorsement must be completed prior to or within two years of assignment to teach at the middle level, grades five through eight.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/esp/b/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 1995; amended effective June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-18-02

67.1-02-03-05. Bilingual education or English as a second language learner endorsement. English as a second language learner endorsement. Reeducation for "English as a second language learner" endorsement for any licensed teacher may be accomplished by presenting at least sixteen semester

hours or twenty-four quarter hours of college coursework in all of the areas following in subsections 1 through 5.

Bilingual education endorsement. Reeducation for a bilingual education endorsement for any licensed teacher may be accomplished by completing all the requirements for the English ~~as a second language~~ learner endorsement in subsections 1 through 5 and meeting the additional requirements related to bilingual education in subsections 6 and 7.

1. Foundations. Four semester hours or six quarter hours of college coursework, including the following:
 - a. Multicultural education, which involves a knowledge of ethnic groups in North Dakota and the United States, and different instructional methods to use with different ethnic and language groups.
 - b. Foundations of second language instruction, including history, models of instruction, research, and significant laws and court decisions affecting language minority students.
2. Linguistics. Six semester or nine quarter hours of college coursework, including the following areas:
 - a. Linguistics, which involves the nature of language, organizational principles of language (phonology, morphology, syntax, and semantics), principles of language change, and development of language families.
 - b. Psycholinguistics, which involves first and second language, oral and written acquisition processes, and learning theories.
 - c. Sociolinguistics, which involves basic sociocultural variables in language use and language learning, types of bilingual and multilingual educational situations, and social determinants of dialect and style.
3. Methods. Two semester or three quarter hours of college coursework, including methods of teaching English as a second language to students, which involves an exploration of historical and current instructional approaches in teaching English as a second language, from the grammar-translation method to the natural method.
4. Assessment. Two semester hours or three quarter hours of college coursework from assessment and testing of culturally diverse students, which involves a study of culturally appropriate assessment tools and methods of identifying and assessing limited English proficient students.

5. Field experience. Two semester or three quarter hours of college coursework in field teaching experience with limited English proficient students in a bilingual or English as a second language setting.
6. Methods of teaching bilingual education, which involves an understanding of instructional programs in bilingual education, such as immersion, transitional, early entry, and late entry.
7. A minimum of sixteen semester hours or twenty-four quarter hours in a language other than English or documented proficiency in a language other than English.

Reeducation for the bilingual education or English ~~as a second language learner~~ endorsement must be completed within two years of assignment to teach bilingual education or English as a second language. The applicant shall file a plan with the education standards and practices board upon becoming employed as a bilingual or English ~~as a second language learner~~ teacher, outlining how the endorsement will be completed within the two-year period. The bilingual or English ~~as a second language learner~~ endorsement enables the applicant to teach bilingual or English as a second language grades ~~kindergarten~~ prekindergarten through twelve. Applicants teaching other content material must hold licensure appropriate to the teaching of that content at the assigned grade levels in compliance with North Dakota Century Code sections 15.1-18-03 and 15.1-18-02 and this article.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

67.1-02-03-06. Minor equivalency endorsement.

1. Nothing in this section may be interpreted to affect the validity of minor equivalencies issued by the department of public instruction prior to September 1, 1998.
2. The applicant wishing to apply under the minor equivalency endorsement option must be licensed by the education standards and practices board to teach under North Dakota Century Code section 15.1-18-02 or 15.1-18-03. The minor equivalency endorsement will be issued for the same grade levels as the individual's primary licensure, the same as for minors transcribed by colleges of teacher education. Those whose primary licensure is secondary may use the endorsement to teach the new content area in grades seven through twelve. Those whose primary licensure is elementary (grades one through six or one

through eight) or middle school (grades five through eight) may use the endorsement for additional content expertise at those levels but may not use it to teach at the high school level without a complete secondary endorsement. The minor equivalency endorsement in core academic areas will no longer be available at the secondary level (grades nine through twelve) effective July 1, 2006.

3. The applicant must request a minor equivalency endorsement form from the education standards and practices board, complete it, and return it to the education standards and practices board with official transcripts and the review fee of seventy-five dollars.
4. Once the transcripts have been reviewed, if all requirements have been met, the minor equivalency endorsement will be added to the teaching license. A new teaching license will be issued.
5. If the requirements have not been met, the education standards and practices board will return the minor equivalency endorsement form listing the additional requirements to be completed. No additional fee will be charged when the requirements have been met and the minor equivalency endorsement is added to the teaching license.
6. Two levels of content area endorsements are available to be added to the existing North Dakota professional educator's license. A listing of all the minor equivalency endorsement content areas available and specific areas of study required within each equivalency can be obtained by contacting the office of the education standards and practices board.
 - a. The ME16 requires a minimum of sixteen semester hours of content-specific coursework, including the areas of study approved and required by the education standards and practices board. The ME16 will be reviewed when the applicant applies for renewal licensure. The coursework for the ME24 must be completed within five years of the application date for the ME16. If the ME24 coursework is not completed within five years, the ME16 will be removed from the license. ~~The minor equivalency endorsement (ME16) in core academic areas will no longer be available at the middle level (grades seven through eight) effective July 1, 2006.~~
 - b. ~~After July 1, 2006, minor equivalency 16 (ME16) at the middle level (grades seven and eight) in the core academic areas must be accompanied by the praxis II content test meeting or exceeding the cut score set by the education standards and practices board.~~
 - e. b. The ME24 requires a minimum of twenty-four semester hours of content-specific coursework, including the areas of study approved and required by the education standards and practices board. The ME24 also must include the special methods of teaching in the

content area. The ME24 is considered equivalent to a full teaching minor.

7. All coursework for the minor equivalency endorsement must be beyond the introductory level general studies courses as defined in section 67.1-02-02 and be transcribed by an approved teacher education program.
8. All coursework must be transcribed by a state-approved college of teacher education program.
9. The minor equivalency endorsement must be completed prior to contracted teaching in the content area.
10. Effective July 1, 2006, minor equivalencies will continue to be available in the noncore academic areas. If a teacher chooses to complete a minor equivalency in the core academic areas, the teacher will need to complete the praxis II content-based test in addition to the minor equivalency to be eligible to teach in grades nine through twelve.
11. The following coursework and requirements must be completed for the specific minor equivalency:
 - a. Agriculture (01005) - A total of sixteen semester hours, including three semester hours each in agriculture economics, agriculture management, animal science, plant science, and elective; six semester hours in agriculture leadership, community development, or philosophy of career and technical education; and special methods of teaching agriculture education.
 - b. Art (02005) - A total of sixteen semester hours, including art history, design, drawing, painting, ceramics, and special methods of teaching art.
 - c. Biology (13010) - A total of sixteen semester hours, including biology I and II, botany, zoology, genetics, general chemistry I and II, and special methods of teaching biology or science.
 - d. Business (03020) - A total of sixteen semester hours, including three semester hours in keyboarding, six semester hours in accounting, three semester hours in computer technology, general business, business communication, and special methods of teaching business.
 - e. Chemistry (13020) - A total of sixteen semester hours, including general chemistry I and II with labs, organic chemistry I and II with labs, analytic chemistry, and special methods of teaching chemistry or science.

- f. Composite science (13047) - A total of twenty-four semester hours with eight semester hours with labs in biology, chemistry, physics, and earth science, and special methods of teaching science.
- g. Computer science (23000) - A total of sixteen semester hours, including six semester hours a year-long sequence of structured language, two semester hours in advanced assembler language, eight semester hours in computer-related coursework, microcomputing, data structures and algorithms, operating systems, and special methods of teaching computer science.
- h. CTE health careers (07000) - Available through the department of career and technical education.
- i. CTE trade, industry, and technical (17000) - Available through the department of career and technical education.
- j. CTE diversified occupations (25000) - Coordinating techniques.
- k. CTE resource educator (26000) - Philosophy and practices of career and technical education, vocational assessment, career development, competency-based career and technical education, cooperative education, special needs teaching methods, introduction to exceptional children, mental retardation, learning disabilities, or emotional disturbance, working with at-risk students, behavior problems, classroom strategies, and other courses or workshops as approved by the career and technical education supervisor.
- l. CTE information technology (27000) - Available through the department of career and technical education.
- m. CTE basic skills educator (28000) - Philosophy and practices of career and technical education, vocational assessment, career development, competency-based career and technical education, cooperative education, special needs teaching methods, introduction to exceptional children, mental retardation, learning disabilities, or emotional disturbance, working with at-risk students, behavior problems, remedial mathematics, remedial reading, and other courses or workshops as approved by the career and technical education supervisor.
- n. CTE teacher student mentor (29000) - Available through the department of career and technical education.
- o. CTE career clusters (37000) - Available through the department of career and technical education.

- p. Drama or theater (05015) - Sixteen semester hours of drama or theater coursework.
- q. Driver education (21005) - Prior to August 1, 2008 - Valid operator's license not suspended or revoked, complete abstract of applicant's driving record for past thirty-six months from a state driver licensing office evidencing a satisfactory driving record free from any conviction that would constitute the basis for suspension or revocation on the instructor's operator's license, and not more than three moving traffic violations, six semester hours consisting of at least one course each in classroom driver and traffic education and in-car instruction. Ten semester hours with no more than three semester hours in any one area: first aid - one semester hour (required); drug education - two semester hours (required); safety education, motorcycle education, traffic law, multicar driving ranges, crash prevention, driver training for the handicapped, defensive driving, and field experiences in safety education - three semester hours; equipment training, driving simulator use or educational technology - two semester hours; classroom management - three semester hours; adolescent psychology - three semester hours; auto mechanics - three semester hours; or state or national conferences held by a recognized state or national driver education association - two semester hours. Effective August 1, 2008, requirement: Valid operator's license not suspended or revoked. Provide by January first of each year a complete abstract of the applicant's driving record for the past thirty-six months from a state driver's licensing office evidencing a satisfactory driving record free from any conviction that would constitute the basis for suspension or revocation on the instructor's operator's license, and not more than three moving traffic violations. Ten semester hours consisting of at least one course each in classroom driver and traffic education, in-car instruction, beginning driver problems, and organization and administration of safety education. Fourteen semester hours with no more than three semester hours in any one area: first aid; substance abuse education; equipment training, which may include simulator use and educational technology; classroom management; developmental psychology covering adolescent psychology; stress management; curriculum, planning, and assessment; teaching diverse learners; and educational psychology.
- r. Earth science (13035) - A total of sixteen semester hours, including general chemistry I and II with labs, physical geology, historical geology, astronomy, meteorology, and special methods of teaching science.
- s. Economics (15010) - A total of sixteen semester hours, including principles of macroeconomics I and II, money and banking.

- computer applications in economics, and methods of teaching economics or social science.
- t. English (05020) - A total of sixteen semester hours, including three semester hours of grammar and usage, six semester hours of composition, three semester hours of speech, three semester hours of developmental reading, literary analysis and criticism, nine semester hours of American and English literature, media, and special methods of teaching English.
 - u. Family and consumer science (09040) - A total of sixteen semester hours, including child development and family science, consumer education and resource management, food and nutrition, health and wellness, apparel and textiles, housing issues and interior design, and the special methods of teaching family and consumer science.
 - v. Foreign languages (French 06010, German 06015, Greek 06020, Latin 06025, Spanish 06035) - Sixteen semester hours specific to the foreign language, including composition and conversational structure of the language, culture, customs, and civilization relative to the language, introduction to literature in the language, and the special methods of teaching foreign language.
 - w. Geography (15015) - A total of sixteen semester hours, including physical geography, cultural geography, world geography, North American geography, and the special methods of teaching geography or social science.
 - x. Government and political science (15007) - A total of sixteen semester hours, including American government, political thought, international or global politics, and the special methods of teaching social science.
 - y. Health (18015) - Twenty-four semester hours in first aid, cardiopulmonary resuscitation, and safety, nutrition, exercise physiology or fitness, personal and community health, current issues in health education, and the special methods and curriculum in school health education.
 - z. History (15020) - A total of sixteen semester hours, including United States history I and II, western civilization I and II or world history I and II, and the special methods of teaching.
 - aa. Library science (50065) - Twenty-four semester hours in introduction to the role of the librarian in the school library, reference, selection of materials and collection development, classification and cataloging of library materials, library

- administration, conducting research following state and national library standards, current issues in school librarianship, a study of children's literature, young adult literature, and reading methods.
- bb. Marketing (04006) - A total of sixteen semester hours, including marketing, sales promotion, management, student organizations, methods of teaching marketing or business education, philosophy of career and technical education, coordinating techniques, and nine credits in any of the following: accounting, advertising, business, technology, economics, finance, promotion, and selling.
- cc. Mathematics (11010) - A total of sixteen semester hours, including calculus, abstract algebra, geometry (axiomatic), calculus I and II, linear algebra, abstract algebra, probability and statistics, and methods of teaching mathematics.
- dd. Music composite (12010) - Twenty-four semester hours in music theory (six semester hours), music history or literature, ear training or sight singing, conducting, keyboard proficiency, and methods of elementary and secondary music teaching.
- ee. Instrumental music (12005) - A total of sixteen semester hours, including music theory, ear training or sight singing, conducting, and eight semester hours of coursework in instrumental music, keyboard proficiency, and methods of elementary and secondary music teaching.
- ff. Choral or vocal music (12015) - A total of sixteen semester hours, including music theory, ear training or sight singing, conducting, and eight semester hours of coursework in vocal music, keyboard proficiency, and methods of elementary and secondary music teaching.
- gg. Physics (13050) - A total of sixteen semester hours, including general physics I and II, modern physics, electronics, mechanics, and methods of teaching science.
- hh. Physical education (08025) - A total of sixteen semester hours, including organization and administration of physical education and health, first aid and cardiopulmonary resuscitation, prevention and care of athletic injuries, health issues, physiology of exercise, foundations or curriculum of physical education, human physiology or anatomy, physical education for exceptional children, band, and methods of teaching sports activities, games, and dance.
- ii. Physical science (13045) - A total of sixteen semester hours, including eight semester hours each in general chemistry I and II with labs, general physics I and II, and methods of teaching science.

- jj. Psychology (15030) - A total of sixteen semester hours, including introduction to psychology, development psychology, abnormal psychology, personality theory, social psychology, and methods of teaching psychology or social science.
- kk. Social studies composite (15035) - Twenty-four semester hours in United States history, world civilization, world history, American government, world geography, physical geography, introduction to sociology, economics, psychology, and methods of teaching social science.
- ll. Sociology (15040) - A total of sixteen semester hours, including introduction to sociology, introduction to anthropology, social psychology, and methods of teaching social science.
- mm. Speech (05045) - Sixteen semester hours of speech or communication coursework.
- nn. Technology education (10007) - Coursework must include sixteen semester hours from the following list: principles or foundations of technology, technology and society, impacts of technology, history of technology, engineering design, design process, troubleshooting, invention and innovation, research and development, technology systems, modeling, i.e., three-dimensional modeling and prototyping, technology resources, and intelligent machines or robotics or automated systems. Coursework must include six semester hours from the following list: medical technology, agriculture and related biotechnologies, energy and power technologies, information and communication technologies, transportation technology, manufacturing technology, and construction technology. A minimum of three semester hours in study of methods of teaching technology education that must include curriculum and methods in standards-based instruction.

History: Effective March 1, 2000; amended effective August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-18-03

67.1-02-03-07. Major equivalency endorsements.

1. **High, objective, uniform state standard of evaluation.** College transcribed majors, the major equivalency licensure options described in this section, and alternative licenses issued in compliance with chapter 67.1-02-04 will be aligned with the North Dakota standards for program approval in section 67.1-02-01-05 as the state of North Dakota criterion-based measure of assurance that all teachers are highly qualified.

2. **Core academic areas.** For purposes of this section, English, reading and language arts, mathematics, science, foreign languages, music, visual arts, history, civics and government, geography, and economics are considered core academic areas. All other areas are considered noncore academic areas.
3. **Major equivalency endorsement.** A major equivalency endorsement is a licensure option in which an individual already licensed to teach in North Dakota may add qualifications to the license by demonstrating the individual has competency equivalent to the North Dakota program approval standards and other licensure requirements in section 67.1-02-02-02 for the new area.
 - a. The minimum number of semester hours or equivalent competency documentation for a major equivalency is thirty-two semester hours, with the exception of composite majors, which require forty-two semester hours. Competency equivalent to a major in early childhood education, elementary education, middle level education, or secondary education academic majors must include evidence of appropriate:
 - (1) Content area preparation;
 - (2) Teaching methods and strategies; and
 - (3) Applied experience at the appropriate grade levels, i.e., field experience, clinical practice, or student teaching.

Endorsements issued by the education standards and practices board may be used toward demonstration of competency.

- b. North Dakota-licensed individuals who wish to add a major equivalency to an existing professional educators' license may demonstrate the new content area competency through the following options approved by the education standards and practices board:
 - (1) Undergraduate or graduate, or both, coursework equivalent to a major and aligned with the North Dakota program approval standards;
 - (2) An advanced degree in the major area which by itself, or in combination with other coursework, meets or exceeds the requirements for preparation in the major at the undergraduate level;
 - (3) Until July 1, 2006, a minor or minor equivalency in the area with successful completion of a portfolio which may include,

but not consist entirely of, evidence of successful teaching experience in the area and a one hundred dollar review fee;

- (4) A minor or minor equivalency in the area with successful completion of a content test meeting or exceeding the minimum scores determined by the education standards and practices board;
- (5) Until July 1, 2006, existing North Dakota licensure in the area with a minimum of three years of successful teaching experience in the area, and successful completion of a portfolio documenting competency;
- (6) Existing North Dakota licensure in the area with a minimum of one year of successful teaching experience in the area, and successful completion of a content-based competency test approved by the education standards and practices board; or
- (7) National board for professional teaching standards certification in the major area.

4. **Major equivalency endorsement - Requirements.** To be considered for a major equivalency, individuals teaching in the areas of early childhood education, elementary education, middle level education, and secondary education academic areas must be licensed in accordance with the laws and administrative rules of the education standards and practices board and must meet the provisions in North Dakota Century Code chapter 15.1-18, which include holding a major or major equivalency in the core content areas in which they are teaching, and a major, major equivalency, minor, or minor equivalency in noncore areas in which they are teaching.
 - a. Major equivalency endorsement for elementary teachers grades one through six. Beginning July 1, 2006, all elementary teachers new to the profession and all early childhood education teachers whose licensure will include grades one through three must pass a content-based test and teaching skills test in elementary education or early childhood education, approved by the education standards and practices board. Elementary teachers already licensed in North Dakota prior to July 1, 2006, are considered highly qualified on the basis of holding a major or endorsement in elementary education or a major in early childhood education which qualifies to teach grades one through three.
 - b. Major equivalency endorsement for middle level teachers grades five through eight. Individuals teaching in a middle school must meet the education standards and practices board grade level requirements in section 67.1-02-03-04, and hold a minimum equivalent of sixteen semester hours of content area preparation

and methods in the subject area specializations in which they are teaching. New middle school teachers must, beginning July 1, 2006, hold a minimum equivalent of twenty-four semester hours of content area preparation and methods in the subject area specializations in which they are teaching or may demonstrate major equivalency in subject areas through options allowed in subdivision b of subsection 3.

The twenty-four semester hours of content area preparation and methods of this subdivision for the subject area specialization must include the following specific semester hour preparation as listed in the following subject areas:

- (1) Middle school English and language arts (50117).
 - (a) Coursework Three semester hours in speech or debate; and
 - (b) Six semester hours in reading;
 - (c) Three semester hours in grammar;
 - (d) Three semester hours in writing and composition;
 - (e) Six semester hours in literature; and
 - (f) Three semester hours in methods of teaching language and communication.
- (2) Mathematics Middle school mathematics (50317). Required content must be beyond the college algebra level.
 - (a) Coursework in college algebra or precalculus;
 - (b) Three semester hours in calculus;
 - (c) Geometry;
 - (d) Probability and statistics;
 - (e) Computer and instruction technology;
 - (f) Mathematics electives; and
 - (g) Methods of teaching mathematics.
- (3) Science Middle school science (50417).

- (a) ~~Life science.~~ Six semester hours in life science or biology; and
 - (b) ~~Earth science.~~ Six semester hours in earth science or geology;
 - (c) Four semester hours in physics;
 - (d) Three semester hours in chemistry; and
 - (e) Three semester hours in methods of teaching science.
- (4) ~~Social~~ Middle school social studies (50217).
- (a) ~~Geography.~~ Six ~~Nine~~ semester hours in North Dakota geography, North American geography, world regional geography; and
 - (b) ~~History.~~ Six ~~Twelve~~ semester hours in world history, including North Dakota studies or history, United States history to 1877; and
 - (c) Three semester hours in teaching social science methods.
- c. Major equivalency endorsement for secondary teachers grades seven through twelve. To be considered highly qualified, secondary teachers must hold a major or major equivalency in the core content areas in which they are teaching, and a major, major equivalency, minor, or minor equivalency in noncore areas in which they are teaching.
- d. Major equivalency endorsement for teachers in science grades seven through twelve. Secondary teachers with majors in biology, chemistry, earth science, or physics (minimum of thirty-two semester hours) or physical science and other composite science degrees (minimum of forty-two semester hours) will be licensed to teach in each specific science discipline in which the individual has the minimum preparation for that specific science discipline aligned with the North Dakota standards for the areas (twelve semester hours).
- e. Major equivalency endorsement for teachers in social studies grades seven through twelve. Secondary teachers with majors in history (thirty-two semester hours), geography (thirty-two semester hours), civics and government (thirty-two semester hours), economics (thirty-two semester hours), or composite social studies (forty-two semester hours) will be licensed to teach in each specific social studies discipline in which the individual

has a minimum number of semester hours aligned with the North Dakota standards for the area: history (eighteen semester hours), geography (twelve semester hours), civics and government (twelve semester hours), and economics (twelve semester hours), or a minimum of six semester hours aligned with the North Dakota standards for any other specific social studies disciplines.

- f. Major equivalency endorsement for English and language arts teachers grades seven through twelve. Secondary teachers with majors in English and language arts (thirty-two semester hours) will be licensed to teach in additional areas of speech, journalism, or drama and theater arts if the individual has a minimum preparation of six semester hours aligned with the North Dakota standards for that specialization. Individuals who hold majors, major equivalencies, minors, or minor equivalencies in speech, journalism, or drama and theater arts will also be licensed to teach those specializations.
- g. Major equivalency endorsement for music teachers grades seven through twelve. Teachers with majors in the field of music (minimum of thirty-two semester hours) will be licensed to teach at grade levels consistent with their preparation as stated in the rules for initial licensure in section 67.1-02-02-02 and in specializations of instrumental or choral music in which they have a minimum of eight semester hours aligned with the North Dakota program approval standards for that specialization. The eight semester hours may not include hours in private or group lessons or participation in music ensembles.
5. **Special education licensure.** To be considered highly qualified in special education, the teacher will need to hold an early childhood, elementary, middle level, or secondary license at the specific level the teacher is teaching, hold a bachelor's degree, demonstrate knowledge in the subject the teacher is teaching, and hold the special education credential endorsement, major, or master's degree pursuant to the special education category the teacher is serving. Special education teachers not holding regular licensure at the level they are teaching will only be able to provide consultative services to students in grades kindergarten through grade twelve in ~~credentialed areas~~ pursuant to section 67.1-02-05-04.
6. **Elementary restricted special education (50915) licensure.** To be considered highly qualified in an elementary special education classroom grades one through six, the teacher will need to hold a restricted special education license and complete the praxis II tests 30522 and 10011. This license would not allow the teacher to qualify for a regular elementary classroom.

7. **Early childhood restricted special education (50937) licensure.** To be considered highly qualified in an early childhood special education classroom birth through grade three, the teacher will need to hold a restricted special education license and complete the praxis II tests 30522 and 10022. This license would not allow the teacher to qualify for a regular early childhood classroom.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espbfom, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

History: Effective July 1, 2004; amended effective April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-09. Early childhood education endorsement. The birth to grade three early childhood education endorsement may be completed by an applicant with a nonteaching degree in a related field or holding a valid North Dakota educator's professional license. The applicant must complete all requirements for initial licensure in section 67.1-02-02-02, submit a program of study from a state-approved teacher education program including thirty-two semester hours in early childhood education, twenty-two semester hours of professional education, and field experience or student teaching of ten weeks in grades kindergarten through grade three. If the applicant has completed a previous student teaching experience of ten weeks, the reeducation early childhood student teaching experience may be five weeks.

The early childhood education coursework must include six semester hours of in child development and learning; three semester hours of in building family and community relations; ~~four~~ three semester hours of in observation; ~~documentation,~~ and assessment; ~~sixteen~~ eighteen semester hours of ~~teaching and learning, including in~~ methods of mathematics, science, social studies, reading, language arts, working with diverse learners, or play; and three semester hours of professionalism early language literacy, and play; three semester hours in administration and leadership; twenty-two semester hours in education foundations, educational psychology, teaching and learning theory, educational diagnosis and assessment, inclusive education, educational technology, classroom and behavioral management, and multicultural or native American studies specific to teaching; and field experience must include three supervised field experiences and two student teaching experiences for a minimum of ten weeks (five weeks student teaching for applicants with an existing teaching license). One student teaching experience must be in an accredited prekindergarten or kindergarten setting and the other in grade one, two, or three, and include the opportunity to work with children with special needs.

Effective July 1, 2006, all early childhood endorsement applicants will need to meet or exceed the cut scores for the praxis II early childhood education test and the praxis II principles of learning and teaching test.

The applicant must request the endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return it to the board office with the official transcripts, and the review fee of seventy-five dollars.

History: Effective April 1, 2006; amended effective July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-11. Teaching alternative flexibility endorsement.

1. The applicant wishing to apply for the teaching alternative flexibility endorsement must:
 - a. Be licensed to teach by the education standards and practices board or approved to teach by the education standards and practices board;
 - b. ~~Be highly qualified in a core content area;~~
 - c. ~~Hold a minimum of a minor or minor equivalency in the course area or field being taught;~~
 - d. ~~c.~~ Be a new teacher in the content area or have not taught the content area since January 1, 2002;
 - e. ~~d.~~ Provide a letter from the school district requesting this endorsement for the applicant and documenting a diligent effort has been made to employ a regularly licensed teacher to fill the position. Documentation of a diligent effort to employ qualified personnel should include information on how and how long the position was advertised, whether schools of education have been contacted in search of applicants, how many qualified applicants applied, how many applicants were interviewed, whether increases in salary or other incentives were offered in an attempt to attract qualified applicants, and whether these incentives are comparable to those offered by other schools of similar size and means;
 - f. ~~e.~~ Submit a program of study to be completed within three years to become highly qualified; and
 - g. ~~f.~~ Complete the teaching alternative flexibility endorsement plan form and submit with the seventy-five dollar fee to the education standards and practices board, 2718 gateway avenue, suite 303, Bismarck, ND 58503-0585.

If the applicant under this subsection is a special education teacher, the plan of study will need to be completed in two years and the teaching alternative flexibility endorsement will only be renewed once.

2. The applicant will:
 - a. Be provided by the school during the first year intensive supervision or structured mentoring to become highly qualified in the additional subjects; and
 - b. Have three years, or two years if the applicant is a special education teacher, to complete all requirements which includes all content preparation, pedagogy, and field experiences to become highly qualified in all areas of instruction.

The teaching alternative flexibility endorsement will be valid for one year and can be renewed twice, or once if the applicant is a special education teacher, provided the individual demonstrates successful completion of one-third, or one-half if the applicant is a special education teacher, of the total course of study prior to each renewal.

History: Effective April 1, 2006; amended effective July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-03-12. Special education endorsements. The applicant must request the appropriate endorsement form from the education standards and practices board or from www.state.nd.us/espb/form, complete it, and return to the board office with the official transcripts and the review fee of seventy-five dollars.

1. **Early childhood special education endorsement.** The applicant wishing to apply for the early childhood special education endorsement must:
 - a. Hold a valid North Dakota educator's professional regular license in early childhood or elementary education.
 - b. Complete a minimum of twenty-four semester hours primarily at the graduate level in the following coursework: exceptional children and youth; assessment of preschool children with disabilities; child development; home and school relations or parents, the school, and community; characteristics of preschool children with disabilities; methods and materials in education of preschool children with disabilities; an additional course in education of preschool children with disabilities; and a practicum working with preschool children with disabilities.
 - c. The early childhood special education endorsement enables the applicant to teach early childhood special education birth through grade three.
 - d. A plan on file (formerly tutor in training) for the early childhood special education endorsement may be requested and must

be completed within three years of assignment to teach early childhood special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as an early childhood special education teacher, outlining how the endorsement will be completed within the three-year period.

2. **Emotional disturbance special education endorsement.** The applicant wishing to apply for the emotional disturbance special education endorsement must:
 - a. Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education;
 - b. Complete a minimum of twenty-four semester hours primarily at the graduate level in the following coursework: exceptional children and youth; introduction to the area of emotional disturbance, which includes psychopathology of childhood and adolescence, methods of teaching children with emotional disturbance, developmental psychology, behavior management, assessment, and test interpretation of children and youth with disabilities; methods and materials in specific learning disabilities; interdisciplinary and community resources and consultation skills; family or home school relations; guidance or educational alternatives; and a practicum working with children with emotional disabilities.
 - c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
 - d. A plan on file (formerly tutor in training) for the emotional disturbance special education endorsement may be requested by the administrator and must be completed within three years of assignment to teach emotional disturbance special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as an emotional disturbance special education teacher, outlining how the endorsement will be completed within the three-year period. To qualify for the emotional disturbance plan on file, the applicant must have:
 - (1) Documented two years of successful teaching in general education with a letter from the administrator.
 - (2) Have completed eight semester hours of coursework in the area of the emotional disturbance special education endorsement as outlined in subdivision b to be eligible for the plan on file (formerly tutor in training).

- (3) Documented supervision by an emotional disturbance special education teacher.

- e. As an elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in emotional disturbance, the teacher would be qualified to:
 - (1) Teach in an elementary classroom;
 - (2) Teach or provide direct instruction to all emotional disturbance elementary students;
 - (3) Teach or provide direct instruction to middle or high school emotional disturbance students who are alternately assessed; or
 - (4) Consult kindergarten through grade twelve emotional disturbance students.

- f. As a middle level licensed grades five through eight teacher in English, science, mathematics, or social studies with a special education endorsement in emotional disturbance, the teacher would be qualified to:
 - (1) Teach in a middle level classroom in the specific area of licensure;
 - (2) Teach or provide direct instruction to emotional disturbance middle level students in the specific area of licensure;
 - (3) Teach or provide direct instruction to elementary, middle, or high school emotional disturbance students that are alternately assessed; or
 - (4) Consult kindergarten through grade twelve emotional disturbance students.

- g. As a secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English and language arts, mathematics, science, or social studies with a special education endorsement in emotional disturbance, the teacher would be qualified to:
 - (1) Teach in a secondary level classroom in the specific area of licensure;
 - (2) Teach or provide direct instruction to emotional disturbance secondary level students in the specific area of licensure;

- (3) Teach or provide direct instruction in the specific area of licensure to middle or high school emotional disturbance students who are alternately assessed; or
- (4) Consult kindergarten through grade twelve emotional disturbance students.

3. **Mental retardation special education endorsement.** The applicant wishing to apply for the mental retardation special education endorsement must:

- a. Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
- b. Complete a minimum of twenty semester hours at the undergraduate or graduate level in the following coursework: exceptional children and youth, mental hygiene or psychology of adjustment or personality theory or abnormal psychology, methods and materials in mental retardation, practicum in mental retardation, characteristics or assessment of specific learning disabilities, transition to adult life, and music or art methods, corrective reading, behavior management, or consultation and collaboration.
- c. A plan on file (formerly tutor in training) for the mental retardation special education endorsement may be requested by the administrator and must be completed within three years of assignment to teach mentally handicapped special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a mental retardation special education teacher, outlining how the endorsement will be completed within the three-year period. To qualify for the mental retardation plan on file, the applicant must have:
 - (1) Documented two years of successful teaching in general education with a letter from the administrator.
 - (2) Have completed eight semester hours of coursework in the area of the mental retardation special education endorsement as outlined in subdivision b to be eligible for the plan on file (formerly tutor in training).
 - (3) Documented supervision by a mental retardation special education teacher.

- d. Elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in mental retardation, the teacher would be qualified to:
- (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all mental retardation elementary students.
 - (3) Teach or provide direct instruction to middle or high school mental retardation students who are alternately assessed.
 - (4) Consult kindergarten through grade twelve mental retardation students.
- e. Middle level licensed grades five through eight in English, science, mathematics, or social studies with a special education endorsement in mental retardation, the teacher would be qualified to:
- (1) Teach in a middle level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to mental retardation middle level students in the specific area of licensure.
 - (3) Teach or provide direct instruction to middle school or high school mental retardation students who are alternately assessed.
 - (4) Consult kindergarten through grade twelve mental retardation students.
- f. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in mental retardation, the teacher would be qualified to:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to mental retardation secondary level students in the specific area of licensure.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle school or high school mental retardation students who are alternately assessed.

- (4) Consult kindergarten through grade twelve mental retardation students.

4. **Specific learning disabilities special education endorsement.** The applicant wishing to apply for the learning disabilities special education endorsement must:

- a. Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
- b. Complete a minimum of twenty-four semester hours primarily at the graduate level in the following coursework: exceptional children and youth, characteristics of specific learning disabilities, assessment and interpretation of children with disabilities, methods and materials in specific learning disabilities, developmental psychology or language development and disorders, behavior management, corrective reading, and practicum working with children with specific learning disabilities.
- c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
- d. A plan on file (formerly tutor in training) for the specific learning disabilities special education endorsement may be requested by a letter from the administrator and must be completed within three years of assignment to teach specific learning disabilities special education. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a specific learning disabilities special education teacher, outlining how the endorsement will be completed within the three-year period. To qualify for the specific learning disabilities plan on file, the applicant must have:
 - (1) Documented two years of successful teaching in general education with a letter from the administrator.
 - (2) Have completed eight semester hours of coursework in the area of the specific learning disabilities special education endorsement as outlined in subdivision b to be eligible for the plan on file (formerly tutor in training).
 - (3) Documented supervision by a specific learning disabilities special education teacher.
- e. Elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in specific learning disabilities, the teacher would be qualified to:

- (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all specific learning disabilities elementary students.
 - (3) Teach or provide direct instruction to middle or high school specific learning disabilities students that are alternately assessed.
 - (4) Consult kindergarten through grade twelve specific learning disabilities students.
- f. Middle level licensed grades five through eight teacher in English, science, mathematics, or social studies with a special education endorsement in specific learning disabilities, the teacher would be qualified to:
- (1) Teach in a middle level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to specific learning disabilities middle level students in the specific area of licensure.
 - (3) Teach or provide direct instruction to elementary, middle, or high school specific learning disabilities students that are alternately assessed.
 - (4) Consult kindergarten through grade twelve specific learning disabilities students.
- g. Secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in specific learning disabilities:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to specific learning disabilities secondary level students in the specific area of licensure.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school specific learning disabilities students that are alternately assessed.

- (4) Consult kindergarten through grade twelve specific learning disabilities students.

5. **Special education strategist endorsement.** The applicant wishing to apply for the special education strategist endorsement must:

- a. Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
- b. Complete a minimum of thirty semester hours primarily at the graduate level in the following coursework: exceptional children and youth; transition to adult life; assessment, program planning, and special needs students; introduction to learning and behavior problems; practicum in school problems; or special education; inclusive methods; behavior management for special needs students; collaborative relationships; special education law; assistive technology; and advanced assessment.

Each candidate for an endorsement must also fulfill each of the following areas within the thirty semester hours in this subdivision:

- (1) Specific learning disabilities - advanced methods of specific learning disabilities and practicum of specific learning disabilities, which must be taken after other qualifications are completed.
 - (2) Emotional disturbance - advanced methods of emotional disturbance and practicum of emotional disturbance, which must be taken after other qualifications are completed.
 - (3) Mental retardation - advanced methods of mental retardation and practicum of mental retardation, which must be taken after other qualifications are completed.
- c. Have completed coursework in reading methods and mathematics methods, if prepared as a secondary teacher.
 - d. A plan on file (formerly tutor in training) for the special education strategist endorsement may be requested by the administrator and must be completed within three years of assignment to teach. Transcript review will be done yearly to document progress toward completion of the plan. The applicant shall file a plan with the education standards and practices board upon becoming employed as a special education strategist teacher, outlining how the endorsement will be completed within the three-year period. To qualify for the strategist plan on file, the applicant must have:
 - (1) Documented two years of successful teaching in general education with a letter from the administrator.

- (2) Have completed eight semester hours of coursework in the area of the special education strategist endorsement as outlined in subdivision b to be eligible for the plan on file (formerly tutor in training).
 - (3) Documented supervision by a special education strategist teacher.
- e. Elementary licensed grades one through eight or grades one through six teacher with a special education strategist endorsement in mental retardation, specific learning disabilities, and emotional disturbance:
- (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all mental retardation, emotional disturbance, or specific learning disabilities elementary students.
 - (3) Teach or provide direct instruction to middle or high school mental retardation, emotional disturbance, or specific learning disabilities students that are alternately assessed.
 - (4) Consult kindergarten through grade twelve mental retardation, emotional disturbance, or specific learning disabilities students.
- f. Middle level licensed grades five through eight teacher with a special education strategist endorsement in mental retardation, specific learning disabilities, and emotional disturbance:
- (1) Teach in an elementary or a middle level classroom.
 - (2) Teach or provide direct instruction to all mental retardation, emotional disturbance, or specific learning disabilities elementary or middle level students.
 - (3) Teach or provide direct instruction to elementary, middle, or high school mental retardation, emotional disturbance, or specific learning disabilities students who are alternately assessed.
 - (4) Consult kindergarten through grade twelve mental retardation, emotional disturbance, or specific learning disabilities students.
- g. Secondary licensed grades seven through twelve or grades nine through twelve teacher in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics,

science, or social studies with a special education strategist endorsement in mental retardation, specific learning disabilities, and emotional disturbance:

- (1) Teach in a secondary level classroom in the specific area of licensure.
- (2) Teach or provide direct instruction to all mental retardation, emotional disturbance, or specific learning disabilities elementary students.
- (3) Teach or provide direct instruction in the specific area of licensure to middle or high school mental retardation, emotional disturbance, or specific learning disabilities students who are alternately assessed.
- (4) Consult kindergarten through grade twelve mental retardation, emotional disturbance, or specific learning disabilities students.

6. Gifted and talented endorsement.

a. The applicant wishing to apply for the gifted and talented endorsement must:

- (1) Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
- (2) Document one year of successful teaching in general education with a letter from the employing board.
- (3) Complete a minimum of nine semester hours at the graduate level in the following coursework: education of gifted students, gifted education curriculum, and student teaching in gifted education.

b. Elementary, middle, or secondary prepared teacher with an endorsement in gifted and talented education:

- (1) Teach in the specific area of licensure.
- (2) Consult in gifted and talented programs kindergarten through grade twelve.

7. Physical disabilities special education endorsement.

a. The applicant wishing to apply for the physical disabilities special education endorsement must:

- (1) Hold a valid, North Dakota educator's professional regular physical education license.
 - (2) Complete a minimum of fifteen semester hours at the undergraduate or graduate level in the following coursework: exceptional children and youth, introduction to physical disabilities or orthopedics for teachers, methods and materials in teaching students with physical disabilities, at least one full course in another area of exceptionality, and student teaching in the area of physical disabilities.
- b. Elementary, middle, or secondary prepared teacher with a special education endorsement in physically handicapped:
- (1) Teach in the specific area of licensure.
 - (2) Consult in physically handicapped kindergarten through grade twelve programs.

8. Visually impaired special education endorsement.

- a. The applicant wishing to apply for the visually impaired special education endorsement must:
- (1) Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
 - (2) Complete a minimum of twenty semester hours at the undergraduate or graduate level in the following coursework: education of the exceptional student, method in the education of the visually impaired, introduction to orientation and mobility of the visually impaired, communication with visually impaired students, educational and medical implications of visual impairment, student teaching of the visually impaired, and education of the exceptional student or a composite of courses related to exceptionalities other than visual handicaps.
- b. Elementary licensed with a double major in elementary education and visually impaired or elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in visually impaired:
- (1) Teach in an elementary classroom.
 - (2) Teach or provide direct instruction to all visually impaired elementary students.

- (3) Teach or provide direct instruction to middle or high school visually impaired students that are alternately assessed.
- (4) Consult kindergarten through grade twelve visually impaired students.

c. Middle level licensed grades five through eight in English, science, mathematics, or social studies teacher with a special education endorsement in visually impaired:

- (1) Teach in a middle level classroom in the specific area of licensure.
- (2) Teach or provide direct instruction to visually impaired middle level students in the specific area of licensure.
- (3) Teach or provide direct instruction to elementary, middle, or high school visually impaired students who are alternately assessed.
- (4) Consult kindergarten through grade twelve visually impaired students.

d. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies with a special education endorsement in visually impaired:

- (1) Teach in a secondary level classroom in the specific area of licensure.
- (2) Teach or provide direct instruction to visually impaired secondary level students in the specific area of licensure.
- (3) Teach or provide direct instruction in the specific area of licensure to middle or high school visually impaired students who are alternately assessed.
- (4) Consult kindergarten through grade twelve visually impaired students.

9. **Hearing-impaired (including deafness) special education endorsement.**

a. The applicant wishing to apply for the hearing-impaired (including deafness) special education endorsement must:

- (1) Hold a valid North Dakota educator's professional regular license in early childhood, elementary, middle, or secondary education.
- (2) Complete a minimum of twenty semester hours at the undergraduate or graduate level in the following coursework: theory and methods of teaching speech to children who are hearing-impaired (including deafness) (four semester hours); theory and methods of teaching language to children who are hearing-impaired (including deafness) (four semester hours); methods of teaching reading and academic subjects to children who are hearing-impaired (including deafness) (four semester hours); sign language (two semester hours); history, guidance, and education of the hearing-impaired (including deafness) (two semester hours); auditory and speech mechanisms (two semester hours); auditory assessment and training (two semester hours); observation and student teaching (eight semester hours); child growth and development (two semester hours); and psychology or education of exceptional children (two semester hours).
- (3) The hearing-impaired (including deafness) special education endorsement may be attached to a regular education license.

b. Elementary licensed with a double major in elementary education and hearing-impaired or elementary licensed grades one through eight or grades one through six teacher with a special education endorsement in hearing-impaired:

- (1) Teach in an elementary classroom.
- (2) Teach or provide direct instruction to all hearing-impaired elementary students.
- (3) Teach or provide direct instruction to middle or high school hearing-impaired students who are alternately assessed.
- (4) Consult kindergarten through grade twelve hearing-impaired students.

c. Middle level licensed grades five through eight in English, science, mathematics, or social studies teacher with a special education endorsement in hearing-impaired:

- (1) Teach in a middle level classroom in the specific area of licensure.

- (2) Teach or provide direct instruction to hearing-impaired middle level students in the specific area of licensure.
 - (3) Teach or provide direct instruction to elementary, middle, or high school hearing-impaired students who are alternately assessed.
 - (4) Consult kindergarten through grade twelve hearing-impaired students.
- d. Secondary licensed grades seven through twelve or grades nine through twelve in one of the No Child Left Behind Act of 2001 core subjects of English or language arts, mathematics, science, or social studies teacher with a special education endorsement in hearing-impaired:
- (1) Teach in a secondary level classroom in the specific area of licensure.
 - (2) Teach or provide direct instruction to hearing-impaired secondary level students in the specific area of licensure.
 - (3) Teach or provide direct instruction in the specific area of licensure to middle or high school hearing-impaired students who are alternately assessed.
 - (4) Consult kindergarten through grade twelve hearing-impaired students.

10. **Resource room endorsement plan on file.**

- a. The applicant wishing to apply for the resource room special education endorsement must:
- (1) Hold a valid North Dakota educator's professional regular license in elementary, middle, or secondary education.
 - (2) Hold a special education endorsement in either specific learning disabilities or mental retardation.
 - (3) Submit a letter from the administrator requesting the resource room endorsement plan on file.
 - (4) Submit a plan to complete the following required coursework within three years of assignment in the resource room:
 - (a) A teacher with the mental retardation endorsement would need to complete three additional courses in education of children with specific learning disabilities:

assessment for special education and methods and materials for specific learning disabilities.

(b) A teacher with the specific learning disabilities endorsement would need to complete two additional courses in introduction to mental retardation and methods and materials for mental retardation.

b. The resource room teacher should not have more than six students in the special classroom at any one time and must have time for consultation with general education teachers. If a greater number of students from one area of exceptionality than the other are enrolled, the teacher should hold the endorsement in the largest area of exceptionality.

11. Restricted emotional disturbance or restricted specific learning disabilities special education endorsement one-year plan on file.

a. The applicant wishing to apply for the restricted emotional disturbance or restricted specific learning disabilities special education endorsement must:

(1) Hold a valid restricted North Dakota educator's professional regular license in either specific learning disabilities or emotional disturbance.

(2) Submit a request for the restricted emotional disturbance or restricted specific learning disabilities from the local administrator.

(3) Document a plan to complete within one year the two additional graduate level courses in either emotional disturbance or specific learning disabilities, whichever is applicable to the applicant's transcribed undergraduate major. Courses must be a minimum of two graduate semester hours each in one seminar course and one practicum course in the appropriate area of special education (emotional disturbance or specific learning disabilities).

(4) The restricted emotional disturbance or restricted specific learning disabilities will only be issued once.

b. Reeducation for the special education endorsement must be completed prior to assignment to teach in the special education area. An official transcript documenting the coursework must be attached to the endorsement form. Effective July 1, 2009, all applicants for a special education endorsement must complete the

praxis II test in the special education areas meeting or exceeding the cut scores set by the education standards and practices board.

History: Effective July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

CHAPTER 67.1-02-04

67.1-02-04-01. Alternative access licenses for teacher shortages.

Alternative access licenses will be issued under the following conditions:

1. Consideration for alternative access licenses will not be granted until after August first in any year.
2. Alternative access licenses may be issued only in areas where documented shortages of regularly licensed teachers exist as determined by the education standards and practices board. Shortage areas must be determined by the education standards and practices board based upon the ratio of regularly licensed teachers in the state who are qualified for the position to the number of schools with open positions requesting alternative access licensure. In cases where near shortages exist, the board must give additional consideration to whether the hiring school has made a diligent effort to attract and hire regularly licensed teachers.
3. The request for an alternative access license must be initiated by a school. The school board or administration must make the request in writing to the education standards and practices board for consideration of an alternative access license, indicating intent to offer a contract if licensure can be arranged. The request must document that a diligent effort has been made to employ a regularly licensed teacher to fill the position. Documentation of a diligent effort to employ qualified personnel should include information on how and how long the position was advertised, whether schools of education have been contacted in search of applicants, how many qualified applicants applied, how many applicants were interviewed, whether increases in salary or other incentives were offered in an attempt to attract qualified applicants, and whether these incentives are comparable to those offered by other schools of similar size and means.
4. The candidate must write a letter indicating willingness to accept the position if offered.
5. Complete official transcripts of all college work must be sent to the education standards and practices board.
6. The applicant must have proficiency and hold minimum qualifications of a content area bachelor's degree in the content area to be assigned. If an applicant already qualifies for teacher licensure in another content area, alternative access licensure may not be used to teach in a new content area while obtaining new content area requirements.
7. Renewal of alternative access licenses will be reviewed each year and will depend upon the supply of and demand for teachers as evidenced by documented efforts to obtain a licensed person for the position. The

alternate access license will be issued only once to complete all testing requirements for regular licensure.

8. Renewal of the alternative access license, if permitted, is contingent upon presentation of at least one-third completion of the requirements for regular licensure as stated in section 67.1-02-02-02 and the North Dakota standards for teacher education program.
9. The fee for the alternative access license is one hundred fifty dollars for each year the license is issued.
10. Alternative access licensure is to address documented shortage areas only. Alternative access licensure may not be issued to applicants who have failed to meet the deadlines or conditions of their regular licensure renewal.
11. Initial applicants for alternative access licensure must also submit to the fingerprint background check as stated in subsection 9 of section 67.1-02-02-02.
12. Upon completion of all of the requirements for regular licensure stated in section 67.1-02-02-02, an individual holding an alternative access license may apply for a regular two-year initial license and begin accruing the eighteen months of successful teaching time required to move into the five-year cycle according to sections 67.1-02-02-02 and 67.1-02-02-04.

History: Effective July 1, 1995; amended effective October 1, 1998; October 16, 1998-April 14, 1999; June 1, 1999; March 1, 2000; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14

67.1-02-04-04. Forty-day provisional licenses. Provisional licenses will be issued for a period of forty days under the following conditions:

1. Consideration for provisional licenses will not be granted until after August fifteenth in any year.
2. Provisional licenses can only be issued to those individuals who have met all of the other requirements for a license except:
 - a. For the final clearance of the bureau of criminal investigation and the federal bureau of investigation; ~~or~~
 - b. Pending the receipt of official transcripts or other original, signed, or certified documents; or

c. The awarding of the degree and the official transcripts as documented by the institution of higher education registrar.

3. The school wishing to hire the individual has submitted to the education standards and practices board a letter of need and intent to hire.
4. The individual has submitted a letter to the education standards and practices board indicating no criminal background and the intent to accept the position.
5. The provisional license is issued for forty days but may be renewed at the discretion of the education standards and practices board and continued request of the school.
6. There is a one-time fee for the provisional license of twenty-five dollars.
7. Once the criminal background investigation has been completed and all official transcripts or other original, signed, or certified documents received, the education standards and practices board may issue the license for which the individual is qualified with its respective fees and conditions.

History: Effective March 1, 2000; amended effective July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-13, 15.1-13-14

67.1-02-04-05. Out-of-state reciprocal licensure. North Dakota has conditional reciprocity with other states. To receive out-of-state reciprocal licensure, an applicant must first hold a valid, current regular teaching certificate or license from another state, province, or similar jurisdiction or have completed a state-approved teacher education program.

1. **Out-of-state reciprocal entrance requirements.** Those who apply to the education standards and practices board, meet the minimum reciprocity requirements, and submit a satisfactory plan for completing the remaining North Dakota requirements will be issued a two-year out-of-state reciprocal license which has a fee of seventy dollars. The minimum reciprocity qualifications are:
 - a. A four-year bachelor's degree that includes a major that meets the issuing jurisdiction's requirements in elementary education, middle level education, or a content area taught in public high school;
 - b. Completion of a professional education sequence from a state-approved teacher education program, including supervised student teaching;

- c. Fingerprint background check as required of all initial applicants; and
 - d. Submission and education standards and practices board approval of a plan to complete all remaining requirements for full North Dakota licensure as stated in section 67.1-02-02-02. That plan will include the successful completion of a the praxis II content test in the transcribed major area of early childhood, elementary, middle level, or the core academic areas. The praxis II test must be completed within the first two-year license period.
2. **Remaining North Dakota requirements.** An applicant will be notified of remaining requirements for full North Dakota licensure by the education standards and practices board. All out-of-state applicants shall submit transcripts for review by the same criteria as North Dakota applicants. The applicant must provide official copies of transcripts from all the institutions of higher education the applicant has attended. The nonrefundable fee for the transcript review process is one hundred seventy-five dollars.
- a. The transcript review fee may be deferred for the two-year substitute license. The fee is due upon application for the initial license and signing a North Dakota teaching contract.
 - b. The school district where the applicant will be a substitute must apply in writing for the deferment.
3. **Renewals.** The out-of-state reciprocal license is valid for two years and is renewable once, provided adequate progress toward completing the remaining requirements is documented and approved by the education standards and practices board. The interim reciprocal license will expire on the applicant's birthdate.

History: Effective March 1, 2000; amended effective August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-20, 15.1-13-21

67.1-02-04-07. Clinical practice option. Applicants who have entered the profession of teaching through alternative access licensure under section 67.1-02-04-01, elementary, middle, or secondary endorsement under chapter 67.1-02-03, or trade, industry, technical, and health occupations interim licensure under section 67.1-02-04-06 and are seeking to complete the requirements for regular licensure under section 67.1-02-02-02 may meet the student teaching requirement through a supervised clinical practice option meeting the following conditions:

1. The applicant requesting the clinical practice option must hold a valid regular elementary license, a ~~valid~~ alternative access license or a ~~valid~~ trade, industry, technical, and health occupations interim license and be employed under contract by an approved school during the clinical practice. The clinical practice option is not intended to be used by applicants who are not under contract and would not need release time from those contracts to complete a regular student teaching experience.
2. The clinical practice option must be approved by the education standards and practices board before it begins as part of the applicant's program of study toward regular licensure and must be conducted under the supervision of a state-approved college of teacher education. Criteria and evaluations for successful completion of the clinical experience must parallel and meet or exceed those the college of teacher education applies to student teaching experiences and the clinical practice must be at the appropriate grade levels for the licensure sought.
3. The school employing the applicant and the applicant must submit letters to the education standards and practices board requesting the clinical practice option and verifying their support of the agreement.
4. The clinical practice option must require a minimum of ten weeks of close supervision (five weeks of close supervision if the applicant has already been prepared as a teacher), which includes an equitable combination of daily meetings with or observations of the applicant at the beginning of the experience, by an onsite teacher meeting the qualifications for cooperating teachers under section 67.1-02-01-02 and by the school building principal or other supervisor responsible for evaluations of teachers under North Dakota Century Code sections 15.1-15-01 and 15.1-15-04 and must include onsite visits by college supervisors which meet or exceed the requirements for student teacher supervision under section 67.1-02-01-03.
5. The clinical practice option includes mentoring of the applicant for at least one school year (one semester if the applicant has already been prepared as a teacher) by the onsite cooperating teacher and may also include mentoring by an offsite content area specialist. The mentoring occurs outside of the applicant's regular teaching assignment time and meets or exceeds the contact that would occur in a ten-week, full-time student teaching experience.
6. Upon completion of the clinical practice option, documentation of evaluations and transcripts verifying successful completion of the clinical practice will be provided through the college of teacher education to the education standards and practices board.
7. Applicants holding valid alternative access licensure under section 67.1-02-04-01 or trade, industry, technical, and health occupations

interim licensure under section 67.1-02-04-06 who have successfully completed all of the other requirements for regular two-year initial licensure under section 67.1-02-02-02, except for ten weeks of supervised student teaching, may use the successful clinical practice meeting the conditions of this section to fulfill the student teaching requirement.

History: Effective August 1, 2002; amended effective July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

67.1-02-04-08. Out-of-state highly qualified license. North Dakota educator licensure for out-of-state applicants requires the submission of a completed application pursuant to section 67.1-02-02-02 for the North Dakota professional educator's license, the submission to a fingerprint screening for criminal records in accordance with North Dakota Century Code section 15.1-13-14, the completion of a four-year bachelor's degree from a state-approved teacher education program in a North Dakota-recognized program area major, including a student teaching experience, documentation of a valid regular professional educator's license, content tests, submission of all fees for initial licensure pursuant to section 67.1-02-02-02, and documentation of meeting the issuing jurisdiction's requirements for the highly qualified teacher requirements of the No Child Left Behind Act of 2001 as provided by the United States department of education's monitoring process.

If the issuing jurisdiction has the same test code requirements of the praxis II content test, the applicant will be required to meet the North Dakota cut score.

If the out-of-state applicant has not met the highly qualified teacher requirements of the issuing jurisdiction for the No Child Left Behind Act of 2001 as documented by the United States department of education's monitoring process, that applicant will have to meet the requirements pursuant to this section through a transcript review analysis and all requirements pursuant to subsections 1, 2, and 3 of section 67.1-02-04-05.

The out-of-state highly qualified license will be renewed pursuant to section 67.1-02-02-04.

History: Effective July 1, 2004; amended effective April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-14, 15.1-13-25, 15.1-13-26

CHAPTER 67.1-02-05

67.1-02-05-04. Endorsements, added degrees, and restrictions. The North Dakota educator's professional license is issued as described in section 67.1-02-02-02. This license qualifies the holder for regular classroom teaching or for functioning in areas with the proper endorsements and restrictions as assigned. Degrees and endorsements in content areas of elementary, middle level, or secondary schools, educational pedagogy, or educational leadership must be obtained through regional or state-approved teacher education programs and meet North Dakota program approval standards for the content area.

1. **Endorsements.** An individual holding a valid North Dakota teaching license may request endorsements in early childhood, kindergarten, elementary, middle school, bilingual, secondary, or content area minor equivalency endorsements or any other endorsement issued by the education standards and practices board. Specific requirements appear in chapter 67.1-02-03, regarding reeducation. A one-time, nonrefundable review fee of seventy-five dollars must accompany the request to add an endorsement.
2. **New degrees.** A newly acquired major, minor, or new degree may be added between renewal periods by submitting official transcripts, a complete application form, including part six, completed by the college or university, and paying the regular renewal fee for those renewing two-year licenses or five-year licenses. An additional two-year or five-year extension, respectively, is added to the license expiration date at the time of the addition of the new major, minor, or degree.
3. **Added qualifications on life certificates.** An individual who holds a life certificate under section 67.1-02-02-01 may add degrees or endorsements to the education standards and practices board licensure records by submitting official transcripts and paying the review fee pursuant to subsection 2. An official duplicate of the life certificate showing the added degree will be issued to the life certificate holder at the time of the addition.

Official duplicate copies of lost life certificates or renewable licenses will be provided at a cost to the holder of twenty dollars.

4. **Restricted licenses.** Programs that include a specialized rather than a regular professional education core are issued licenses that restrict the holder to teaching in that specialty area. Applicants must submit the completed application form, original transcripts, fees, and fingerprint cards to the education standards and practices board prior to licensure.
 - a. Restricted licenses are issued to applicants with master's degrees in:

- (1) School psychology. The ~~kindergarten~~ prekindergarten through grade twelve school psychology restricted license will be issued to those applicants who have a master's degree in school psychology from a national association of school psychology-accredited institution.
 - (2) Speech-language pathology. The ~~kindergarten~~ prekindergarten through grade twelve speech-language pathology restricted license will be issued to those applicants who have a master's degree in speech-language pathology or communication disorders, one hundred hours of school-based practicum, and have graduated from a program accredited by the council on academic accreditation of the American speech and hearing association. Applications for renewal of the bachelor level speech-language pathology license will be denied after July 1, 2010.
- b. Restricted licenses are issued to applicants with baccalaureate degrees in the following areas who do not also meet qualifications for regular early childhood, elementary, middle level, secondary, or kindergarten through grade twelve licenses as stated in section 67.1-02-02-02:
- (1) Mental retardation education. The mental retardation ~~kindergarten~~ prekindergarten through grade twelve restricted license will be issued to those people qualifying for a valid North Dakota teaching license in special education who hold a bachelor of science degree major in mental retardation. The applicant will only provide consultative services.
 - (2) Hearing-impaired education. The hearing-impaired ~~kindergarten~~ prekindergarten through grade twelve restricted license will be issued to those applicants who have a bachelor of science degree major in education of the deaf with thirty-two hours of hearing-impaired qualifying coursework. The applicant will only provide consultative services.
 - (3) Visually impaired education. The visually impaired ~~kindergarten~~ prekindergarten through grade twelve restricted license will be issued to those applicants who have a bachelor of science degree with a major in visually impaired and twenty-one through twenty-three semester hours in qualifying visually impaired coursework. The applicant will only provide consultative services.
 - (4) ~~Preschool and kindergarten handicapped.~~ Early childhood special education. The ~~prekindergarten handicapped~~ early childhood special education restricted license birth through

grade three will be issued to those applicants who have a baccalaureate degree in early childhood special education. The applicant will only provide consultative services.

- (5) All other special education categories require regular elementary or secondary qualifications.
- (6) Career and technical education. The trade, industry, technical, and health occupations restricted license will be issued to applicants holding a baccalaureate level degree in career and technical education if that degree does not include the general education or regular professional education core as required for regular licensure under section 67.1-02-02-02, and is restricted to teaching in grades seven through grade twelve.
- (7) Reserve officers training corps. The reserve officers training corps license will be issued pursuant to section 67.1-02-05-03.
- (8) Native American language instruction. The Native American language restricted license will be issued to those applicants holding a baccalaureate level degree in Native American language if that degree does not include the general education or regular professional education core as required for regular licensure under section 67.1-02-02-02.

c. Restricted licenses are issued to those nondegreed applicants in:

- (1) Career and technical education. Restricted licenses are issued for trade, industry, technical, and health occupations in accordance with section 67.1-02-04-06 and are restricted to teaching in grades nine through twelve.
- (2) North Dakota American Indian language instructors as pursuant to North Dakota Century Code section 15.1-13-22.

d. Teachers with restricted licenses may teach or substitute teach only in the restricted specified area.

5. National board certification.

a. Definitions:

- (1) "Board" means the education standards and practices board.
- (2) "Certification" means national board certification as provided by the national board.

- (3) "National board" means the national board for professional teaching standards.
- b. Board duties. Based upon receiving state dollars, the board shall:
- (1) Inform teachers of the national board certification program and the scholarships and services the national board provides to teachers seeking certification.
 - (2) Collect and review in the order received scholarship applications from individuals who are licensed to teach by the board or approved to teach by the board.
 - (3)
 - (a) Approve no more than seventeen state-funded applications per year;
 - (b) During each year of the biennium, reserve three of the available scholarships until October first for individuals teaching at low-performing schools; At that time, the three slots, if not filled, become available to other applicants;
 - (c) Require the recipient to serve during the school year as a full-time classroom teacher in a public or nonpublic school; and
 - (d) Require the recipient to participate in mentoring developed and implemented in the employing school or district.
 - (4) Ensure that all scholarship recipients receive adequate information regarding level of commitment required to acquire certification.
 - (5) If any individual who receives a scholarship under this section does not complete the certification process within the time allotted by the board, the individual must reimburse the state an amount equal to one-half of the amount awarded to the individual as a scholarship.
 - (6) Recertification process. Collect and review in the order received scholarship applications for national board recertification from individuals who are licensed to teach by the board or approved to teach by the board and:
 - (a) Approve no more than ~~two~~ three scholarship applications per year under this subsection;

- (b) Require each recipient for a scholarship under this subsection serve during the school year as a full-time classroom teacher in a public or nonpublic school in this state; and
 - (c) Require If available, require each recipient to participate for a scholarship under this subsection to participate in mentoring programs developed and implemented in the employing school or school district.
- c. The board shall pay to any individual who received national board certification before July 1, 2007, one thousand dollars for each year the individual has maintained and continues to maintain national board certification, provided the individual continues to be employed by a school district in this state. An individual may not receive more than four thousand dollars under this subsection.
- d. At the conclusion of each of the first four school years year after the individual received national board certification, the board shall pay to an individual is entitled to receive an additional one thousand five hundred state dollars for the life of the national board certificate if:
- (1) The individual served was employed during the school year as a full-time classroom teacher in public or nonpublic by a school district in this state; and,
 - (2) The individual participated If available, require the participant for a scholarship under this section to participate in any efforts of the employing school district to develop and implement teacher mentoring programs.
 - (3) The payment provided for in this subsection is available beginning with the 2007-08 school year.
- d. e. As a prerequisite, the applicant must:
- (1) Have acquired a baccalaureate degree from a state-approved or accredited teacher education program;
 - (2) Hold a valid North Dakota educator's professional license;
 - (3) Have successfully completed three years of teaching at one or more elementary, middle, or secondary schools in North Dakota; and
 - (4) Currently be a North Dakota kindergarten through grade twelve public or nonpublic classroom instructor.
- e. f. The applicant may apply:

- (1) For the guide to national board certification, which includes the application process by contacting the education standards and practices board; and
- (2) For one-half of the application fee by submitting the completed application to the education standards and practices board by December first. Based upon availability of state funds, applications will be accepted and funded on a first-come, first-served basis. One-half of the application fee will be matched with federal dollars.

f. g. Upon documented successful completion:

- (1) The national board for professional teaching standards certification may be added between renewal periods for a fee of one hundred dollars as pursuant to the five-year renewal fee in section 67.1-02-02-04; and
- (2) ~~An additional ten~~ Additional years equivalent to the number of years left of national certification is also added to the license expiration date at the time of the addition of national board for professional teaching standards certification.

History: Effective July 1, 1995; amended effective October 1, 1998; June 1, 1999; March 1, 2000; August 1, 2002; July 1, 2004; April 1, 2006; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-08, 15.1-13-10, 15.1-13-11, 15.1-13-12.1, 15.1-13-22, 15.1-18-02, 15.1-18-03; S.L. 2001, ch. 173, § 16

67.1-02-05-05. Foreign transcripts and special needs. The content of the laws and rules for teacher licensure may be fulfilled by providing the required documentation through a third party, private foreign educational credential evaluation service that is a member of the national association of credential evaluation services, authorized by the candidate through a signed, official verification provided to the education standards and practices board in cases where foreign transcripts or adaptations for special needs are involved.

History: Effective July 1, 1995; amended effective October 1, 1998; March 1, 2000; July 1, 2008.

General Authority: NDCC 15.1-13-09, 15.1-13-10

Law Implemented: NDCC 15.1-13-10

TITLE 69
PUBLIC SERVICE COMMISSION

JULY 2008

CHAPTER 69-05.2-08

69-05.2-08-08. Permit applications - Permit area - Vegetation and land use information.

1. The application must contain the following premining vegetation information:
 - a. A map or aerial photograph at a scale of 1:4,800 that delineates the existing mapping units within each premining land use. The mapping units for different land use categories are:
 - (1) For cropland, each soil mapping unit.
 - (2) For tame pastureland, each soil mapping unit.
 - (3) For native grasslands, each range ecological site. The soil mapping unit in each range ecological site must also be delineated.
 - (4) For woodland, each woodland type, i.e., trees, tall shrubs, and low shrubs.
 - (5) For fish and wildlife habitat, each vegetation type as further specified in subparagraphs a, b, and c.
 - (a) For woodland, each woodland type, i.e., trees, tall shrubs, and low shrubs;
 - (b) For wetlands, wetland classes based on ecological differentiation as set forth in Classification of Natural Ponds and Lakes in the Glaciated Prairie Region (United States department of the interior (1971)) or other approved classification system.

- (c) For grasslands (native or introduced), each soil mapping unit.
 - (6) For shelterbelts, the entire planting.
 - b. For each land use, a comprehensive species list of higher plants and identification of any species of rare, endangered, poisonous, or noxious plants, developed by a thorough reconnaissance of all mapping units.
 - c. A description of each mapping unit delineated under subdivision a. This description must include:
 - (1) The acreage [hectarage] of each mapping unit for each surface owner within the permit area.
 - (2) An assessment of the productivity of cropland, tame pastureland, and native grassland based on published data, historic data, or quantitative data.
 - (3) Natural resource conservation service ~~range condition~~ similarity index in percent for native grassland.
 - (4) A detailed description of number and arrangement of trees and shrubs, probable age of trees, height of trees, and characteristics of understory vegetation for woodland and fish and wildlife habitat where woodland is the vegetation type.
 - (5) A detailed description of community structure, assemblages of plant species, water conditions, and size for fish and wildlife habitat where wetlands are the vegetation type.
 - (6) A description of number and arrangement of trees and shrubs, length and number of rows, and associated plant species for shelterbelts.
 - (7) When required for the proposed success standard, a quantitative assessment of applicable vegetation parameters using methods approved by the commission.
 - d. A detailed narrative describing the nature and variability of the vegetation in each mapping unit and land use category, based on a thorough reconnaissance and qualitative assessment.
2. When the methods selected for subdivision g of subsection 6 of section 69-05.2-09-11 require the use of reference areas:

- a. The number of reference areas proposed must be sufficient to adequately represent the permit area.
 - b. The location, approximate size, and boundaries of all proposed reference areas must be located on a map of sufficient scale to accurately show the field location of each. The boundaries of the mapping unit in which the reference area is located must also be delineated.
 - c. The permittee shall demonstrate that the proposed reference areas adequately characterize the relevant mapping units which they propose to represent. This demonstration must be done according to methods approved by the commission.
3. The application must contain, in addition to materials satisfying subdivision a of subsection 2 of North Dakota Century Code section 38-14.1-14:
 - a. A map and supporting narrative of the uses of the land existing at the time the application is filed. If the premining use of the land was changed within five years before the anticipated date of beginning the proposed operations, the historic use must also be described.
 - b. A narrative of land capability and productivity, which analyzes the land use description under subdivision a in conjunction with other environmental resources information required under this chapter.
 4. The application must contain a narrative description which includes information adequate to predict the potential for reestablishing vegetation on all areas to be disturbed.

History: Effective August 1, 1980; amended effective June 1, 1983; May 1, 1990; June 1, 1997; July 1, 2008.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14, 38-14.1-24

CHAPTER 69-05.2-10

69-05.2-10-03. Permit applications - Criteria for permit approval or denial.

1. The commission will not issue the permit if any surface coal mining and reclamation operation owned or controlled by either the applicant or by any person who owns or controls the applicant is currently in violation of any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation, or if any of the following are outstanding:
 - a. Delinquent civil penalties under North Dakota Century Code sections 38-12.1-08 and 38-14.1-32, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any law or rule in any state enacted under federal law or regulation pertaining to air or water environmental protection, incurred in connection with any surface coal mining and reclamation operation.
 - b. Bond forfeitures where violations upon which the forfeitures were based have not been corrected.
 - c. Delinquent abandoned mine reclamation fees.
 - d. Unabated violations of federal and state laws, rules, and regulations pertaining to air or water environmental protection incurred in connection with any surface coal mining and reclamation operation.
 - e. Unresolved federal and state failure-to-abate cessation orders.
 - f. Unresolved imminent harm cessation orders.
2. If a current violation exists, the commission will require the applicant or person who owns or controls the applicant, before the permit is issued, to:
 - a. Submit proof that the violation has been or is being corrected to the satisfaction of the agency with jurisdiction over the violation; or
 - b. Establish that the applicant, or any person owned or controlled by either the applicant or any person who owns or controls the applicant, has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. If the administrative or judicial authority either

denies a stay applied for in the appeal or affirms the violation, then any operations being conducted under a permit issued under this section must immediately cease, until the provisions of subdivision a are satisfied.

3. Any permit issued on the basis of proof submitted under subdivision a of subsection 2 that a violation is being corrected, or pending the outcome of an appeal under subdivision b of subsection 2, will be conditionally issued.
4. The commission will not issue a permit if it finds the applicant, anyone who owns or controls the applicant, or the operator specified in the application, controls or has controlled surface coal mining and reclamation operations with a demonstrated pattern of willful violations of any law or rule of this state, the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87; 91 Stat. 445; 30 U.S.C. 1201 et seq.], or any state or federal program approved under the Surface Mining Control and Reclamation Act of 1977, of such nature and duration, and with resulting irreparable damage to the environment as to indicate an intent not to comply with those laws, rules, or programs. The applicant, anyone who owns or controls the applicant, or the operator must be given an opportunity for hearing on the determination under North Dakota Century Code section 38-14.1-30.
5. After an application is deemed ready for approval, but before the permit is issued, the commission's decision to approve or disapprove the application will be made, based on the compliance review required by subsection 1, in light of any new information submitted under subsection 2 of section 69-05.2-06-01 and subsection 6 of section 69-05.2-06-02.
6. In addition to the requirements of subsection 3 of North Dakota Century Code section 38-14.1-21, no permit or significant revision will be approved, unless the application affirmatively demonstrates and the commission finds, in writing, on the basis of information in the application or otherwise available, which is documented in the approval and made available to the applicant, that:
 - a. The permit area is not on any lands subject to the prohibitions or limitations of North Dakota Century Code section 38-14.1-07 or the area has met the application review procedures of section ~~69-05.2-04-01~~ 69-05.2-04-01.1.
 - b. For alluvial valley floors:
 - (1) The applicant has obtained either a negative determination;
or

- (2) If the permit area or adjacent area contains an alluvial valley floor:
 - (a) The operations would be conducted according to chapter 69-05.2-25 and all applicable requirements of North Dakota Century Code chapter 38-14.1.
 - (b) Any change in the use of the lands covered by the permit area from its premining use in or adjacent to alluvial valley floors will not interfere with or preclude the reestablishment of the essential hydrologic functions of the alluvial valley floor.
- (3) The significance of the impact of the operations on farming will be based on the relative importance of the vegetation and water of the developed grazed or hayed alluvial valley floor area to the farm's production, or any more stringent criteria established by the commission as suitable for site-specific protection of agricultural activities in alluvial valley floors.
- (4) Criteria for determining whether a mining operation will materially damage the quantity or quality of waters include:
 - (a) Potential increases in the concentration of total dissolved solids of waters supplied to an alluvial valley floor to levels above the threshold value at which crop yields decrease, based on crop salt tolerance research studies approved by the commission, unless the applicant demonstrates compliance with subdivision e of subsection 3 of North Dakota Century Code section 38-14.1-21.
 - (b) The increases in subparagraph a will not be allowed unless the applicant demonstrates, through testing related to local crop production that the operations will not decrease crop yields.
 - (c) For types of vegetation specified by the commission and not listed in approved crop tolerance research studies, a consideration must be made of any observed correlation between total dissolved solids concentrations in water and crop yield declines.
 - (d) Potential increases in the average depth to water saturated zones (during the growing season) within the root zone that would reduce the amount of subirrigated land compared to premining conditions.

- (e) Potential decreases in surface flows that would reduce the amount of irrigable land compared to premining conditions.
 - (f) Potential changes in the surface or ground water systems that reduce the area available to agriculture as a result of flooding or increased root zone saturation.
- (5) For the purposes of this subsection, a farm is one or more land units on which agricultural activities are conducted. A farm is generally considered to be the combination of land units with acreage [hectarage] and boundaries in existence prior to July 1, 1979, or, if established after July 1, 1979, with boundaries based on enhancement of the farm's agricultural productivity not related to mining operations.
- (6) If the commission determines the statutory exclusions of subsection 3 of North Dakota Century Code section 38-14.1-21 do not apply and that any of the findings required by this section cannot be made, the commission may, at the applicant's request:
 - (a) Determine that mining is precluded and deny the permit without the applicant filing any additional information required by this section; or
 - (b) Prohibit surface coal mining and reclamation operations in all or part of the area to be affected by mining.
- c. The applicant has, with respect to prime farmland, obtained either a negative determination or if the permit area contains prime farmlands:
 - (1) The postmining land use will be cropland.
 - (2) The permit specifically incorporates the plan submitted under section 69-05.2-09-15 after consideration of any revisions suggested by the natural resource conservation service.
 - (3) The operations will be conducted in compliance with chapter 69-05.2-26 and other standards required by this article and North Dakota Century Code chapter 38-14.1.
 - (4) The permit demonstrates that the applicant has the technological capability to restore prime farmland, within a reasonable time, to equivalent or higher yields as nonmined prime farmland in the surrounding area under equivalent management practices.

- (5) The aggregate total prime farmland acreage will not be decreased from that which existed prior to mining based on the cooperative soil survey. Any postmining water bodies that are part of the reclamation must be located within the nonprime farmland portions of the permit area. If any such water bodies reduce the amount of prime farmland that a surface owner had before mining, the affected surface owners must consent to the creation of the water bodies and the plans must be approved by the commission.
 - d. The operations will not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats.
 - e. The applicant has submitted proof that all reclamation fees required by 30 CFR subchapter R have been paid.
 - f. The applicant has, if applicable, satisfied the requirements for approval of a cropland postmining land use under section 69-05.2-22-01.
7. The commission may make necessary changes in the permit to avoid adverse effects on finding that operations may adversely affect any publicly owned park or places included on the state historic sites registry or the national register of historic places. Operations that may adversely affect those parks or historic sites will not be approved unless the federal, state, or local governmental agency with jurisdiction over the park or site agrees, in writing, that mining may be allowed.

History: Effective August 1, 1980; amended effective June 1, 1983; June 1, 1986; May 1, 1990; May 1, 1992; June 1, 1994; July 1, 1995; June 1, 1997; May 1, 2001; July 1, 2008.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-21, 38-14.1-33

CHAPTER 69-05.2-12

69-05.2-12-05.1. Performance bond - Self-bond of permit applicant.

1. The commission may accept a self-bond if the following conditions are met:
 - a. The applicant designates an agent for service of process in the state.
 - b. The applicant has been in continuous operation as a business entity the five years preceding the application. The commission may allow a joint venture with less than five years of continuous operation if each member has been in continuous operation for the five years preceding the application.
 - c. The applicant submits financial information in sufficient detail to show one of the following:
 - (1) The applicant has a current ~~Moody's investors service or Standard and Poor's~~ rating for its most recent bond issuance of "A" or higher as issued by Moody's Investors Service, Standards and Poor's Corporation, or an equivalent rating by any other nationally recognized statistical rating organization, as defined and approved by the United States securities and exchange commission, that is acceptable to the commission.
 - (2) The applicant has a tangible net worth of at least ten million dollars, a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.
 - (3) The applicant's fixed assets in the United States total at least twenty million dollars and the applicant has a ratio of total liabilities to net worth of 2.5 or less, and a ratio of current assets to current liabilities of 1.2 or greater.
 - d. The applicant submits:
 - (1) Financial statements for the last complete fiscal year audited by an independent certified public accountant, and a report containing the accountant's audit opinion or review opinion of the financial statements with no adverse opinion; and
 - (2) Financial statements for completed quarters in the current fiscal year and additional information requested by the commission.
 - e. "Tangible net worth" means net worth less intangibles.

2. The commission may accept a written guarantee for an applicant's self-bond from any third-party guarantor, whenever the applicant meets the provisions of subdivisions a, b, and d of subsection 1 and the guarantor meets the provisions of subdivisions a, b, c, and d of subsection 1. The commission may require the applicant to submit information pertaining to the provisions of subdivision c of subsection 1 in order to determine the financial capabilities of the applicant. The written guarantee must provide that:
 - a. If the applicant fails to complete the reclamation plan, the guarantor shall do so or the guarantor shall be liable under the indemnity agreement to provide to the commission funds, up to the bond amount, sufficient to complete the reclamation plan.
 - b. The guarantee must remain in force unless the guarantor sends notice of cancellation by certified mail to the applicant and to the commission at least ninety days in advance of the cancellation date, and the commission accepts the cancellation.
 - c. The cancellation may be accepted by the commission if the applicant obtains suitable replacement bond before the cancellation or if the covered lands have not been disturbed.
3. The total amount of the outstanding and proposed self-bonds for surface coal mining and reclamation operations may not exceed twenty-five percent of the applicant's or third-party guarantor's tangible net worth in the United States.
4. If the commission accepts a self-bond, an indemnity agreement executed by the applicant and any third-party guarantor must be submitted subject to the following:
 - a. The indemnity agreement is executed according to subsections 9 and 10 of section 69-05.2-12-01.
 - b. An affidavit is submitted certifying that such an agreement is valid under all applicable federal and state laws.
 - c. The guarantor provides a copy of the corporate authorization demonstrating that it may guarantee the self-bond and execute the indemnity agreement.
 - d. In the event of forfeiture, the applicant or third-party guarantor will complete the approved reclamation plan for the land in default or pay to the commission an amount necessary to complete the approved reclamation plan, not to exceed the bond amount.

5. Self-bonded permittees and third-party guarantors shall submit an update of the information required under subdivisions c and d of subsection 1 within ninety days after the close of their fiscal years.
6. If the financial conditions of the permittee or the third-party guarantor change so that the criteria of this section are not satisfied, the permittee shall notify the commission immediately and post an alternate bond in the same amount as the self-bond. If substitution is not made within thirty days, the commission may suspend the permit. If substitution is not made within ninety days, the commission shall suspend the permit and the operator shall cease surface mining activities and comply with section 69-05.2-13-11.

History: Effective May 1, 1988; amended effective January 1, 1993; July 1, 2008.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-16

CHAPTER 69-06-01

69-06-01-05. Designated state agencies and officers. The following are the designated state agencies and officers entitled to notice when so referred to in this article:

1. Aeronautics commission.
2. Attorney general.
3. Department of agriculture.
4. Department of health.
5. Department of human services.
6. Department of labor.
7. Department of ~~vocational~~ career and technical education.
8. Economic development commission.
9. Energy development impact office.
10. Game and fish department.
11. Geological survey.
12. Governor.
13. Highway department.
14. State Historical Society of North Dakota.
15. Indian affairs commission.
16. Job service North Dakota.
17. Land department.
18. Parks and recreation department.
19. ~~State planning division - office of intergovernmental assistance - office of management and budget~~ Division of community services - department of commerce.
20. Soil conservation committee.

21. State water commission.

History: Effective August 1, 1979; amended effective July 1, 2008.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-08, 49-22-08.1

69-06-01-06. Siting fee refund. After all siting permits and certificates are issued by the commission and after all notice and hearing costs and expenses are paid, the commission will refund to the applicant all of the application fee paid by the applicant except five thousand dollars or the amount of the fee remaining if that amount is less than five thousand dollars. When construction and all postconstruction inspections are complete and when the commission has determined that any required tree mitigation is satisfactory, any remaining balance of the application fee will be refunded to the applicant. No refunds for less than fifty dollars will be processed.

History: Effective July 1, 2008.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-22

CHAPTER 69-09-02

69-09-02-35. Installation and maintenance - Conformance to National Electrical Safety Code. The installation and maintenance of electric supply and communication lines shall conform to rules and regulations established in the ~~2002~~ 2007 edition of the National Electrical Safety Code, issued August 1, ~~2004~~ 2006, which is adopted by reference. Copies of these regulations may be obtained from the public service commission, state capitol, Bismarck, North Dakota 58505-0480.

History: Amended effective September 1, 1984; January 1, 1988; December 1, 1990; August 1, 1993; July 1, 1997; March 1, 2003; July 1, 2008.

General Authority: NDCC 49-02-04

Law Implemented: NDCC 49-02-04, 49-20-02

CHAPTER 69-09-05.1

69-09-05.1-02. Accounting practices - Rate-regulated gas companies.

The system of accounts used by all North Dakota natural gas distribution companies subject to rate regulation by the commission must conform to the uniform system of accounts set forth in title 18, Code of Federal Regulations, part 201, prescribed by the federal energy regulatory commission.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-12

69-09-05.1-03. Accounting practices - Rate-regulated electric companies. The system of accounts used by all North Dakota electric companies subject to rate regulation by the commission must conform to the uniform system of accounts set forth in title 18, Code of Federal Regulations, part 101, prescribed by the federal energy regulatory commission.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-12

69-09-05.1-04. Accounting practices - Allowance for funds used during construction for rate-regulated gas companies. A North Dakota natural gas distribution company subject to rate regulation by the commission may not capitalize allowance for funds used during construction (AFUDC) as prescribed in title 18, Code of Federal Regulations, part 201, for projects costing less than ten thousand dollars and taking less than thirty days to complete.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-12

69-09-05.1-05. Accounting practices - Allowance for funds used during construction for rate-regulated electric companies. A North Dakota electric company subject to rate regulation by the commission may not capitalize allowance for funds used during construction (AFUDC) as prescribed in title 18, Code of Federal Regulations, part 101, for projects costing less than ten thousand dollars and taking less than thirty days to complete.

History: Effective July 1, 2008.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-12

CHAPTER 69-09-09
WIND TURBINE DECOMMISSIONING

<u>Section</u>	
<u>69-09-09-01</u>	<u>Definitions</u>
<u>69-09-09-02</u>	<u>Cost Responsibility</u>
<u>69-09-09-03</u>	<u>Useful Life</u>
<u>69-09-09-04</u>	<u>Decommissioning Period</u>
<u>69-09-09-05</u>	<u>Decommissioning Requirements</u>
<u>69-09-09-06</u>	<u>Decommissioning Plan</u>
<u>69-09-09-07</u>	<u>Existing Facilities</u>
<u>69-09-09-08</u>	<u>Financial Assurance</u>
<u>69-09-09-09</u>	<u>Failure to Decommission</u>

69-09-09-01. Definitions.

1. "Commercial wind energy conversion facility" means a wind energy conversion facility of equal to or greater than five hundred kilowatts in total nameplate generating capacity.
2. "Commission" means the public service commission.
3. "Wind turbine" means a wind turbine of equal to or greater than five hundred kilowatts in total nameplate generating capacity.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-02. Cost responsibility. The owner or operator of a commercial wind energy conversion facility is responsible for decommissioning that facility and for all costs associated with decommissioning that facility and associated facilities.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-03. Useful life. A commercial wind energy conversion facility or individual wind turbine is presumed to be at the end of its useful life if the facility or turbine generates no electricity for a continuous period of twelve months. The presumption may be rebutted by submitting to the commission for approval a plan outlining the steps and schedule for returning the commercial wind energy conversion facility or wind turbine to service.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-04. Decommissioning period. The facility owner or operator shall begin decommissioning a commercial wind energy conversion facility or wind turbine within eight months after the time the facility or turbine reaches the end of its useful life, as determined in section 69-09-09-03. Decommissioning must be completed within eighteen months after the facility or turbine reaches the end of its useful life.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-05. Decommissioning requirements. Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, overhead and underground cables, foundations, buildings, and ancillary equipment to a depth of four feet [1.22 meters] and removal of surface road material and restoration of the roads and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy conversion facility or wind turbine. To the extent possible, the site must be restored and reclaimed to the topography and topsoil quality that existed just prior to the beginning of the construction of the commercial wind energy conversion facility or wind turbine. Disturbed earth must be graded and reseeded, unless the landowner requests in writing that the access roads or other land surface areas be retained.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-06. Decommissioning plan. Prior to commencement of operation of a commercial wind energy conversion facility or wind turbine, the facility or turbine owner or operator shall file with the commission the estimated decommissioning cost per turbine, in current dollars at the time of the application, for the proposed facility or turbine and a decommissioning plan that describes how the facility or turbine owner or operator will ensure that resources are available to pay for decommissioning the facility or turbine at the appropriate time. The commission shall review a plan filed under this section and shall issue an order approving or disapproving the plan within six months after the decommissioning plan was filed. The commission may at any time require the owner or operator of a commercial wind energy conversion facility or wind turbine to file a report with the commission describing how the facility or turbine owner or operator is fulfilling this obligation.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-07. Existing facilities. Owners and operators of existing commercial wind energy conversion facilities shall file with the commission the information required in section 69-09-09-06 within one year after July 1, 2008.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-08. Financial assurance. After the tenth year of operation of a commercial wind energy conversion facility or wind turbine, the commission by order may require a performance bond, surety bond, letter of credit, corporate guarantee, or other form of financial assurance that is acceptable to the commission to cover the anticipated costs of decommissioning the commercial wind energy conversion facility or turbine.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

69-09-09-09. Failure to decommission. If the commercial wind energy conversion facility owner or operator does not complete decommissioning, the commission may take such action as may be necessary to complete decommissioning, including requiring forfeiture of the bond. The entry into a participating landowner agreement shall constitute agreement and consent of the parties to the agreement, their respective heirs, successors, and assigns, that the commission may take such action as may be necessary to decommission a commercial wind energy conversion facility or wind turbine, including the exercise by the commission, commission staff, and their contractors of the right of ingress and egress for the purpose of decommissioning the commercial wind energy conversion facility.

History: Effective July 1, 2008.

General Authority: NDCC 49-02

Law Implemented: NDCC 49-02-27

CHAPTER 69-10-01

69-10-01-01. Definitions. As used in article 69-10:

1. "Automatic bulk weighing system" means a weighing system which weighs grain in successive drafts, automatically records the no-load and loaded weight values, and accumulates the net weight of each draft.
2. "Batching scale" means a noncommercial weighing or measuring device used to determine, in part, the amount of an ingredient in a finished, manufactured commodity.
3. "Certify" means to seal, if upon testing and inspection, a weighing or measuring device is within the permitted tolerance and properly installed.
4. "Commerce" means the distribution or consumption of quantities, things, produce, commodities, or articles which may be offered or submitted by any person for sale or hire.
5. "Equipment repair notice tag" means a tag that allows a device to be operated for sixty days from its inspection date pending correction of cited defects relating to the device or any of its required peripheral equipment. The tag defaults to a rejection tag if the device is not in compliance within sixty days.
6. "Liquid or LPG computing pump" means a device that provides fuel or LPG to a consumer.
7. "NIST" means the United States department of commerce, national institute of standards and technology.
8. "Not sealed" means a sticker or seal applied to a device which has not been inspected and tested, does not meet applicable design or tolerance requirements, or is no longer being used commercially. A device that is not sealed shall not be used in commerce.
9. "Random testing" means the random retesting and recertification by a weights and measures inspector of any weighing or measuring device being tested under the self-certification rules.
10. "Registered service person" means a person or agency authorized by the commission to remove an official rejection seal placed on a weighing or measuring device or to repair and certify weighing and measuring devices described in North Dakota Century Code section 64-02-13.
11. "Rejected for repair" means a sticker or seal applied to a device which has been inspected and tested and does not meet applicable design

or tolerance requirements. A device that is rejected for repair shall be modified or repaired by a registered service person within thirty days of the date it was rejected and may not be used in commerce until placed into service.

12. "Retail fuel device" means a commercial, indicating fuel pump used to deliver fuel to individual highway vehicles in quantities of one hundred gallons [378.54 liters] or less per transaction.
13. "Seal" means marking a weighing or measuring device to show certification or rejection.
14. "Security seal" means either a lead and wire pressure-sensitive seal, a plastic and wire pressure-sensitive seal, or a sealing sticker, permanently attached to a weighing or measuring device to prevent unauthorized access to the tolerance-adjusting mechanisms of that device.
15. "Single draft weighing" means simultaneously weighing each end of a vehicle or individual elements of coupled combination vehicles.
16. "Split-weighing" means determining the weight of a vehicle, combination vehicle, or a commodity by adding together the results obtained by separately and not simultaneously weighing each end of such vehicle or individual elements of such coupled combinations.
17. "Standard" means test equipment used for certifying weighing or measuring devices.
18. "Variance permit" means a temporary or permanent suspension of a particular rule granted to an owner or operator of a commercial weighing or measuring device because of an economic hardship, a site restriction requiring modification to the design or installation of a device, or a special installation or operational condition, to be determined by the commission on a case-by-case basis.
19. "Weights and measures inspector" means a commission employee in the testing and safety division performing duties set by the commission.

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; August 1, 2000; January 1, 2002; March 1, 2003; November 1, 2003; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-03

69-10-01-02.3. Recertification. The commission or a registered service person may inspect, test, and calibrate a commercial weighing or measuring device annually. The owner of any commercial weighing or measuring device is responsible for its accuracy and must have it tested once every fifteen months.

Commission staff shall issue a written compliance order to the owner or operator of any commercial device that has not been tested within the fifteen-month time limit. The compliance order must allow thirty days for the owner of the device to have it recertified by a registered service person. Failure to comply with a compliance order within the thirty-day time limit will cause the device to be removed from commercial service.

History: Effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-03. Sealing. A weighing or measuring device used in commerce must be certified and sealed. A security seal must be installed where applicable, to prevent adjustments to the calibration of the device. An adhesive sticker that is of sufficient quality that it remains readable and unaffected by the elements must be installed externally to show visual proof of certification. It is unlawful to remove, or allow to be removed, an official tag or seal without commission approval. Effective January 1, 1995, an adhesive sticker must contain the following information: name, address, and telephone number of the commission or registered service company certifying the device, the words "tested and approved", and the month and year of certification.

History: Amended effective April 1, 1992; August 1, 1993; September 1, 1994; July 1, 1997; July 1, 1998; January 1, 2002; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-03.2. Equipment repair notice - Applicable usage. An equipment repair notice tag may be used in the following circumstances:

1. During the period any one of the following is pending:
 - a. Response to a variance permit request;
 - b. Completion of design requirements; or
 - c. Repair of required peripheral equipment;
2. When a point of sale liquid-measuring device:
 - a. Is a retail liquid-measuring device that is no more than two cubic inches [32.77 milliliters] outside of the applicable tolerance for over-registration or ten cubic inches [163.87 milliliters] outside the applicable tolerance for under-registration, using a five gallon [18.93 liter] test measure;
 - b. Is a vehicle tank or wholesale liquid-measuring device that is no more than twenty-two cubic inches [360.52 milliliters] outside of the applicable tolerance for over-registration or one hundred

cubic inches [1638.71 milliliters] outside the applicable tolerance for under-registration, using a one hundred gallon [378.54 liter] prover;

- c. Is an LPG liquid-measuring device that is no more than five-tenths of one percent outside of the applicable tolerance for over-registration or five percent outside the applicable tolerance for under-registration, using a one hundred gallon [378.54 liter] test with either a one hundred gallon [378.54 liter] prover or a commission-registered master meter, however, when the certifying standard is an LPG master meter the applicable tolerance is one percent for any part of the certification test regardless of acceptance or maintenance tolerances;
 - d. Is an LPG or anhydrous ammonia liquid-measuring device equipped with an automatic temperature compensating system, the allowable error difference between an activated and not activated mechanical or electronic automatic temperature compensating system is no more than one-half of one percent outside of the applicable tolerance for over-registration or under-registration; or
 - e. Is a liquid hydrocarbon or agri-chemical measuring device that has an automatic temperature compensating system, the difference between the meter error (expressed as a percentage) for results determined with and without the mechanical or electronic automatic temperature compensating system activated may be no more than one-tenth of one percent outside of the applicable tolerance for over-registration or under-registration;
3. When a point of sale weighing device is no more than one scale division outside of applicable tolerance for over-registration or two scale divisions outside the applicable tolerance for under-registration; or
 4. When a point of purchase or point of sale weighing device is no more than one scale division outside of applicable tolerance for over-registration or under-registration.

History: Effective March 1, 2003; amended effective November 1, 2003; May 1, 2005; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-04.1. Variance permit requests. The operator of any commercial weighing or measuring device, other than an operator seeking a split-weigh variance permit under section 69-10-01-04.2, may make written request for a variance permit from the commission under North Dakota Century Code section 64-02-02. The request for a variance permit must contain:

1. The name, address, and telephone number of the business making the request along with the name of its contact person and the reason for the request;
2. A plan for compliance over a period not to exceed one hundred eighty days if the variance permit request results from a rejection; or, a plan for compliance over a period not to exceed five years if the variance request results from economic hardship. Through reapplication, the economic hardship variance may be a permanent variance permit provided the applicant can show that compliance will continue to cause economic hardship;
3. The manufacturer's name, type, location, serial number, deck length, and capacity of the device;
4. The maximum amount that will be weighed on the device, along with a certified letter from an engineer or competent scale engineering authority certifying that operating the device at that weight will not constitute a safety hazard (if applying for a variance permit that will allow a device to be used beyond its rated sectional or concentrated load capacity);
5. Detailed information showing that compliance with specific regulations will cause economic hardship (if applicable to the variance permit request); and
6. Any other information the operator believes may expedite the variance permit request.

A variance permit granted by the commission is a temporary variance permit and does not become permanent until sufficient time to conclude inspection and testing (usually two years) has elapsed. A notice of the variance permit must be conspicuously posted on the device during the time the temporary variance permit is in effect.

History: Effective August 1, 1993; amended effective September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-04.2. Split-weigh variance permit requests. The operator of any motor truck or motor truck dump scale installed after April 1, 1965, may make written request for a permanent split-weigh variance permit from the commission under North Dakota Century Code section 64-02-02. The request for a variance permit must contain:

1. The name, address, and telephone number of the business making the request along with the name of its contact person and the reason for the request;

2. The manufacturer's name, type, location, deck length, serial number, and capacity of the device;
3. The maximum amount of weight that will be placed upon the device at any time during the split-weighing operation. If that maximum weight exceeds the rated sectional capacity or concentrated load capacity of the device, the applicant must also include a letter from an engineer or competent scale engineering authority certifying that operating the device at that weight will not constitute a safety hazard;
4. The maximum distance between the front and rear outer axles of the vehicle or coupled-combination vehicle that will be split-weighed;
5. A statement in the variance permit request certifying that each axle of the vehicle or each axle of the coupled-combination vehicle will rest on a straight surface, in the same plane with, and not to exceed one-third inch [8.47 millimeters] per foot [30.48 centimeters] out of level with, the scale deck during the split-weighing operation;
6. A statement in the variance permit request agreeing to the following procedures to be observed during the split-weighing operation:
 - a. Use of the vehicle brakes is prohibited;
 - b. The vehicle transmission must be in neutral; and
 - c. Chocking of the vehicle's wheels should be discouraged.
7. For an operator of a motor truck or motor truck dump scale installed after April 1, 1995, a temporary variance permit will be issued only if the operator has substantiated that it is unable to install a scale of sufficient length to allow single-draft weighing due to economic hardship. If the operator chooses to pursue the plea of economic hardship, then the operator's split-weigh variance permit request must also include a plan for compliance over a period not to exceed five years. Through reapplication, at the end of the five-year period, the economic hardship temporary variance permit may be made a permanent variance permit provided the operator can show that compliance will continue to cause economic hardship.

History: Effective February 1, 1996; amended effective July 1, 1997; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-04

69-10-01-05. Rejected devices. Once a weighing or measuring device has been rejected, the device may not be used in commerce. The commission may

install a security seal on the device to prevent its use until the device has been retested and certified or a variance permit has been granted.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-05.1. Inactive weighing or measuring devices. An inactive commercial weighing or measuring device unused or tagged "not sealed" for longer than one year, must meet all current state laws and rules before it may be retested and certified, unless the operator receives a variance permit allowing for the use of the device.

History: Effective September 1, 1994; amended effective July 1, 1997; July 1, 2008.

General Authority: NDCC 28-32-02, 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-04

69-10-01-07. Sale of liquid fuels on other than gross volume basis prohibited. Repealed effective July 1, 2008. ~~The sale of gasoline or other refined liquid fuels, excluding liquefied petroleum gases and residual fuel oils, on any basis other than the gross volume of gasoline or other refined liquid fuel actually delivered is prohibited unless sale on a temperature corrected basis is specifically agreed to by both buyer and seller.~~

History: ~~Effective January 1, 1981.~~

General Authority: ~~NDCC 28-32-02, 64-02-03~~

Law Implemented: ~~NDCC 64-02-02, 64-02-04~~

69-10-01-13. Enforcement. An operator of a commercial weighing and measuring device shall ensure that the device is designed, constructed, operated, and maintained to meet applicable standards in state and national institute of standards and technology handbook no. 44 requirements (1999 edition). The commission may require proof of compliance. The commission may file a complaint for noncompliance, and, in addition to other appropriate sanctions, assess civil penalties under North Dakota Century Code chapter 49-07 after notice and opportunity for hearing on the complaint.

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 49-07, 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-16. Service contracts. Registered service companies shall notify the commission of any service contract that provides for annual certification of a commercial device. Notification must be given no later than thirty days from the date of the verbal or written contract. Commercial devices under service contract

that have not been tested within ~~thirteen~~ twelve months ~~must~~ may be scheduled for testing by the commission.

History: Effective May 1, 2005; ~~amended effective July 1, 2008.~~

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-01-17. Manufacturer design deviations and limitations.

Deviations from the manufacturer's design, installation specifications, intended application, or established limits applicable to any commercial weighing or measuring device are not permitted without approval from the manufacturer's engineering authority and a variance permit granted by the commission.

History: Effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

CHAPTER 69-10-02

69-10-02-05. Portable pitless scales and portable hopper scales.

A self-contained portable pitless scale and a self-contained portable hopper scale used solely to weigh materials used for government highway construction are exempt from the provisions of this article. Installation and operation of a self-contained portable pitless scale and a self-contained portable hopper scale for commercial use without a variance permit from the commission is prohibited.

History: Amended effective April 1, 1984; August 1, 1993; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-08. Deviations from manufacturer's design. Repealed effective July 1, 2008. ~~Neither the length nor the width of the load receiving element, nor the indicating element of a scale shall be increased beyond the manufacturer's design dimension unless the proposed modification has been approved by competent scale engineer, and a variance has been granted by the commission. The weighbridge of a scale shall be constructed of steel of sufficient strength to ensure permanence, and shall include steel support members to provide adequate support for the platform.~~

~~**History:** Amended effective August 1, 1993; July 1, 1997.~~

~~**General Authority:** NDCC 64-02-03~~

~~**Law Implemented:** NDCC 64-02-02, 64-02-13~~

69-10-02-11. Limits established by factory-rated scale capacity. Repealed effective July 1, 2008. ~~No person shall use a scale for weighing commodities, the gross weight of which is greater than the factory-rated scale capacity, as stamped by the manufacturer on each indicating or load receiving element (whichever is less), without a variance from the commission.~~

~~**History:** Amended effective August 1, 1993.~~

~~**General Authority:** NDCC 64-02-03~~

~~**Law Implemented:** NDCC 64-02-02, 64-02-13~~

69-10-02-12. Observation windows or video cameras. Windows must be provided and must be located in such a position and manner so that the weighman scale operator has full view of the scale platform and weighing operation from the weighman's scale operator's working position, and that the weighman and indicating elements are clearly visible to interested parties. Video cameras may be substituted for windows if the substitution does not diminish the view for either the weighman scale operator or other interested parties. However, installations that exceed two hundred feet [61 meters] from the main indicating element must

be equipped with two-way audio communication and remote or video display of weight indication.

History: Amended effective August 1, 1993; September 1, 1994; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-16. Automatic bulk-loading systems - Receiving. A commercial automatic bulk-loading system used for receiving grain may not be commercially operated without first receiving a variance permit from the commission. Before receiving any grain through an automatic bulk-weighing system, a certified commercial truck scale must be made available to the seller for optional check weighing.

History: Effective September 1, 1994; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-02-19. Single-draft weighing - Exceptions. It shall be unlawful to weigh a vehicle or a combination vehicle in any method other than the single-draft method, as outlined in the NIST Handbook No. 44, section 2.20. scales, UR.3.3., Single-draft Vehicle Weighing, except for the following:

1. When the sale of the commodity being weighed is determined by destination weight;
2. For a motor truck or motor truck dump scale installed prior to April 1, 1965; or
3. For a motor truck or motor truck dump scale installed after April 1, 1965, provided a split-weigh variance permit has first been granted by the commission under section 69-10-01-04.2, and the parties involved have complied with section 69-10-02-20 prior to split-weighing.

History: Effective February 1, 1996; amended effective August 1, 2000; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-03, 64-02-04

69-10-02-20. Split-weigh agreements. Upon approval by the commission of a variance permit allowing split-weighing, and before an individual customer is split-weighed, an approved split-weigh agreement form must be signed by both the business and that customer, and kept on file at the place where the split-weighing occurs.

History: Effective February 1, 1996; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-03, 64-02-04

69-10-02-24. Electronic scale data storage and retrieval. Computer programming installed on commercial scales after January 1, 2002, enabling the electronic recording or storage of scale weight must conform to the following:

1. If more than one scale is interfaced, the system must store the identity of the scale which originated the weight and all printed data must identify the scale which originated the weight;
2. Any weight which is manually entered must be identified as manually entered on all recorded weights;
3. All recorded weights must match actual scale-weight indications;
4. All recalled weights must match stored weights;
5. Stored weight must have a recorded audit trail on a dedicated line printer in a continuous format which includes an "S" indicating that it is a stored weight; a sequential reference number; a scale identifier number; a unique reference number to enable the recall of that stored weight; and the stored weight;
6. Any stored weight which is recalled must be immediately printed on a scale ticket with the following information: an "R" indicating that it is a recalled weight; the unique reference number identified in subsection 5; and the recalled weight;
7. After the transaction is completed, the recalled weight must be automatically deleted from the ~~recall~~ recalled weights data file;
8. Computer computations such as rounding off and truncation must be programmed so that the computations do not result in the degradation of the accuracy of the scale tolerance by more than one-half of one scale division; and
9. Programming must ensure all essential data is properly entered and stored before issuing a weight ticket.

History: Effective January 1, 2002; amended effective May 1, 2005; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-02-25. Law enforcement scales. Axle load scales or portable wheel load scales used for ~~weight enforcement to enforce load limit restrictions~~ by the North Dakota highway patrol may be tested annually, but must be tested at least once every fifteen months.

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-02-26. Hoppers scale design requirements. The owner of a commercial hopper scale shall provide a bracket or lifting arms able to utilize a hand-operated chain hoist that will facilitate testing with five hundred pounds [226.80 kilograms] or larger test weights. The brackets or lifting arms must be of sufficient strength for the intended load and permanently and legibly marked with a maximum load rating.

All commercial hopper scales, newly constructed and placed into service after the effective date of this rule, must have a minimum of three feet [.91 meter] of unobstructed clearance on all four sides to facilitate testing with large weights.

Notwithstanding the provisions of this section, automatic bulk-weighing systems with integral standards, overhead hopper scales accessible underneath, and hopper scales with capacities of five thousand pounds [2267.96 kilograms] or less are exempt from this requirement.

History: Effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

CHAPTER 69-10-03

69-10-03-02. Adequate standards. ~~Only standards annually certified by the commission may be used to certify commercial weighing and measuring devices. However, standards annually certified by any national institute of standards and technology accredited laboratory may be used if a legible copy of the certification is first filed with the commission. Annual recertification is subject to the following exceptions and conditions: A standard used to certify any commercial weighing and measuring device must be annually certified as traceable by a NIST-recognized metrology laboratory. The state metrologist may extend the twelve-month recertification interval up to fifteen months.~~

- ~~1. The twelve-month recertification period may be extended after consultation with the state metrologist, but not to exceed fifteen months.~~
- ~~2. The standard weights or "test weights" used in a commercial automatic bulk-weighing system must initially be certified by the commission or by another national institute of standards and technology accredited state laboratory.~~
- ~~3. The volumetric provers used to certify loading-rack meters must initially be certified by the commission or by another national institute of standards and technology accredited state laboratory, and at least once every three years thereafter.~~
- ~~4. The commission may require recertification of the "test weights" described in subsection 2, and the volumetric provers described in subsection 3 if, upon inspection, physical condition indicates a need.~~
- ~~5. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.~~
- ~~6. The commission may test and inspect any commercial LPG meters by using a certified master meter that has a flow rate of twelve to sixty gallons [45.4 to 227.1 liters] per minute at 0.02 percent accuracy, and has an orifice size of one and one-half inches [38.1 millimeters]. A master meter must be tested and certified quarterly with a prover traceable to national institute of standards and technology.~~

A current legible copy of the certificate of traceability must be maintained with the commission.

Annual recertification is subject to the following exceptions and conditions:

1. The standards integral to and used for recertification of a commercial automatic bulk-weighing system must be certified traceable by a NIST-recognized laboratory at least once every five years.
2. The volumetric provers used to certify loading-rack meters must be certified traceable by a NIST-recognized laboratory at least once every three years.
3. Unless otherwise approved by the commission, the operator of a coal belt conveyor scale jurisdictional to the commission must conduct a material load test at least once every two years provided that electronic or other simulated load testing is done at least once every three months.
4. A master meter may not be used as a standard to certify commercial LPG devices.
5. Notwithstanding the other provisions of this section, the commission may require recertification of any standard if upon inspection the physical condition of a standard indicates a need for recertification.

History: Amended effective April 1, 1992; September 1, 1994; February 1, 1996; July 1, 1997; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

69-10-03-06. Metrology service. Metrology service at the commission laboratory will only be provided as set out in this section:

1. All metrology service requests must be by appointment only and will be according to the following:
 - a. Testing and safety division metrology;
 - b. State-registered service company metrology;
 - c. North Dakota law enforcement metrology;
 - d. Industrial customer metrology; and
 - e. All other metrology.
2. The director shall send out annual appointment notifications by mail to all state-registered service companies at least thirty days prior to each company's appointment date.
3. If a party with a scheduled metrology appointment needs to cancel that appointment, the party shall notify the commission of the need to cancel at least seven days in advance of the appointment. Appointments cancelled within less than seven days advance notice will lose

scheduling priorities. The party canceling a metrology appointment may request a new appointment date at that time.

4. ~~Metrology appointments will be requested and confirmed by telephone, e-mail, facsimile, or in writing by mail. A party requesting a metrology appointment should plan at least thirty days' advance notice to the commission on any metrology appointment requests. A metrology appointment must be scheduled at least thirty days in advance.~~
5. A metrology request not previously scheduled may only be serviced as time becomes available.
6. A metrology request for service beyond the scope of the laboratory's certification of recognition level will be referred to an appropriate ~~NIST-accredited~~ NIST-recognized metrology laboratory.

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-03-07. Delivery of standards for certification. Standards delivered to the metrology laboratory for testing and certification must be submitted undamaged and serviceable and must comply with the following:

1. Vehicle scale test carts must be cleaned and painted with all fluid levels topped off to their calibrated reference levels.
2. Cast iron weights must be cleaned and painted following the requirements in NIST Handbook No. 105-1, section 2, as adopted by reference in section 69-10-03-01.2.
3. Provers and test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.
4. Provers must have a simple, sturdy, and adequate leveling means on the legs allowing for adequate adjustments ~~with a single tool~~.
5. Provers must have two level indicators mounted on the body of the prover at right angles to each other for leveling purposes.
6. Mild steel provers must be periodically painted as determined by the metrologist, and as recorded in the remarks section on the previous year's calibration report.
7. Mild steel test measures, including sight glasses, must be cleaned inside and out and contain no hydrocarbon residue or other pollutants.

8. Class F weights must meet the applicable material and design requirements of NIST Handbook No. 105-1, as adopted by reference in section 69-10-03-01.2.
9. Fabricated weights, brass weights, and cast iron weights equal to or less than ten pounds [4.54 kilograms] may not be used.
10. Laminated weights must not be adjusted and must be removed from service when the weights fail to maintain the applicable tolerance.
11. Volume standards placed in service after January 1, 1998, must meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4.
12. A volume standard placed in service before January 1, 1998, that has maintained annual certification need not meet the requirements of NIST Handbook No. 105-3 or 105-4, as adopted by reference in sections 69-10-03-01.3 and 69-10-03-01.4, unless a standard has been removed from service for a period greater than twelve months.
13. Special seals or special tools required for the test or calibration, which is of a unique nature to a particular standard, must be supplied by the standard owner prior to the beginning of the metrology process.
14. If weights greater than one hundred pounds [45.36 kilograms] or provers with capacities greater than fifty gallons [189.27 liters] are shipped to the metrology laboratory, the weights or provers must be shipped on an open flatbed truck or trailer.
15. Standards that are not in compliance with any of the above requirements will not be accepted for testing and certification.
16. A standard that is not tested and certified may not be used to test and certify a commercial device unless a variance permit is obtained from the commission, or unless the standards is recertified.

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-03-08. Rejection of standards. Rejected standards must be removed from service as follows:

1. A standard that has been rejected must be conspicuously marked by sealing, tagging, or painting as appropriate to that standard.
2. A rejected standard may not be used to test and certify a commercial weighing and measuring device. The use of a rejected standard may result in commission enforcement action.

3. A standard not meeting appropriate design criteria may be allowed to remain in service for a limited time, provided a variance permit is obtained from the commission prior to certification or recertification.

History: Effective May 1, 2005; amended effective July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

CHAPTER 69-10-04

69-10-04-02. Application for registration and permitting of a service person. Annual application for registration as a registered service person must be submitted to the commission under the following requirements:

1. A first-time applicant shall:
 - a. Provide a written history of education and work experience to show that the applicant is fully qualified to repair, test, and certify a commercial weighing or measuring device; and
 - b. ~~Score seventy-five percent or more on commission testing taken from applicable sections of the adopted edition of the NIST Handbook No. 44, and from weights and measures sections of the North Dakota Century Code and North Dakota Administrative Code;~~
 - c. ~~Complete written tests that are required to obtain a permit as a registered service person. Tests must be taken at the commission's metrology lab in Bismarck, North Dakota, at a location designated by the commission, and must be administered as follows:~~
 - (1) ~~A The written test will be open book, with seventy-five percent as the minimum passing score. The test material will cover the applicable sections of the adopted 1999 edition of NIST Handbook No. 44, North Dakota Century Code title 64, and North Dakota Administrative Code article 69-10; and~~
 - (2) ~~In the case of a test failure, an alternate test date may be scheduled applicant may retake the tests after a review period of ten working days; and,~~
- d. ~~2.~~ 2. Each applicant registered by the commission shall utilize adequate standards during the testing and certification of a commercial device.
2. ~~3.~~ 3. An applicant who is applying for renewal of an existing registration shall complete and submit the application at least fifteen days prior to the expiration date of the applicant's existing registration. Each applicant who has renewed an existing registration shall utilize adequate standards during the testing and certification of a commercial device.

History: Amended effective April 1, 1992; September 1, 1994; July 1, 1997; January 1, 2002; May 1, 2005; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-03. Revocation of registration. The commission may, for good cause, suspend or revoke a registered service person's permit or a registered

service company's permit. A person or a company not registered with the commission but qualified to install a commercial weighing or measuring device may install but may not service, repair, or recondition a commercial weighing or measuring device without a variance permit from the commission.

History: Amended effective April 1, 1992; July 1, 1997; July 1, 1998; October 1, 1999; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02

69-10-04-06. Quality control - Witnessing. The commission may ~~observe or reinspect~~ evaluate the work performed by a registered service person to ensure that the person is performing proper inspections and tests. The evaluation method may be by direct observation of a registered service person placing a commercial device into service or by reinspection of a device previously placed into service by a registered service person. The commission shall consider the following criteria ~~while evaluating that person~~ during the evaluation:

1. The results of a random sampling of at least one inspection and test per year, or more if so ordered by the commission, of the devices certified by a registered service person;
2. Complaints filed against a registered service person, and whether those complaints are valid; and
3. Other factors deemed relevant by the commission.

The quality control ~~reinspection~~ evaluation must be completed within forty-five days of the date the work is completed by the registered service person and at no charge to the owner of the device.

History: Effective September 1, 1994; amended effective February 1, 1996; October 1, 1999; July 1, 2008.

General Authority: NDCC 64-02-03

Law Implemented: NDCC 64-02-02, 64-02-13

TITLE 75
DEPARTMENT OF HUMAN SERVICES

JULY 2008

CHAPTER 75-02-04.1

75-02-04.1-09. Criteria for rebuttal of guideline amount.

1. The child support amount provided for under this chapter, except for subsection 2, is presumed to be the correct amount of child support. No rebuttal of the guidelines may be based upon evidence of factors described or applied in this chapter, except in subsection 2, or upon:
 - a. The subsistence needs, work expenses, and daily living expenses of the obligor; or
 - b. The Except as provided for in subdivision m of subsection 2, the income of the obligee, which is reflected in a substantial monetary and nonmonetary contribution to the child's basic care and needs by virtue of being a custodial parent.
2. The presumption that the amount of child support that would result from the application of this chapter, except for this subsection, is the correct amount of child support is rebutted only if a preponderance of the evidence establishes that a deviation from the guidelines is in the best interest of the supported children and:
 - a. The increased need if support for more than six children is sought in the matter before the court;
 - b. The increased ability of an obligor, with a monthly net income which exceeds twelve thousand five hundred dollars, to provide child support;
 - c. The increased need if educational costs have been voluntarily incurred, at private schools, with the prior written concurrence of the obligor;
 - d. The increased needs of children with disabling conditions or chronic illness;

- e. The increased needs of children age twelve and older;
- f. The increased needs of children related to the cost of child care, purchased by the obligee, for reasonable purposes related to employment, job search, education, or training;
- g. The increased ability of an obligor, who is able to secure additional income from assets, to provide child support;
- h. The increased ability of an obligor, who has engaged in an asset transaction for the purpose of reducing the obligor's income available for payment of child support, to provide child support;
- i. The reduced ability of the obligor to provide support due to travel expenses incurred predominantly for the purpose of visiting a child who is the subject of the order taking into consideration the amount of court-ordered visitation and, when such history is available, actual expenses and practices of the parties;
- j. The reduced ability of the obligor to pay child support due to a situation, over which the obligor has little or no control, which requires the obligor to incur a continued or fixed expense for other than subsistence needs, work expenses, or daily living expenses, and which is not otherwise described in this subsection;
- k. The reduced ability of the obligor to provide support due to the obligor's health care needs, to the extent that the costs of meeting those health care needs:
 - (1) Exceed ten percent of the obligor's gross income;
 - (2) Have been incurred and are reasonably certain to continue to be incurred by the obligor;
 - (3) Are not subject to payment or reimbursement from any source except the obligor's income; and
 - (4) Are necessary to prevent or delay the death of the obligor or to avoid a significant loss of income to the obligor; or
- l. The reduced ability of the obligor to provide support when calculation of the obligation otherwise reflects consideration of atypical overtime wages or nonrecurring bonuses over which the obligor does not have significant influence or control; or
- m. The reduced needs of the child to support from the obligor in situations where the net income of the obligee is at least three times higher than the net income of the obligor.

3. Assets may not be considered under subdivisions g and h of subsection 2, to the extent they:
 - a. Are exempt under North Dakota Century Code section 47-18-01;
 - b. Consist of necessary household goods and furnishings; or
 - c. Include one motor vehicle in which the obligor owns an equity not in excess of twenty thousand dollars.
4. For purposes of subdivision h of subsection 2, a transaction is presumed to have been made for the purpose of reducing the obligor's income available for the payment of child support if:
 - a. The transaction occurred after the birth of a child entitled to support;
 - b. The transaction occurred no more than twenty-four months before the commencement of the proceeding that initially established the support order; and
 - c. The obligor's income is less than it likely would have been if the transaction had not taken place.
5. For purposes of subdivision j of subsection 2, a situation over which the obligor has little or no control does not exist if the situation arises out of spousal support payments, discretionary purchases, or illegal activity.
6. For purposes of subdivisions a through f of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter.
7. For purposes of subdivisions g through l of subsection 2, any adjustment shall be made to the obligor's net income.
8. For purposes of subdivision m of subsection 2, any adjustment shall be made to the child support amount resulting from application of this chapter after taking into consideration the proportion by which the obligee's net income exceeds the obligor's net income.

History: Effective February 1, 1991; amended effective January 1, 1995; August 1, 1999; August 1, 2003; July 1, 2008.

General Authority: NDCC 50-06-16, 50-09-25

Law Implemented: NDCC 14-09-09.7, 50-09-02(16); 42 USC 667

TITLE 82

BOARD OF TRUSTEES OF THE TEACHERS' FUND FOR RETIREMENT

JULY 2008

CHAPTER 82-02-01

82-02-01-01. Definitions. Unless made inappropriate by context, all words used in this title have the meanings given to them under North Dakota Century Code chapter 15-39.1. The following definitions are not established by statute and apply for the purpose of this title:

1. "Account balance" or "value of account" means the member's accumulated contributions or assessments, plus the sum of any member purchase or repurchase payments, plus interest at an annual rate of six percent compounded monthly.
2. "Administrative" means to manage, direct, or superintend a program, service, or school district or other participating employer.
3. "Benefit service credit" means employment service used to determine benefits payable under the fund.
4. "Cessation of employment" means severance or termination of employment.
5. "Contributions" means the assessments or payments made to the fund.
6. "Covered employment" means employment as a teacher in a North Dakota state agency, state institution, school district, special education unit, regional education association, or other governing body of a school district.
7. "Eligibility service credit" means employment service used to determine vesting and benefit eligibility for dual members and qualified veterans under the Uniformed Services Employment and Reemployment Rights Act of 1994. Eligibility service credit is not used for benefit calculation purposes.
8. "Extracurricular services" means outside of the regular curriculum of a school district or other participating employer which includes advising,

directing, monitoring, or coaching athletics, music, drama, journalism, and other supplemental programs.

9. "Participating employer" means the employer of a teacher, including a North Dakota state agency, state institution, school district, special education unit, regional education association, or other governing body of a school district.
10. "Plan year" means the twelve consecutive months commencing July first of the calendar year and ending June thirtieth of the subsequent year.
11. "Referee" means all sporting and nonsporting event judges and officials, including referees, umpires, line judges, scorekeepers, timekeepers, ticket takers, ushers, and other judges or officials.
12. "Salary reduction or salary deferral amounts under 26 U.S.C. section 125, 401(k), 403(b), or 457" means amounts deducted from a member's salary, at the member's option, to these plans. These reductions or deferrals are part of salary when calculating retirement contributions. Employer contributions to plans specified in 26 U.S.C. section 125, 401(k), 403(b), or 457 which are made for the benefit of the member will not be counted as retirement salary when calculating retirement contributions. Member contributions paid by the employer under IRC section 414(h) pursuant to a salary reduction agreement do not reduce salary when calculating retirement contributions.
- ~~42.~~ 13. "Special teachers" include licensed special education teachers, guidance counselors, speech therapists, social workers, psychologists, librarians, audio visual or media coordinators, technology coordinators, and other staff members licensed by the education standards and practices board provided they are under contract with a school district or other participating employer to provide teaching, supervisory, administrative, or extracurricular services.
- ~~43.~~ 14. "Supervisory" means to have general oversight or authority over students or teachers, or both, of a school district or other participating employer.
- ~~44.~~ 15. "Teaching" means to impart knowledge or skills to students or teachers, or both, by means of oral or written lessons, instructions, and information.
- ~~45.~~ 16. "Vested" means the status attained by a teacher when the teacher has ~~paid assessments to earn~~ earned three years of service credit for a tier one member or five years of service credit for a tier two member for covered employment in this state.

46: 17. "Written agreement" means a teaching contract, school board minutes, or other official document evidencing a contractual relationship between a teacher and participating employer.

History: Effective September 1, 1990; amended effective May 1, 1992; May 1, 1998; May 1, 2000; May 1, 2004; July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1, 15-39.1-07

CHAPTER 82-03-01

82-03-01-02. Nonvested teachers' withdrawal from fund - Refund.
~~Repealed effective July 1, 2008. The accumulated assessments of a teacher who is not vested must be automatically refunded to the teacher in accordance with the North Dakota Century Code. A nonvested teacher, who terminates a position of covered employment in North Dakota, may request a waiver of the automatic refund by filing the appropriate forms and necessary information with the fund prior to the automatic refund being issued.~~

History: Effective September 1, 1990.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-20

CHAPTER 82-05-04

82-05-04-01. Actuarial factors - Early retirement. In determining early retirement benefits under North Dakota Century Code section 15-39.1-12, the benefits to which a member is entitled shall be reduced 0.5 percent for each month that the early retirement date precedes the first day of the month coincident with or next following the earlier of the member's sixty-fifth birthday or the date at which current service plus the member's age will equal eighty-five for a tier one member or current service plus member's age will equal ninety for a tier two member.

History: Effective September 1, 1990; amended effective May 1, 2000; July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-16, 15-39.1-24

82-05-04-02. Actuarial factors - Optional payment forms. Under North Dakota Century Code section 15-39.1-16, the actuarial factors used to determine benefit amounts under the optional joint and survivor, term certain and life, partial lump sum and level income forms of annuity payment shall be based on the following actuarial assumptions:

1. Interest rate - 8.00 percent per year, compounded annually.
2. Member's mortality (used for nondisabled members) - a mortality table constructed by blending forty percent of the mortality rates under the 1983 group annuity mortality table for males, without margins, setback four years, with sixty percent of the mortality rates under the 1983 group annuity mortality table for females, without margins, setback three years.
3. Beneficiary's mortality - a mortality table constructed by blending sixty percent of the mortality rates under the 1983 group annuity mortality table for males, without margins, setback four years, with forty percent of the mortality rates under the 1983 group annuity mortality table for females, without margins, setback three years.
4. Disabled member's mortality - a mortality table constructed by blending forty percent of the mortality rates under pension benefit guaranty corporation table Va for disabled males, with sixty percent of the mortality rates under pension benefit guaranty corporation table VIa for disabled females.

In addition, the above actuarial assumptions shall be used to determine actuarial equivalence for other purposes not covered by sections 82-05-04-01, 82-05-04-03,

and 82-05-04-04, such as the determination of the reduction to a member's benefit because of the existence of a qualified domestic relations order.

History: Effective May 1, 2000; amended effective May 1, 2004; July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-16, 15-39.1-24

82-05-04-04. Actuarial factors - Purchase of service. Whenever the North Dakota Century Code permits a member to purchase service on an actuarially equivalent basis, the following actuarial assumptions shall be used:

1. Interest rate - 8.00 percent per year, compounded annually.
2. Mortality rates - the same table specified in section 82-05-04-02 for nondisabled members.
3. Retirement - the member will be assumed to retire at the age at which the member is first eligible for an unreduced retirement benefit. Such unreduced retirement date will be determined taking into account any purchased service and assuming the member continues in full-time covered service.
4. Salary increase rate - ~~5.40 percent per year, compounded annually.~~ Increases are assumed to occur once each year. The following table shows the increase rates indexed by the member's service (excluding any service being purchased):

<u>Nearest Service at the Beginning of the Year</u>	<u>Percentage Increase at End of Year</u>
<u>0</u>	<u>14.00%</u>
<u>1</u>	<u>8.00%</u>
<u>2</u>	<u>7.75%</u>
<u>3</u>	<u>7.50%</u>
<u>4</u>	<u>7.25%</u>
<u>5</u>	<u>7.00%</u>
<u>6</u>	<u>6.75%</u>
<u>7</u>	<u>6.50%</u>
<u>8</u>	<u>6.25%</u>
<u>9</u>	<u>6.00%</u>
<u>10</u>	<u>5.75%</u>
<u>11</u>	<u>5.50%</u>
<u>12</u>	<u>5.50%</u>
<u>13</u>	<u>5.50%</u>

<u>Nearest Service at the Beginning of the Year</u>	<u>Percentage Increase at End of Year</u>
<u>14</u>	<u>5.25%</u>
<u>15 or more</u>	<u>4.50%</u>

History: Effective May 1, 2000; amended effective July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-16, 15-39.1-24

CHAPTER 82-05-06
RETIREE RETURN TO WORK PROGRAM

Section

82-05-06-01

Retiree Reemployment Reporting Requirements

82-05-06-01. Retiree reemployment reporting requirements.

Participating employers and retirees must complete and submit a "TFFR Retired Member Employment Notification" form and a copy of the employment contract within thirty days of the retired member's return to covered employment.

Time spent performing extracurricular duties and professional development is excluded from the annual hour limit. Extracurricular duties include those duties outlined in the extracurricular schedule of a participating employer's master agreement, unless the duty was part of the retiree's regular job duties and base salary prior to retirement. Employer contributions are required to be paid and are based on the retirement salary paid to the reemployed retiree, including salary for extracurricular duties and professional development.

Employer contributions are required to be paid on salary earned by retirees who perform in-staff subbing duties while under contract with a teachers' fund for retirement participating employer.

Retirees who perform regular substitute teaching duties and are not under contract with that teachers' fund for retirement participating employer are not subject to the annual hour limit and employer contributions are not required to be paid.

History: Effective July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-19.1

CHAPTER 82-07-01

82-07-01-01. Definitions. The following definitions govern the determination of disability benefits under the fund:

1. "Medical examination" means an examination conducted by a licensed medical doctor or a psychologist ~~licensed to practice in North Dakota~~ that includes a diagnosis of the disability, the treatment being provided for the disability, the prognosis and classification of the disability, and a statement indicating how the disability prevents the individual from performing the duties of a teacher.
2. "Permanent disability" means a condition of "total disability" that is static or deteriorating and the prognosis does not indicate an anticipated recovery from the disability.
3. "Temporary disability" means a condition of "total disability" that is expected to last at least twelve months, but is not considered permanent.
4. "Total disability" means any medically determinable physical or mental impairment that is expected to last for a continuous period of not less than twelve months and results in the individual's inability to perform the duties of a teacher. "Total disability" includes conditions of "temporary disability" and "permanent disability" as defined in this section.

History: Effective September 1, 1990; amended effective May 1, 1998; July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-18

CHAPTER 82-07-04

82-07-04-01. Suspension of disability benefits.

1. When a member receiving disability retirement benefits is not recertified as eligible for continued benefits, the board shall presume the member does not have a "total disability" and the disability benefits must cease on the first day of the month following the date the member is not recertified eligible for continued benefits.
2. When a member receiving disability retirement benefits returns to ~~covered employment~~ active teaching in North Dakota or out of state, the board shall do one of the following:
 - a. Presume the member does not have a "total disability" and, pursuant to subsection 3 of North Dakota Century Code section 15-39.1-18, suspend the member's disability benefits on the first day of the month following the date the member returns to ~~regular employment~~ active teaching.
 - b. If the member consents, allow continued payment of the disability benefit for up to six months ~~during the member's covered employment~~ to permit a member who has partially recovered from the disability to return to ~~regular employment~~ active teaching on a trial basis. If the member terminates the ~~covered~~ employment prior to the end of the trial period as set by the board, the board shall not deem the member recovered under North Dakota Century Code section 15-39.1-18, and the member's benefits must continue as permitted under North Dakota Century Code chapter 15-39.1 and this title. If, at the end of the trial period, the member has not terminated the ~~covered~~ employment, the board shall presume the member does not have a "total disability" and shall suspend the member's disability benefits on the first day of the month following the date the member's trial period ends pursuant to North Dakota Century Code section 15-39.1-18.

History: Effective September 1, 1990; amended effective May 1, 1998; July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-18, 15-39.1-19.1

CHAPTER 82-10-01

82-10-01-01. Right to formal hearing and appeal. Any applicant aggrieved by a decision of the board may initiate a formal administrative action against the board in accordance with North Dakota Century Code chapter 28-32. The applicant must file a request for a formal hearing within thirty days after notice of the initial decision has been mailed or ~~delivered~~. If an appeal is not filed within the thirty-day period, the initial decision of the board is final. If a request for a formal hearing is timely filed, notice of the hearing must be served at least thirty days before the date set for the hearing. The board shall request appointment of an administrative law judge from the office of administrative hearings to conduct the hearing and make recommended findings of fact, conclusions of law, and order. The board shall either accept the administrative law judge's recommended findings of fact, conclusions of law, and order or adopt its own findings of fact, conclusions of law, and order. The applicant may appeal the final decision resulting from this procedure to the district court in accordance with North Dakota Century Code chapter 28-32.

History: Effective May 1, 2002; amended effective July 1, 2008.

General Authority: NDCC 15-39.1-07

Law Implemented: NDCC 15-39.1-07

