

DENTISTRY

CHAPTER 104

S. B. No. 138—(Indergaard and Trovatten.)

REGULATION PRACTICE OF DENTISTRY

An Act to amend and re-enact Sections 507, 508, 511, and 512 of the Compiled Laws of 1913, and Section 509 and 510 of the 1925 Supplement to Compiled Laws of 1913, and to provide that unprofessional conduct shall be grounds for revocation of dentist's license.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 507 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 507. BOARD. HOW CONSTITUTED.] The State Board of Dental Examiners, consisting of five members, heretofore created, shall continue to be the State Board of Dental Examiners. Upon the expiration of each member's term of office the Governor shall appoint his successor, who shall hold office for five years and until his successor is appointed and qualified. All vacancies in such board shall be filled by appointment by the Governor. No person shall be eligible to appointment on such board who is not actively engaged in the practice of his profession, and shall have been so engaged in the State for a period of at least the five years next preceding his appointment, and shall have been recommended for such appointment by the North Dakota Dental Association as hereinafter provided. No member shall serve more than one term of appointment. The board shall at all times include five members who shall have been appointed on the recommendation of the North Dakota Dental Association, provided such recommendation to the Governor be made at least ninety days before the expiration of a term of a member. Otherwise, the Governor shall appoint from the last recommendations by the North Dakota Dental Association. Every vacancy caused otherwise than by the expiration of a term, shall be filled in the same manner. If a member shall be absent from two consecutive regular meetings, the board may declare a vacancy to exist. The Association shall recommend not less than three candidates for each appointment.

§ 2. AMENDMENT.] That Section 508 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 508. OFFICERS. MEETINGS. COMPENSATION. REPORT.] At every annual meeting of the board, it shall elect from its members a President, a Vice President, and a Secretary-Treasurer, and shall have a seal. It shall hold regular meetings at such places as it may designate on the second Tuesday of the month of July of each year, and such special meetings as are necessary. Out of the funds received

by the board under the provisions of this or any other law heretofore, or hereafter enacted, each member of the board shall receive as compensation for his services the sum of ten dollars for each day that he is actually engaged in the duties of his office, five cents per mile for distance necessarily traveled in going to and return from the meetings of the board, and for meals and lodging, not to exceed \$5.00 per day, and out of the fund the secretary-treasurer shall be paid an annual salary equal to fifteen per cent of all funds received by the board during the year. No part of the salary of the secretary-treasurer or the expenses or compensation of the board shall be paid out of the State Treasury. All amounts received in excess of said compensation and traveling expenses of the members of the board and the salary of the secretary-treasurer as above provided for shall be held by the secretary-treasurer of the board as a special fund for defraying other necessary expenses of the board and for carrying out the provisions of this Act. The secretary-treasurer of the board shall from time to time give such bond as the board may direct. The board shall make an annual report of its proceedings to the Governor on or before the thirtieth day of June in each year, which report shall contain an account of all moneys received and disbursed by the board during the preceding year.

§ 3. AMENDMENT.] That Section 509 of the 1925 Supplement to the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 509. DENTISTRY DEFINED. INHIBITION. EXCEPTION.] Every person shall be deemed to be practicing dentistry within the meaning of this section who shall use the word or letters "Dentist" or "D. D. S.," "D. M. D." or any other letters of title in connection with his name, which in any manner represents him as engaged in the practice of dentistry, or who shall advertise, or permit it to be done, by sign, card, circular, hand bill, newspaper, radio or otherwise, that he can or will attempt to perform dental operations of any kind, treat diseases or lesions of the human jaw, administer an anesthetic, local or general as applied to dentistry, or take and diagnose Dental X-Rays, or make injections of drugs as applied to Dentistry, or replace lost teeth by artificial ones or attempt to correct malposition thereof, or sign death certificates; or who shall for a fee, salary, or other reward, paid or to be paid, either to himself or to another person, perform dental operations of any kind, treat diseases or lesions of the human jaw or teeth, administer an anesthetic local or general as applied to dentistry, or take and diagnose Dental X-Rays, or make injections of drugs as applied to dentistry, or replace lost teeth by artificial ones, or attempt to correct malposition thereof, and sign death certificates. Provided, however, that this section:

(A) Shall not prohibit nonlicensed persons from doing mechanical work upon inert matter in dental offices or laboratories.

(B) Shall not apply to students enrolled in and regularly attending any dental college recognized as such by the state board of dental examiners, provided their acts are done in said dental college and under the direct supervision of their instructor.

(C) Shall not apply to a legally qualified and licensed physician or surgeon in the conduct of his practice or who extracts teeth or relieves pain or prescribes for the relief of pain.

(D) Shall not apply to duly licensed and registered dentists of another state temporarily operating in a clinic under the auspices of a dental college or reputable dental society, or to one lecturing before a duly organized and reputable society composed exclusively of dentists or dental nurses.

(E) Shall not prohibit a dental hygienist, regularly licensed and registered from practicing as provided by law.

§ 4. AMENDMENT.] That Section 510 of the 1925 Supplement to the Compiled Laws of 1913, is hereby amended and re-enacted to read as follows:

§ 510. EXAMINATION. LICENSES. REVOCATION. ASSUMED NAME.] Any person not already a licensed dentist in this state at the time of the going into effect of this article, desiring to practice dentistry in North Dakota, shall apply to the secretary-treasurer of the board for examination and enclose with the application, a recent autographed picture of himself, and a fee of twenty-five dollars for the first examination and ten dollars for any subsequent examination, which fee shall in no case be refundable. At the next regular meeting of the board held after such application is made, the applicant shall present himself for examination and produce a diploma issued to him by some dental college recognized by the board. No person shall be admitted to examination unless he shall prove to the satisfaction of the board that he has received a preliminary general education equivalent to at least four years of study in some accredited high school or an academy of the State of North Dakota having a four year course beyond that of an elementary school, and from and after the first day of January, 1920, every applicant for such examination shall in addition to the foregoing requirements, present to the board satisfactory evidence of having successfully completed a preliminary course of study equivalent to at least one year of pre-dental work at the University of North Dakota, provided, however, that the privileges of such examination are not denied an applicant therefor who holds a license to practice dentistry in some other state than North Dakota, whose laws and requirements in this particular were equivalent to those operating in North Dakota prior to January first, 1920. No holder of a degree or diploma from a foreign country or province which does not accept for examination the holder of a license to practice dentistry issued by the state board of dental examiners of this state shall be eligible for such examination. The board shall give the applicant such an exam-

ination as to thoroughly test his fitness for the practice of dentistry and include therein the subjects of anatomy, physiology, oral surgery, chemistry, materia medica, therapeutics, metallurgy, histology, pathology, bacteriology, orthodontia, prosthetic dentistry, crown and bridge, x-ray, and operative, surgical and mechanical dentistry, and such other subjects as may be deemed by the board to be necessary or proper. If the applicant successfully passes the examination, he shall forthwith be registered upon the records of the board as a duly qualified dentist, and shall receive a certificate of registration signed by all members of the board, whereby he shall be authorized to practice dentistry in said state for the calendar year of the date of such certificate and thereafter as long as such certificate shall be annually renewed as hereinafter provided, provided, that any dentist who has for five years or more immediately preceding his application been in legal practice in another state having and maintaining a standard of laws regulating the practice of dentistry equal with this state, including reciprocity provisions, and who is a reputable dentist of good moral character and who is desirous of removing to this state and who deposits in person with the North Dakota Board of Dental Examiners a certificate from the examining board of the state in which he is practicing, certifying to the fact of his registration and that he is of good moral character, and a letter from the secretary of the state dental organization of the state in which he is practicing, certifying that he is a member in good standing of that dental organization, and upon payment of a fee of fifty dollars (\$50.00), may, at the discretion of the board, be permitted by said board to take the practical examination only as prescribed by said board, and upon his demonstrating his ability to the satisfaction of said board, the board shall grant to him a license to practice in this state without theoretical examination. The board upon hearing, after twenty days notice thereof, may revoke the license of anyone who, with intent to deceive the public, shall practice dentistry under an assumed name. It shall be no defense for a person prosecuted for practicing dentistry under one name, without license, that he shall have been licensed under a different name, unless it be shown that such practice was without intent to deceive.

The said board may revoke or suspend the license of any dentist for any of the following causes:

(1) His conviction of a felony; or of a misdemeanor involving moral turpitude, and in either case the record of conviction or certified copy thereof certified by the clerk of court, or by the judge, in whose court the conviction is had, shall be conclusive evidence of such conviction.

(2) Unprofessional conduct, or for gross ignorance or inefficiency in his profession. Unprofessional conduct shall mean habitual intemperance, or gross immorality, or the obtaining of any fee by fraud or misrepresentation.

The proceeding to revoke or suspend any license under the first subdivision hereof must be taken by the board on a receipt of a certified copy of the record of conviction. The proceedings under the second subdivision hereof may be taken upon the information of another. All accusations must be in writing, verified by some person familiar with the facts therein charged, and three copies thereof must be filed with the secretary-treasurer of the board. Upon receiving the accusation, the board shall, if it deem the complaint sufficient, make an order setting the same for hearing at a specified time and place, and the secretary-treasurer shall cause a copy of the order and the accusation to be served upon the accused, by delivery of the same to him personally, or by registered mail, at least twenty (20) days before the day appointed in the order for such hearing. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same unless for sufficient cause the board assign another day for the purpose. If he does not appear after due service upon him of the accusation and order as aforesaid, the board may proceed and determine the accusation in his absence. If the accused pleads guilty or refuses to answer the charges or upon the hearing thereof the board shall find them or any of them true, it may revoke his license or suspend it. The board and the accused may have the benefit of the services of counsel duly licensed to practice law in this state. The board shall have power to administer oaths, and summon witnesses and take testimony upon such hearing, and when the board or the accused shall desire to secure the presence or testimony of any person before the board, said board or such accused may procure subpoenas from the clerk of the district court of the county wherein such hearing is to be had, and the clerk of the court is hereby directed to issue such subpoenas in the name of the state, commanding the persons whose name shall be given to such clerk by the board or by such accused person to appear before the board at a certain time and place fixed by the board for such hearing and then and there to testify upon such hearing. If any person so commanded to appear and testify shall fail or refuse to obey such subpoenas, he shall be dealt with by said district court in the same manner and to the same effect as though such subpoenas had commanded such person to appear and testify in a cause or trial in said court. Such persons so commanded to appear and testify shall be entitled to the same fees as witnesses in district court, and such subpoena shall be served in the manner provided by law for the service of subpoenas for trials in said courts and shall be substantially the same form. Testimony of witnesses not subject to subpoena may be taken, upon notice, certified and returned to the secretary-treasurer of the board in the same manner as is provided by the law applicable to civil cases in district court.

§ 5. AMENDMENT.] That Section 511 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 511. RECORD OF LICENSE. FEES.] Every holder of a dental license issued under the authority of this Act, shall within ninety days after its issuance file the same record in the office of the clerk of the district court in the county where the holder resides, and if said holder of a dental license changes his residence to another county, he shall file said license in the office of the clerk of the district court of such county before practicing therein. The clerk's fee for recording a license shall be fifty cents. Every dentist in this state admitted to practice under former laws shall be subject to the provisions of this section, provided that every such dentist must file his license as above provided within ninety days after this Act goes into effect. Every licensed dentist upon changing his place of business shall, within ten (10) days thereafter, furnish the secretary-treasurer of the board of dental examiners with his new address by registered mail, return receipt requested. He shall not act as a dentist for more than ten days after such removal, without giving such notice. In case of a lost state board certificate, and satisfactory proof of the loss or destruction thereof being furnished to the board in a sworn statement, the board shall issue a duplicate license charging a fee therefor of five dollars.

§ 6. AMENDMENT.] That Section 512 of the Compiled Laws of 1913 is hereby amended and re-enacted to read as follows:

§ 512. RENEWAL OF CERTIFICATE. ANNUAL FEE. CERTIFICATE AS EVIDENCE.] No certificate or renewal thereof shall be valid for more than the calendar year of its issuance, and every registered dentist shall on or before the first day of January in each year, if he desires to have his certificate renewed, pay to the board a fee of three dollars (\$3.00) for the renewal of such certificate, and thereupon the board shall issue to him a renewal thereof. The board may upon hearing and after twenty days notice by registered mail, revoke the license of any registered dentist in case of default in the payment of such annual fee, but the payment thereof on or before the time of hearing, with such additional sum, not exceeding ten dollars (\$10.00), as may be fixed by the board, shall excuse such default and entitle the holder to a renewal of his certificate. In case said registered dentist does not pay the renewal fee with penalty within the twenty day period as heretofore provided, his license to practice dentistry in North Dakota may be revoked by the board, and the board, in its discretion may institute proceedings as provided for in Section 514 of the 1925 Supplement to the Compiled Laws of 1913; provided, however, that any practitioner of dentistry who has been duly licensed to practice dentistry in this state by the Board of Dental Examiners and who has changed his residence to some other state or country and who is subject to revocation or suspension of license by reason of his failure to pay the annual fee as heretofore required, may be reinstated, his suspension revoked and his annual certificate renewed by paying to the Secretary-Treas-

urer of the Board the amount of such fee, not to exceed six dollars (\$6.00). All certificates and renewals thereof shall be prima facie evidence of the right of the holder to practice dentistry in this state during the period for which they are issued. Any person receiving such certificate and the renewal thereof shall display the same conspicuously in his place of business. The fee of the board for issuing a duplicate certificate shall be one dollar (\$1.00). All fees provided for in this section may at the discretion of the board be collected in a civil action.

§ 7. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved February 17, 1933.

DIVORCE

CHAPTER 105

H. B. No. 66—(Anderson of Logan.)

REVOCATION DECREE SEPARATE MAINTENANCE

An Act to amend and re-enact Section 5 of Chapter 132 Session Laws of 1927 relating to the conditions under which a decree for separation forever, when a decree for separation forever may be revoked, and the terms and conditions upon which the judge, or his successor, may entertain such application and render a decree of absolute divorce.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 5 of Chapter 132 Session Laws 1927 be amended and re-enacted to read as follows:

§ 5. When a decree for separation forever or for a limited period shall have been pronounced, it may be revoked at any time thereafter, by the same judge, or his successor, by whom it was pronounced, under such regulations and restrictions as the judge may impose, upon the application of either of the parties to such decree, upon not less than 10 nor more than 20 days' notice to the other of such application, by the service of moving papers to be used on such application. Such service of moving papers may be made in the same manner as to service as that of a summons in a civil action. Upon the service of said moving papers, if it shall be made to appear, on the hearing of such application, that the original decree has been in existence and force for more than four years, and that reconciliation between the parties to the marriage is improbable, the judge may revoke such separate maintenance decree and, in lieu thereof, render a decree absolutely divorcing the parties and at the same time make such final division of the property or direct the payment of such alimony and make such orders with reference to minor children, if any, as justice and the merits of the case and the circumstances of the parties shall warrant.