

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1200
(Representative Keiser)

AN ACT to amend and reenact section 43-28-25 of the North Dakota Century Code, relating to dental services offered through a nonprofit organization; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 43-28-25 of the North Dakota Century Code is amended and reenacted as follows:

43-28-25. Unlawful acts - Penalty. It is a class A misdemeanor:

1. For any dentist, dental hygienist, legal entity, or unlicensed person, who owns, operates, or controls any room or office where dental work of any kind is done or contracted for, to employ, keep, or retain any unregistered dentist, dental hygienist, dental assistant, or other unregistered persons to do any dental work whatsoever, except as otherwise provided by statute or rule.
2. For any dentist to help or assist any unlicensed person to perform any act or operation ~~which that is defined in this chapter~~ as the practice of dentistry.
3. For any dentist to advise or direct patients to dental laboratories or dental laboratory technicians for any dental service, or to advise or direct patients to deal directly with laboratories or dental laboratory technicians.
4. For any dentist to work or cooperate with dental laboratories ~~which~~ that advertise for public patronage by delegating work to such laboratories in return for the reference of laboratory patrons for professional services.
5. For any dentist to use the services of any person or legal entity not licensed to practice dentistry in this state, to construct, alter, repair, or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, without first furnishing such unlicensed person a written prescription on forms prescribed by the board; which must contain:
 - a. The name and address of such unlicensed person;
 - b. The patient's name or number, in the event such number is used, the name of the patient must be written upon the duplicate copy of such prescription retained by the dentist;
 - c. The date on which it was written;
 - d. A prescription of the work to be done, with diagram, if necessary;
 - e. A specification of the type and quality of materials to be used; and
 - f. The signature of the dentist and the number of the dentist's North Dakota license.

Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board or ~~its~~ the board's agent for two years.

6. For any dentist:

- a. To use the service of any unlicensed persons without first having furnished the unlicensed person such prescription;
 - b. To fail to retain a duplicate copy thereof for two years; or
 - c. To refuse to allow the board or ~~its~~ the board's agent to inspect such prescription during the two-year period of time.
7. For any unlicensed person:
 - a. To perform any such service without first having obtained such prescription;
 - b. To fail to retain the original thereof for two years; or
 - c. To refuse to allow the board or ~~its~~ the board's agent to inspect it during such two-year period of time.
8. For any person:
 - a. To falsely claim or pretend to be a graduate from any dental college or the holder of any diploma or degree from such college;
 - b. To practice any fraud and deceit either in obtaining a license or a certificate of registration;
 - c. To falsely claim or pretend to have or hold a license or certificate of registration from the board to practice dentistry; or
 - d. To practice dentistry in this state without a license and certificate of registration.
9. For any person, except a North Dakota licensed practicing dentist, to own more than forty-nine percent of an office practice or business ~~where dental operations, dental oral surgery, or dental services are~~ at which the practice of dentistry is performed. This provision does not apply to a board-approved medical clinics and public health settings where dentists are clinic, hospital, or public health setting with which a dentist is associated ~~and;~~ a board-approved nonprofit organization created to serve the dental needs of an underserved population; or the heir or personal representative of a deceased dentist who. The heir or personal representative may operate an office under the name of the deceased dentist for a period of not longer than two years from the date of the dentist's death.

The board may institute a civil action for an injunction prohibiting violations of this section without proof that anyone suffered actual damages.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1200.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,
at _____ o'clock _____ M.

Secretary of State