

OCCUPATIONS AND PROFESSIONS

CHAPTER 345

HOUSE BILL NO. 1315
(Kermott, Jacob)

STATE BOARD OF ARCHITECTURE

AN ACT to create and enact section 43-03-22 of the North Dakota Century Code, relating to the regulation of the practice of architecture; and to amend and reenact sections 43-03-01, 43-03-04, 43-03-06, 43-03-11, 43-03-13, 43-03-14, 43-03-15, 43-03-16, 43-03-18, 43-03-19, 43-03-20, and 43-03-21 of the North Dakota Century Code, relating to the membership, powers and duties of the state board of architecture, the qualifications and examination of applicants for registration and the regulation of the practice of architecture, and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 43-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-01. DEFINITIONS.) In this chapter, unless the context or the subject matter otherwise requires:

1. "Board" shall mean the state board of architecture.
2. "Architect" shall mean an individual who is registered under the provisions of this chapter.

SECTION 2. AMENDMENT.) Section 43-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-04. QUALIFICATIONS OF MEMBERS OF BOARD - REMOVAL OF MEMBERS.) A member of the board shall be an architect who has been a resident of and in active practice as principal in this state for not less than three years prior to his appointment. The governor may remove any of the members of the board for inefficiency or neglect of duty.

SECTION 3. AMENDMENT.) Section 43-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-06. SALARY OF SECRETARY OF BOARD AND MEMBERS OF BOARD - EXPENSES OF BOARD.) The secretary of the board shall receive such salary as shall be fixed by a resolution of the board adopted at a regular meeting, and also shall receive such traveling, hotel, and other expenses as are incurred legitimately in the performance of his official duties. Each of the other members of the board shall receive twenty-five dollars for each day or portion thereof spent in the discharge of his duties, such mileage as is provided by section 54-06-09, and shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties. The expenses of the board and its officers at no time shall exceed the amount of moneys received and on deposit to the credit of the board under the provisions of this chapter.

SECTION 4. AMENDMENT.) Section 43-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-11. APPLICATION FOR EXAMINATION - FEE.) Before a person may take the examination for registration as an architect, he shall make an application to the board submitting satisfactory evidence of having the required qualifications and shall pay a fee of fifty dollars. When re-examination is required, the applicant shall pay a fee of twenty-five dollars for a re-examination. The fee for re-examination may be waived in whole or in part by the board.

SECTION 5. AMENDMENT.) Section 43-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-13. QUALIFICATIONS.) An applicant for registration as an architect shall have the following qualifications:

1. Be of legal age;
2. Be of good moral character, with rejection possible on the basis of the following:
 - a. Conviction for commission of a felony;
 - b. Misstatement or misrepresentation of fact by the applicant in connection with his application;
 - c. Violation of any of the standards of conduct required of license holders and set forth in the statutes;
3. Have successfully completed an examination for registration; and
4. Have had what practical experience and academic training as is specified in the current guidelines

published by the National Council of Architectural Registration Boards.

SECTION 6. AMENDMENT.) Section 43-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-14. EXAMINATION.) Before an applicant may be registered as an architect, he shall pass satisfactorily an examination in such technical and professional courses as are established by the board. The examination shall have special reference to the planning, design, and construction of buildings. The examination shall cover such subjects and be graded on such basis as outlined by the National Council of Architectural Registration Boards.

SECTION 7. AMENDMENT.) Section 43-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-15. WHEN EXAMINATION NOT NECESSARY.) A non-resident applicant seeking to practice architecture in North Dakota may be admitted to practice, if:

1. The applicant holds a license in the state where his office is located; and
2. The applicant holds a National Council of Architectural Registration Boards certificate, when:
 - a. The applicant files his application with the board, containing such information concerning the applicant as the board considers pertinent; and
 - b. The board receives from the National Council of Architectural Registration Boards a certified copy of the applicant's council record.

SECTION 8. AMENDMENT.) Section 43-03-16 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-16. CERTIFICATES OF REGISTRATION ISSUED BY BOARD - RESULT OF EXAMINATIONS RECORDED BY SECRETARY OF BOARD - CERTIFICATE FILED WITH SECRETARY OF STATE.) The result of every examination for registration as an architect or the evidence of qualifications, shall be recorded by the secretary of the board, and the board shall issue a certificate of registration to every person who has passed the examination or otherwise is entitled to receive the certificate. Within thirty days of approval of certification of an architect, the secretary of the board shall file the architect's certificate of registration with the secretary of state, who shall provide a special book

for the purpose of keeping an index of such filings.

SECTION 9. AMENDMENT.) Section 43-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-18. FEES.) The following shall be the registration and renewal fees required to be paid by an architect:

1. Registration fee, following examination, fifty dollars;
2. Registration fee, when examination not necessary under section 43-03-15, fifty dollars;
3. Annual renewal fee, twenty-five dollars.

SECTION 10. AMENDMENT.) Section 43-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-19. EFFECT OF FAILURE TO PAY RENEWAL FEE.) 1. If the holder of a certificate of registration as an architect fails to pay the annual renewal fee when due, he shall have his certificate revoked unless his application for renewal is made within one year after the expiration of his certificate. He then shall pay a renewal fee of twenty-five dollars. If a former holder applies for renewal more than one year after the expiration of his certificate he may, in the board's discretion, be reinstated upon payment of a fee of one hundred dollars.

2. No certificate shall be revoked for nonpayment of fees unless the secretary of the board has first given at least thirty days' notice by certified mail to the holder of such certificate; said notice shall be directed to the last known address or place of residence of the delinquent.

SECTION 11. AMENDMENT.) Section 43-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-20. REVOCATION OF REGISTRATION.) The board, after a hearing upon thirty days' written notice to the holder thereof, may revoke any certificate of registration of an architect upon proof that:

1. Such certificate has been obtained by fraud or misrepresentation; or
2. The holder of such certificate has been guilty of malfeasance, fraud, gross incompetency, or negligence in connection with his practice of architecture; or

3. The holder of such certificate has allowed non-registered persons or entities to practice as an architect by the device of permitting his name or stamp to be placed upon drawings, or other contract documents, not prepared by him or under his direct supervision; or
4. The holder of such certificate has been convicted of a felony; or
5. The holder of such certificate has violated any provisions of this chapter.

SECTION 12. AMENDMENT.) Section 43-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-21. PENALTY.) Any person violating the provisions of this chapter is guilty of a misdemeanor, and shall be punished in accordance with the provisions of section 12-06-14, North Dakota Century Code.

SECTION 13. AMENDMENT.) Section 43-03-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-03-22. STAMP.) At the time of the issuance of the certificate of registration, the board shall furnish to the applicant, at the applicant's expense, a rubber stamp to be used by him in the conduct of his practice and to be impressed upon drawings and other documents prepared by him. The board shall prescribe rules governing the use of such stamp and architect's signature.

Approved March 14, 1973

CHAPTER 346

SENATE BILL NO. 2198
(Longmire)

BOARD OF BARBER EXAMINERS

AN ACT to provide for an extension in the term of office of a member of the board of barber examiners; and to amend and reenact sections 43-04-04, 43-04-07, 43-04-34, and 43-04-42 of the North Dakota Century Code, relating to the board of barber examiners, compensation for the board, provision for re-examination of those who fail, and fees.

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

SECTION 1. EXTENSION IN TERM OF OFFICE.) That member of the board of barber examiners whose term of office would normally expire in June of the year following the effective date of this Act shall remain in office until the following December when a new appointment shall be made by the governor.

SECTION 2. AMENDMENT.) Section 43-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-04. BOARD OF BARBER EXAMINERS - APPOINTMENT - TERM OF OFFICE - QUALIFICATIONS.) The board of barber examiners shall consist of three members, each of whom shall be appointed by the governor for a term of three years. The terms of office of the members shall be so arranged that one term shall expire on the thirty-first day of December of each year. Each appointment shall be made from a list of five names submitted to the governor by the state barber association, and each member shall be a registered barber who has followed the occupation of barber in this state for at least five years prior to his appointment.

SECTION 3. AMENDMENT.) Section 43-04-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-07. COMPENSATION - MILEAGE - HOW PAID.) Each member of said board shall receive twenty dollars per day for actual services and shall also be paid his actual expenses as provided by law incurred in attending said meetings and in the performance of his official duties. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 4. AMENDMENT.) Section 43-04-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-34. FAILURE TO PASS EXAMINATION FOR APPRENTICE BARBER - WHEN APPLICANT MAY BE RE-EXAMINED.) An applicant for a certificate of registration to practice as an apprentice barber, who fails to pass a satisfactory examination, shall complete a further course of study of not less than one hundred sixty hours in a school of barbering approved by the board. Such course of study shall be in the subject or subjects the applicant failed to pass and shall be completed in not less than one month of not more than eight hours in any one working day.

SECTION 5. AMENDMENT.) Section 43-04-42 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-42. FEES.) The fees to be paid by an applicant are as follows:

1. For examination for a certificate to practice master barbering, twenty dollars;
2. For issuance of such certificate, two dollars;
3. For examination for a certificate to practice as an apprentice barber, ten dollars;
4. For issuance of such certificate, two dollars;
5. For renewal of master barber's certificate, fifteen dollars;
6. For restoration of expired master barber's certificate, a five-dollar penalty fee in addition to the regular renewal fee;
7. For renewal of apprentice barber's certificate, ten dollars;
8. For restoration of expired apprentice barber's certificate, a five-dollar penalty fee in addition to the regular renewal fee;
9. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars; and
10. Annual establishment fees to be paid by each shop owner in advance, five dollars for the first barber chair and two dollars for each additional barber chair which is usable in the shop.

Each application to open or establish a barber shop in this state shall be accompanied by a fee of twenty-five dollars to cover expenses of inspection, which shall be retained by the board and deposited as other fees. A duplicate license certificate or permit will be issued upon the filing of a statement covering the loss of the same, verified by the oath of the applicant, and submitting a signed photograph of the applicant and the payment of a fee of fifty cents for the issuance of the duplicate. The board shall have the power to reduce renewal fees below the amounts heretofore set out in this section whenever such board determines that the full amount is not necessary to finance the necessary and regular operations of the board. Such reduction shall be made by the board only by applying an equal percentage of reduction to all renewal fees provided for in this chapter, and such reduction shall be made when commencing the licensing year and shall be in effect for the whole of such year. Anyone becoming a member of armed forces of the United States in time of war while holding a license as a barber or apprentice and while in good standing as to payment of fees, may obtain a restoration of his certificate without payment of such restoration fee.

Approved March 15, 1973

CHAPTER 347

HOUSE BILL NO. 1095
(Metzger)

EMPLOYMENT PREFERENCE IN CONTRACTS

AN ACT to amend and reenact section 43-07-20 of the North Dakota Century Code, relating to employment preferences in contracts.

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

SECTION 1. AMENDMENT.) Section 43-07-20 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-20. EMPLOYMENT PREFERENCE IN CONTRACT.) In all contracts, except those which involve federal-aid funds and where a preference or discrimination would be contrary to a federal law or regulation, hereafter let for state, county, city, school district, or township construction, repair, or maintenance work under any laws of this state there shall be inserted a provision by which the contractor must give preference to the employment of bona fide North Dakota residents, with preference given first to honorably discharged disabled veterans and veterans of the armed forces of the United States, who are deemed to be qualified in the performance of said work. Such preference shall not apply to engineering, superintendence, management, or office or clerical work.

No contract shall be let to any person, firm, association, cooperative, or corporation refusing to execute an agreement containing the aforementioned provisions.

Approved March 30, 1973

CHAPTER 348

SENATE BILL NO. 2074
(Lips)

PRE-NEED FUNERAL SERVICES

AN ACT to amend and reenact sections 43-10.1-01, 43-10.1-02, 43-10.1-03, 43-10.1-04, 43-10.1-06, and 43-10.1-07 of the North Dakota Century Code, relating to pre-need funeral services.

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

SECTION 1. AMENDMENT.) Section 43-10.1-01 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-01. DEFINITIONS.) As used in this chapter:

1. "Person" means any natural person, firm, association, corporation, or agents or employees thereof.
2. "Pre-need funeral service contract" means any contract, other than a contract of insurance, under which for a specified consideration paid in advance in a lump sum or by installments, a person promises, upon the death of a beneficiary named or implied in the contract, to furnish professional service or personal property to be used in funeral services.
3. "Professional service or personal property to be used in funeral services" means all personal property, services, supplies, and equipment normally performed or furnished by a licensed embalmer, a licensed funeral establishment, or a cemetery association.
4. "Licensed funeral establishment" means a funeral establishment as defined and licensed in accordance with sections 43-10-21 and 43-10-22.
5. "Cemetery association" means any person, corporation, municipality, association, or organization owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies.

SECTION 2. AMENDMENT.) Section 43-10.1-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and

reenacted to read as follows:

43-10.1-02. PRE-NEED FUNERAL SERVICE CONTRACTS.) No person shall engage in the sale or execution of a pre-need funeral service contract unless such person shall be the operator or manager of a licensed funeral establishment, a cemetery association, or an agent or employee of such operator, manager, establishment, or association.

SECTION 3. AMENDMENT.) Section 43-10.1-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-03. ANNUAL REPORT FILED WITH SECRETARY OF STATE.) On or before January thirty-first of each year, the owner or manager of each licensed funeral establishment or cemetery association shall file a report covering the period of the preceding calendar year with the secretary of state, which report shall include:

1. The name and address of the licensed funeral establishment or cemetery association and the name and address of the manager or operator thereof.
2. The name of the purchaser and beneficiary of each pre-need funeral service contract executed on behalf of the licensed funeral establishment or cemetery association during the preceding calendar year and the date such contract was executed.
3. The lump sum consideration paid upon such pre-need funeral service contract or, if paid in installments, the total amount in dollars of such installment payments during the calendar year.
4. The name and address of the bank or trust company in which such consideration was deposited in accordance with section 23-06-03.1. Except that a cemetery association shall deposit not less than 50 percent of the sale price of vaults and markers in a trust fund as provided for in 23-06-03.1.
5. The total in dollars of all sums received as consideration upon pre-need funeral service contracts executed by the licensed funeral establishment or cemetery association or in its behalf during all periods after July 1, 1973, which are undrawn or unexpended and on deposit in a bank or trust company or in the hands of the licensed funeral establishment or cemetery association.
6. Such other information as may reasonably be required by the secretary of state for the purpose of the proper administration of this chapter.

Such report shall be accompanied by a filing fee of five dollars and shall be a public record.

SECTION 4. AMENDMENT.) Section 43-10.1-04 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-04. BOND.) The owner or operator of a licensed funeral establishment or cemetery association shall, at the time of filing the annual report required in section 43-10.1-03, file with the secretary of state a corporate or personal surety bond approved by the secretary of state in an amount deemed adequate by the secretary of state, but not less than the aggregate total sum received as consideration upon pre-need funeral service contracts as reported in accordance with subsection 5 of section 43-10.1-03. The bond shall be conditioned upon the faithful performance of all provisions of each pre-need funeral service contract and shall be payable to the secretary of state for the use and benefit of the purchasers or persons making payments upon pre-need funeral service contracts or their estates, or the beneficiary of the pre-need funeral service contract or his estate for damages suffered by them because of the failure to comply with all provisions of the pre-need funeral service contract.

SECTION 5. AMENDMENT.) Section 43-10.1-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-06. SPECIAL AUDITS - VIOLATIONS OF LAW.) In the event any licensed funeral establishment or cemetery association, or its operator or manager, shall fail or refuse to file the reports as required by this chapter, or in the event the secretary of state may have reason to believe as a result of discrepancies discovered through verification procedures as provided in section 43-10.1-05 which have not been satisfactorily explained or corrected, or based upon other reliable information that any licensed funeral establishment or cemetery association, or its operator or manager, may have violated any of the provisions of this chapter, he may in his discretion, after consultation with the board of embalmers, employ a special auditor selected by him for the purpose of auditing the books and records of the licensed funeral establishment or cemetery association, or its operator or manager, for the purpose of determining compliance with this chapter, and such auditor shall have the right to enter upon the premises and examine such books and records as may be necessary to complete the audit. The costs of such special audits, but not exceeding a total of one thousand dollars in any calendar year, shall be paid by the state board of embalmers from funds available to the board. If such audit was caused by refusal or failure to file reports as required by this chapter, or if such audit shall disclose a violation of this chapter, such board shall immediately forward a claim for the costs of each special audit to the licensed funeral establishment or cemetery association which was audited or to its operator or manager if such persons were audited, and such establishment, or association, or its operator or manager, if such persons were audited, shall immediately reimburse the state board of embalmers for the audit costs. In the event that such claim shall not be paid within a reasonable time after its presentation, it shall be forwarded to the attorney general who shall bring such

action in the name of the state board of embalmers and the state of North Dakota as may be required for its collection.

SECTION 6. AMENDMENT.) Section 43-10.1-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-07. PROSECUTION FOR VIOLATIONS OF LAW.) If, as a result of verification procedures or special audits as provided in sections 43-10.1-05 and 43-10.1-06, or based upon other reliable information, the secretary of state, after consultation with the attorney general, shall believe that grounds for criminal prosecution of the operator or manager of any licensed funeral establishment or cemetery association or any other person exists for violation of this chapter or any other law of this state, he shall forward such information and evidence as is available or known to him to the state's attorney of the county having jurisdiction over such violation for such criminal prosecution of such operator, manager, or other person as the information and evidence requires.

Approved March 29, 1973

CHAPTER 349

SENATE BILL NO. 2123
(Holand)

HAIRDRESSING AND COSMETOLOGY

AN ACT to create and enact subsection 4 of section 43-11-27 of the North Dakota Century Code, relating to renewals of cosmetology instructors' licenses; and to amend and reenact sections 43-11-16, 43-11-25, 43-11-26, and subsection 1 of section 43-11-27 of the North Dakota Century Code, relating to qualifications of schools of hairdressing and cosmetology, reciprocity fees, and qualifications for obtaining a manager-operator's license and an instructor's license.

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

SECTION 1. AMENDMENT.) Section 43-11-16 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-16. REGISTERED SCHOOLS - QUALIFICATIONS FOR REGISTRATION.) A certificate of registration shall be granted to a school for hairdressers and cosmetologists upon an application to the board and the payment of the annual registration fee, if the school:

1. Is operated and maintained in premises entirely distinct and permanently separated from any hairdressing, beauty, or cosmetologist shop;
2. Requires one thousand five hundred hours of training and instruction in cosmetology;
3. Attaches to its staff as a lecturer and consultant a person licensed by this state to practice an unlimited or limited branch of medicine;
4. Employs at least two full-time licensed instructors for the first twenty-five students enrolled and one additional instructor for each additional twenty-five students enrolled or fraction thereof after such school's enrollment has reached fifty students;
5. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;

6. Keeps a daily record of the attendance of each student which shall not be in excess of eight hours per day;
7. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audio-visual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology or any practice thereof as provided in this chapter;
8. Agrees not to:
 - a. Conduct a clinical department for fees after registration by the board, until such school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter;
 - b. Permit any student to practice on any person not an instructor or registered student of such school until such student has completed at least twenty percent of the total hours of instruction required by this chapter;
 - c. Compensate any of its basic students in any way;
 - d. Make appointments for clinical services; and
 - e. Advertise the fees charged for clinical service and;
9. At the time of application for its license and upon the renewal of such license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. Such bond shall run in favor of the board, as agent of the state, and shall be furnished by a surety company authorized to do business in this state. It shall be conditioned upon such bonded school's providing its registered students with the full course of instruction required under the provisions of this chapter and shall provide for a refund of a proportionate amount of each student's tuition fee upon default.

Any such school that shall enroll student instructors shall set up an adequate course of training as such, with the approval of the board, and shall not have at any one time more than one such student instructor for each licensed instructor actively engaged in such school.

SECTION 2. AMENDMENT.) Section 43-11-25 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-25. CERTIFICATE ISSUED WITHOUT EXAMINATION - CONDITIONS.) The board may dispense with the examination of applicants for certificates to practice hairdressing and cosmetology and may grant such certificates of registration upon the payment of a fee of thirty-five dollars if:

1. The applicant has complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the requirements are equal substantially to those in force in this state at the time the application for the certificate is filed; or
2. Due proof is furnished that for at least five years immediately prior to the application the applicant has practiced continuously the occupation for which a certificate is desired in the District of Columbia, or another state, territory, foreign country, or province.

SECTION 3. AMENDMENT.) Section 43-11-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-26. MANAGER-OPERATOR - LICENSE - QUALIFICATIONS.) A person may obtain a manager-operator's license if she complies with the following requirements:

1. Furnishes to the board evidence that she has:
 - a. Practiced as a licensed operator in this state for at least two hundred fifty days; and
 - b. Attained the age of twenty-one years;
2. Pays a fee of ten dollars; and
3. Complies with the other requirements of this chapter applicable to a manager-operator.

SECTION 4. AMENDMENT.) Subsection 1 of section 43-11-27 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-27. INSTRUCTOR'S LICENSE - REGISTRATION - QUALIFICATIONS.)

- * 1. No person may be licensed as an instructor in any or combination of the practices of cosmetology unless such person shall furnish the board evidence that she has attained the age of twenty-one years and has a general education equivalent to the completion of four years in high school and shall pay

*NOTE: The first sentence of subsection 1 of section 43-11-27 was also amended by section 44 of House Bill No. 1420, chapter 120.

the original instructor's license fee of ten dollars and shall hold a license as a cosmetologist issued pursuant to section 43-11-21 hereof, and in addition:

- (a) Shall have at least nine hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than one thousand one hundred hours teacher's training be required for admission to examination; or
- (b) Shall have at least one year's experience as an active practicing cosmetologist, supplemented by not less than four hundred eighty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination; or
- (c) Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to such person's application for an instructor's license supplemented by not less than one hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination. No instructor or student instructor shall be permitted to practice cosmetology on a patron other than that part of practical work which shall pertain directly to the teaching of practical operations to students.

SECTION 5.) Subsection 4 of section 43-11-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

- 4. No person shall be entitled to renew an instructor's certificate after December 31, 1973, unless such person shall furnish to the board evidence that she has attended an approved seminar pursuant to requirements prescribed by the board.

Approved March 28, 1973

CHAPTER 350

SENATE BILL NO. 2145
(Committee on Industry, Business and Labor)
(At the request of the State Pharmacy Board)

QUALIFICATIONS OF PHARMACISTS

AN ACT to amend and reenact subsection 4 of section 43-15-15 of the North Dakota Century Code, relating to qualifications of registered pharmacists.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 43-15-15 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * 4. Before a certificate will be granted by the North Dakota board of pharmacy, the applicant must have practical experience for a term to be determined by the board in accordance with the requirements of the National Association of Boards of Pharmacy in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, keeping records, and making reports required under the state and federal statutes. Any employment of the applicant prior to his completion of the first year of study in a college of pharmacy or its equivalent shall not be applied in computing the fulfillment of this requirement.

Approved March 24, 1973

*NOTE: Section 43-15-15 was also amended by section 46 of House Bill No. 1420, chapter 120.

CHAPTER 351

SENATE BILL NO. 2138
(Committee on Industry, Business and Labor)
(At the request of the State Pharmacy Board)

REGISTRATION OF PHARMACY INTERNS

AN ACT to amend and reenact section 43-15-18 of the North Dakota Century Code, relating to registration of pharmacy interns.

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

SECTION 1. AMENDMENT.) Section 43-15-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-18. REGISTRATION OF PHARMACY INTERN.) To register in this state a pharmacy intern must have completed one year in an approved college of pharmacy and must be employed by a registered pharmacist. At the date of entering into his internship, he shall file with the secretary of the board the following certificates accompanied by a fee of five dollars:

1. A certificate stating he has entered into an internship and giving his age, name, residence, and educational qualifications;
2. A certificate from his employer stating that the applicant has been employed by him as a pharmacy intern, that to his knowledge the applicant possesses the required education and qualifications.

The secretary of the board shall file the certificates and register the applicant as a pharmacy intern.

Approved March 28, 1973

CHAPTER 352

SENATE BILL NO. 2139
(Committee on Industry, Business and Labor)
(At the request of the State Pharmacy Board)

CERTIFICATES ISSUED TO PHARMACISTS

AN ACT to amend and reenact section 43-15-25 of the North Dakota Century Code, relating to certificates issued to pharmacists.

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

SECTION 1. AMENDMENT.) Section 43-15-25 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-25. TERM OF CERTIFICATE - RENEWAL - FEE - WHERE DISPLAYED.) The certificate issued by the board to a pharmacist or assistant pharmacist under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed fifty dollars. Upon the payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drugstore where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue such registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

Approved March 28, 1973

CHAPTER 353

SENATE BILL NO. 2140
(Committee on Industry, Business and Labor)
(At the request of the State Pharmacy Board)

PHARMACY PERMITS

AN ACT to amend and reenact section 43-15-34 of the North Dakota Century Code, relating to the permit and fee required for the operation of a pharmacy.

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

SECTION 1. AMENDMENT.) Section 43-15-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-34. OPERATION OF PHARMACY - PERMIT REQUIRED - APPLICATION - FEE.) No person, copartnership, association, or corporation shall open, establish, operate, or maintain any pharmacy within this state without first obtaining a permit so to do from the board. Application for the permit shall be made upon a form to be prescribed and furnished by the board and shall be accompanied by a fee to be set by the board not to exceed seventy-five dollars. A like fee shall be paid upon each annual renewal thereof. Separate applications shall be made and separate permits required for each pharmacy opened, established, operated, or maintained by the same owner and for the change of location, name, or ownership of an existing pharmacy.

Approved March 19, 1973

CHAPTER 354

SENATE BILL NO. 2141
(Committee on Industry, Business and Labor)
(At the request of the State Pharmacy Board)

FEE FOR REINSTATEMENT OF
PHARMACY PERMIT

AN ACT to amend and reenact subsection 2 of section 43-15-38 of the North Dakota Century Code, relating to the fee to be paid on reinstatement of pharmacy permit.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-15-38 is hereby amended and reenacted as follows:

2. Payment of the regular renewal fee and an additional five dollars.

Approved March 19, 1973

CHAPTER 355

HOUSE BILL NO. 1450
(Strinden, Winge, Metzger)

REGULATION OF INSTALLATION OF
WATER CONDITIONING EQUIPMENT

AN ACT to create and enact chapter 43-18.1 of the North Dakota Century Code, relating to the regulation of the installation of water conditioning equipment; and providing a penalty.

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

SECTION 1.) Chapter 43-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-18.1-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Water conditioning installation and repair" shall mean the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, and the repair of such equipment, to a water distribution system. "Water conditioning installation and repair" shall not mean the exchange of such appliances, appurtenances, and fixtures when the plumbing system has previously been installed or adapted to or for such appliances, appurtenances, and fixtures, and no substantial change in such plumbing system is required.
2. "Water conditioning contractor" shall mean a person who plans and manages the installation and repair of water conditioning equipment, and in conjunction therewith sells or leases such equipment.
3. "Water conditioning installer" shall mean any person who is engaged in the practical installation and repair of water conditioning equipment.
4. "Board" shall mean the state board of plumbing.

43-18.1-02. ADMINISTRATION.) All fees and money obtained by the board through the administration of this chapter shall be used for the regulation of the business of water conditioning installation and repair, through the board, and all such fees and money are appropriated to the board for such purpose. This appropriation shall be a continuing appropriation of all such sums.

The handling and administration of such fees and money shall otherwise be in accordance with section 54-44-12 of this Code.

43-18.1-03. DUTIES OF THE BOARD.) The board shall:

1. Enforce the provisions of this chapter.
2. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of water conditioning contractors and water conditioning installers.

43-18.1-04. LICENSES - EXAMINATION - FEES - APPRENTICES.)

1. No person, firm, or corporation, except plumbers holding valid licenses pursuant to chapter 43-18, shall engage in the business of water conditioning contractor or water conditioning installer in any incorporated city of this state having a system of waterworks or sewage unless registered and licensed to do so by the board. Installation and repair of water conditioning equipment shall be done by the person holding a water conditioning installer's license.
2. The board shall hold not less than one public meeting per year for the purpose of examination of persons who may desire to become registered and licensed in the water conditioning business pursuant to this chapter. Notice and time of such examination shall otherwise be in accordance with section 43-18-12 and the examination provided for herein may be held in conjunction with the examination provided for in chapter 43-18.
3. Examination for licenses and registration shall be upon application as prescribed by the board and payment of the examination fee. Such fee shall be forty dollars and twenty dollars for registration and licensure as a water conditioning contractor and water conditioning installer, respectively. In cases where the holder of an installer's license is also a contractor, the fee shall be forty dollars. The examination shall be as prescribed by the board but shall be limited to the installation and repair of water conditioning equipment as such relates to plumbing. The issuance of licenses and registrations hereunder shall be as prescribed by the board which shall be guided in such actions by the provisions of section 43-18-13.
4. An apprentice may be employed by any licensee under this chapter. When so employed such apprentice shall perform his employment under the direct supervision of such licensee and when engaged in installation or repair pursuant to this chapter such apprentice shall be under the direct supervision of a licensed installer. Upon employment and termination of employment the name of the apprentice and his employer shall be communicated to the board.

43-18.1-05. TEMPORARY LICENSES - ISSUANCE.) The board, upon payment of the fees provided in this chapter, shall issue special temporary permits to engage in water conditioning installation and repair as provided in this chapter to those applicants who furnish sufficient proof that they were engaged in such business on January 1, 1973. Such special temporary permits shall be retroactive to January 1, 1973, and shall expire thirty days after the date the second examination as provided under 43-18.1-04 is given, but no later than July 1, 1974. The board may prescribe rules and regulations under which regular temporary permits may be issued which shall be generally in accordance with section 43-18-15.

43-18.1-06. RENEWAL OF LICENSE AND REGISTRATION - FEE.) Except for special temporary licenses as provided in this chapter, a license issued under this chapter shall be valid for only one year and shall expire on December 31 of the year in which it was issued. The license shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of the fees as provided in section 43-18.1-04.

43-18.1-07. REVOCATION OF LICENSES.) The board may revoke any license issued under the provisions of this chapter if the licensee has:

1. Committed a felony;
2. Committed a fraud in obtaining his certificate;
3. Permitted the use of his license in violation of this chapter; or
4. Performed his work or business in an incompetent manner.

43-18.1-08. REVOCATION - HEARING - REINSTATEMENT.) A license issued under the provisions of this chapter may be revoked only upon a charge in writing filed with the board and after a hearing thereon by the board. Such hearing shall be conducted in accordance with the procedures set forth in section 43-18-19. Reinstatement of a license revoked under this chapter may be made in accordance with section 43-18-20.

43-18.1-09. VIOLATIONS - PENALTY.) Any person who willfully violates any of the provisions of this chapter shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars, or by both such fine and imprisonment.

Approved March 8, 1973

CHAPTER 356

HOUSE BILL NO. 1092
(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

STANDARDS FOR LICENSING
REAL ESTATE BROKERS

AN ACT to amend and reenact section 43-23-08 of the North Dakota Century Code, relating to standards for licensing of mortgage brokers and real estate brokers and salesmen by the state real estate commission.

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

SECTION 1. AMENDMENT.) Section 43-23-08 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-08. LICENSE STANDARDS.) 1. Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a real estate broker, a real estate salesman, or mortgage broker in such manner as to safeguard the interest of the public, and whose real estate license or mortgage broker license has not been revoked in this or any other state within two years prior to date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.

2. In addition to the requirements established by subsection one of this section, an applicant for a broker's license must be at least eighteen years of age and shall be a citizen of the United States. Every applicant for a license as a real estate broker shall have either a. been actively engaged as a licensed real estate salesman for a period of at least one year preceding the date of application or, b. shall have had experience as determined by the commission to be substantially equal to that which a licensed real estate salesman would ordinarily receive during a period of one year or, c. shall furnish a certificate that he has passed a course of at least 12 credit hours in subjects related to real estate at an accredited university or college or an equivalent number of hours in a course of study approved by the North Dakota real estate commission. Provided, however, that if the commission shall find that an applicant could not acquire employment as a licensed real estate salesman because of conditions existing in the area where he resides, then this requirement may be waived by the commission.

Approved March 13, 1973

CHAPTER 357

HOUSE BILL NO. 1091
(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

REVOCATION AND SUSPENSION OF
REAL ESTATE LICENSES

AN ACT to create and enact section 43-23-11.1 of the North Dakota Century Code; and to repeal section 43-23-11 of the North Dakota Century Code; all relating to grounds for refusal, revocation and suspension of licenses, hearings, appeals and investigations by the state real estate commission.

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

SECTION 1. Section 43-23-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-23-11.1. INVESTIGATIONS, GROUNDS FOR REFUSAL, SUSPENSION OR REVOCATION OF LICENSE - HEARING - APPEAL.)

1. The commission upon its own motion may, and upon the verified complaint in writing of any person shall, investigate the activities of any licensee or any person who shall assume to act in such capacity within the state, and shall have the power to suspend or revoke a license when the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:

- a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
- b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to the party for which he acts as agent.
- c. Making any false promise of a character such as to influence, persuade or induce a party to a real estate transaction to his injury or damage.
- d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom he acts.
- e. Failure to account for or to remit, within a

reasonable time, any moneys coming into his possession belonging to others; commingling funds of others with his own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized depository in this state, or keeping records relative to the deposit, which shall contain such information as may be prescribed by the rules and regulations of the commission relative thereto.

- f. Been convicted or plead guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other like offense.
- g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to his principal or employer the full amount of such licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
- h. Failing or refusing upon demand to produce any document, book or record in his possession or under his control, concerning any real estate transaction under investigation by the commission.
- i. Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on any terms other than those authorized by the owner or his authorized agent.
- j. Refusing, because of race, color, national origin or ethnic group, to show, sell or lease any real estate for sale or lease on behalf of a principal, where such principal has not so restricted or limited prospective purchasers or lessees.
- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed thereto.
- l. Paying compensation or commission in connection with any real estate sale, lease or other transaction to any person who is not licensed as a real estate broker or real estate salesman under this chapter.
- m. Failing to disclose to an owner his intention or true position if he directly or indirectly through a third party, purchases for himself

or acquires or intends to acquire any interest in or any option to purchase property which has been listed with his office for sale or lease.

- n. Failure to include a fixed date of expiration in any written listing agreement and failure to leave a copy of such agreement with the principal.
- o. Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement, showing all of the receipts and disbursements handled by such broker for the seller; also failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed, and to retain true copies of such statements in his files.
- p. Violating any provisions of this chapter or rule or regulation promulgated by the commission.
- q. Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.

2. If the commission declines or fails to approve an application submitted to it, it shall immediately give notice of that fact to the applicant, and upon request from such applicant, filed within twenty days after the receipt of such notice, shall fix a time and place for hearing, of which twenty days notice shall be given to such applicant and to other persons interested or protesting, to offer evidence relating to the application. In such cases the commission shall fix the time for such hearing on a date within sixty days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time with the consent of the applicant. As a result of such hearing, the commission may either approve the application if all other applicable provisions of this chapter have been met, and permit the applicant to take the examination to determine whether he shall be licensed, or it may sustain its prior decision refusing to approve the application.

3. No license shall be revoked or suspended except after hearing before the commission with a copy of the charges having been duly served upon the licensee and upon sustaining of the charges for suspension or revocation. The provisions of chapter 28-32 of this Code, Administrative Agencies Practice Act, including but not limited to procedures for service of process, hearing, rules, evidence, findings and appeals shall apply to and govern all proceedings for suspension or revocation of licenses, except where inconsistent with this chapter.

SECTION 2. REPEAL.) Section 43-23-11 of the 1971 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 12, 1973

CHAPTER 358

HOUSE BILL NO. 1093

(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

HANDLING OF FUNDS BY
REAL ESTATE BROKERS

AN ACT to create and enact section 43-23-14.1 of the North Dakota Century Code and to repeal section 43-23-14 of the North Dakota Century Code; all relating to the handling of funds by real estate and mortgage brokers.

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

SECTION 1.) Section 43-23-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-23-14.1. HANDLING OF FUNDS BY BROKERS.) Every broker shall, at all times, maintain in his name or firm name, a separate trust account designated as such in a federally insured bank or other federally insured depository in this state in which he shall immediately deposit all funds not his own coming into his possession, including funds in which he may have some future interest or claim and including, but not limited to, earnest money deposits. No broker shall commingle his personal funds or other funds in a trust account, except that a broker may deposit and keep a sum not to exceed one hundred dollars in such account from his personal funds, which sum shall be specifically identified and deposited to cover service charges related to the trust account. In conjunction with such account, he shall maintain at his usual place of business, books, records, contracts and other necessary documents so that the adequacy of such account may be determined at any time. Trust accounts and other records shall be open to inspection by the commission and its duly authorized agents at all times during regular business hours at the broker's usual place of business.

SECTION 2. REPEAL.) Section 43-23-14 of the 1971 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 3, 1973

CHAPTER 359

SENATE BILL NO. 2208
(Reiten)

VETERINARIANS

AN ACT to create and enact sections 43-29-05.1 and 43-29-16.1 of the North Dakota Century Code, relating to the executive secretary of the state board of veterinary medical examiners and abandonment of animals by the owner; and to amend and reenact sections 43-29-01, 43-29-02, 43-29-03, 43-29-05, 43-29-06, 43-29-07, 43-29-08, 43-29-09, 43-29-11, 43-29-13, 43-29-14, 43-29-15, and subsection 3 of section 43-29-17 of the North Dakota Century Code, relating to purposes, appointment, qualifications, officers, rules and regulations, examinations, compensation, application for licenses, fees, renewals, temporary permits, exemptions, refusal to issue and grounds for revocation of licenses, hearings and penalties of the state board of veterinary medical examiners.

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

SECTION 1. AMENDMENT.) Section 43-29-01 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-01. PURPOSE OF THE CHAPTER.) This chapter shall be deemed an exercise of the police powers of the state of North Dakota acting through the legislative assembly to the end that the general welfare of the agricultural public, the livestock industry and the people as a whole will be preserved and enhanced through the control and supervision hereby vested in the North Dakota state board of veterinary medical examiners, in licensing of veterinarians, defining their scope of activity in treatment of livestock, fixing their responsibility in the conduct of their practice, listing the requirements necessary to pass an inspection of their facilities, listing of the educational requirements necessary for licensing renewal, listing of the rules of professional conduct, defining the handling of abandoned animals, defining the duties and conduct of graduate animal technicians, and preventing unqualified persons from engaging in veterinary practice by instituting the necessary legal proceedings for the law's proper enforcement.

SECTION 2. AMENDMENT.) Section 43-29-02 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-02. STATE BOARD OF VETERINARY MEDICAL EXAMINERS - APPOINTMENTS - QUALIFICATIONS - TERMS - VACANCIES.) The state board of veterinary medical examiners shall consist of three members appointed by the governor for terms of three years each, with their terms of office so arranged that one term and only one shall expire each year. Members of the board shall hold their respective offices until their successors are appointed and qualified. Each member shall be a reputable, practicing and licensed veterinarian in North Dakota for five years immediately prior to the appointment, and shall be the holder of a diploma or degree granted by a veterinary school, or by a college or university recognized by the board.

The North Dakota veterinary medical association shall, at each annual meeting nominate three veterinarians qualified to serve on the state board of veterinary examiners. Such names shall be certified to the governor by the secretary of such association and the appointment by the governor shall be made from the nominees so submitted.

If any vacancy occurs on the board due to resignation, death, removal from the state, or suspension as herein provided, or for any other reason, the governor shall fill such vacancy from the roster of qualified licensed veterinarians within the state until the next succeeding first day of July.

The governor may, after due notice and hearing, remove any member of the board of veterinary examiners for misconduct, incapacity, or neglect of duty.

SECTION 3. AMENDMENT.) Section 43-29-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-03. OFFICERS OF BOARD - SEAL - MEETINGS - LIMITATIONS ON MEETINGS - EXAMINATIONS - RULES AND REGULATIONS - RECIPROCITY - CODE OF ETHICS - INSPECTIONS.) The state board of veterinary medical examiners shall elect a president and a secretary. The board shall have a common seal, and the president and the secretary thereof may administer oaths. It shall hold meetings semi-annually in the spring and fall of each year for the examination of candidates at a time and place specified by said board. This board may hold such other meetings as it may deem necessary at such time and place as it shall designate. No session of the board shall exceed two days.

A quorum of the board shall consist of two members and such quorum shall be sufficient to conduct the business and proceedings of the board set forth in this chapter, except that any changes in the rules and regulations must be taken at a meeting at which all of the members are present.

The board is hereby authorized and empowered to promulgate, revise, alter, amend and enforce reasonable rules, regulations, and orders which it determines in its discretion to be necessary to the performance of its duties and the regulation of the practice of veterinary medicine; to establish standards for professional

conduct, inspection of facilities and educational requirements for renewal and granting of licenses; to prescribe forms for application for examination; to prepare and supervise examination of applicants for license to practice veterinary medicine; to obtain the services of professional examination agencies in lieu of its own preparation of such examinations; and to issue and revoke licenses as hereinafter provided. All rules so promulgated, revised, altered or amended shall be submitted to the attorney general in accordance with chapter 28-32 of this Code. If approved, they shall be printed and mailed to all licensed veterinarians practicing within this state.

The board may, in its discretion, enter into reciprocal agreements with the examining boards of other states and nations, governing the granting of licenses to practice veterinary medicine and surgery in the state of North Dakota without the applicant taking a written examination. Under no circumstances, however, shall any reciprocal agreement be entered into with the board of another state or nation unless the requirements for the granting of licenses in the other state or nation are on an equal or higher standard to the requirements of North Dakota. The board may prescribe by regulation any other terms or conditions to be contained in any such agreements. The fee for license by reciprocity agreement shall be determined by the board.

SECTION 4. AMENDMENT.) Section 43-29-05 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-05. COMPENSATION AND EXPENSES OF MEMBERS OF BOARD.) Members of the board may receive for each day during which they are actually engaged in the performance of the duties of their office such per diem as shall be fixed by the board. They may also be reimbursed for necessary travel expenses and meals and lodging expenses at the same rate and in the same manner as are elected officials and employees of the state.

The board may select one of its members to attend the annual meeting of the national organization of state examining boards. The member so selected may be reimbursed for his necessary travel expenses and meals and lodging expenses at the same rate and in the same manner as are elected officials and employees of the state.

The board shall incur no expense exceeding the sum received as fees, as hereinafter provided.

SECTION 5.) Section 43-29-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-29-05.1. EXECUTIVE SECRETARY.) The board may employ an executive secretary and such other persons as it deems advisable to carry out the purpose of this chapter at such salaries as it may determine.

Each biennium the executive secretary shall prepare the budget of the board for presentation to the executive office of

the budget. He shall also carry out all routine secretarial and other duties as directed by the board.

SECTION 6. AMENDMENT.) Section 43-29-06 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-06. GRADUATION FROM RECOGNIZED SCHOOL AND CERTIFICATE OR PERMIT FROM BOARD REQUIRED - APPLICATION FOR LICENSE.) No person shall practice, or hold himself out as a practitioner in veterinary medicine, surgery, or dentistry, or any department thereof, unless he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the board, nor unless he possesses a certificate or permit issued by the state board of veterinary medical examiners which is in full force and effect.

Any person qualified under the provisions of this chapter, desiring to begin the practice of veterinary medicine or veterinary surgery in the state of North Dakota, shall make application to said board for license to do so. Such application shall be made at least thirty days prior to the meeting of the board. The board shall give public notice of the time and place for the examination.

SECTION 7. AMENDMENT.) Section 43-29-07 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-07. APPLICATION FOR LICENSE - FEES FOR EXAMINATION AND REGISTRATION - FEES NOT TO BE RETURNED - RENEWAL FEES - CERTIFICATE OF REGISTRATION - ROSTER OF REGISTERED VETERINARIANS - RULES OF PROFESSIONAL CONDUCT - CONTINUING EDUCATION - INSPECTION OF FACILITIES - CHANGE OF ADDRESS - RENEWAL OF REGISTRATION UPON FORFEITURE.) Any person desiring a license to practice veterinary medicine in this state shall make written application for licensing to the executive secretary on forms provided for that purpose and shall pay in advance to the North Dakota veterinary medical examining board a fee of fifty dollars. Fees shall not be returned, except by action of the board. If the license is granted, the licensee shall pay on or before the date set out in this section, for such time as he shall continue practice, an annual renewal registration fee as determined by the board, based on the financial needs of the board. The renewal registration fee shall be paid by all licensed veterinarians.

All veterinarians actually engaged and employed as such by the state, county, city, or by any corporation, firm or individual shall be deemed to be practicing veterinary medicine and shall secure a state license or certificate of qualification issued by the board.

Each person licensed by the board shall on or before the first day of July of each calendar year be required to pay the annual renewal registration fee to the executive secretary. Before the first day of June of each calendar year the executive

secretary of the board shall send a notice to each veterinarian who holds a license to practice veterinary medicine in the state, whether resident or not, at his last address, that his annual renewal registration fee is due on or before the first day of July.

The executive secretary of the board shall issue a certificate of registration upon the payment of the required fee and publish biennially for proper distribution a roster of all veterinarians registered in the state of North Dakota, as soon as the registration for each two-year period is completed.

Each veterinarian licensed by the board, whether a resident or not, shall notify the secretary of any change in his office address or employment within sixty days after such change has taken place. Any person licensed to practice veterinary medicine after the fifteenth day of April, or any person issued a temporary permit to practice veterinary medicine after that date, is exempt from this requirement to pay the annual registration fee until the first day of July of the year following licensure.

Registration shall be deemed a condition precedent to the practice of veterinary medicine and surgery in this state, and a certificate of registration currently in effect must be on display at all times in the office of each veterinarian engaged in active practice.

Any person registered under this chapter who may have forfeited his registration by nonpayment of fees may renew the same within one year without examination by paying such fees.

The board may by rule waive the payment of the registration fee of a licensed veterinarian during the period when he is on active duty in connection with any branch of the armed forces of the United States, not to exceed the term of three years or the duration of the national emergency, whichever shall last occur.

SECTION 8. AMENDMENT.) Section 43-29-08 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-08. CERTIFICATE OF QUALIFICATION ISSUED TO APPLICANTS PASSING EXAMINATION - CONCLUSIVENESS OF CERTIFICATE - RE-EXAMINATION.) The board shall issue a certificate of qualification to each applicant who passes such examination as the board may require and who is qualified under the provisions of this chapter. Such certificate shall be signed by the president and the executive secretary of the board and shall remain in force upon payment of the renewal registration fee becoming due thereafter, and so long as the holder complies with the provisions of this chapter. Notwithstanding the payment of such fee, his license may be suspended or revoked as provided hereinafter in this chapter.

Any applicant for license who shall fail to satisfy the board of veterinary medical examiners as to his qualifications

may, upon application be re-examined within not less than six months upon payment of an additional fee of fifty dollars.

SECTION 9. AMENDMENT.) Section 43-29-09 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-09. PERMIT TO PRACTICE ISSUED BY EXECUTIVE SECRETARY OF BOARD - GRADUATE ANIMAL TECHNICIANS.) Any person who desires to practice veterinary medicine, surgery, or dentistry may apply to the executive secretary of the state board of veterinary medical examiners for a temporary permit to practice if he possesses a degree or diploma showing that he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the board. Upon the payment of fifty dollars by the applicant, twenty-five dollars shall be applied toward the examination fee, but shall be declared forfeit if the applicant fails to present himself at the next scheduled examination. No temporary permit shall be issued to any applicant if he has previously failed the examination. The executive secretary, if he is satisfied that the applicant is a qualified and a suitable person, and with the approval of the president of the board, shall issue to him a permit to practice until the next examination is offered by the board. Such permit shall have the same force as a certificate from the board, but shall expire upon the adjournment of the next meeting thereof at which an examination is held.

Senior veterinary students who practice in the office of, and under the direct supervision of, a licensed veterinarian must obtain a temporary permit to practice veterinary medicine in this state. This temporary student permit shall not exceed four months from its date of issuance and will be granted without payment of a fee.

The board shall adopt rules for the training, certification, and limits of activity for assistants and animal technicians being trained and employed under the direct supervision and responsibility of a licensed veterinarian. All animal technicians shall be registered with and subject to requirements established by the board. As used in this chapter, an animal technician is a paramedical person who has had further training of at least one year, preparing him for veterinarian related employment in a position between the professional doctor and the animal attendant levels. He must be trained and knowledgeable in the care and handling of animals, the basic principles of normal and abnormal life processes, and the routine laboratory and clinical procedures. Primarily, his work shall be to assist veterinarians, biological researchers, and other veterinary scientists.

SECTION 10. AMENDMENT.) Section 43-29-11 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-11. FEES COLLECTED PAID INTO GENERAL FUND.) Except as may be otherwise provided by this chapter, all fees collected

under this chapter by the state board of veterinary medical examiners shall be paid into and shall become a part of the general fund of this state.

SECTION 11. AMENDMENT.) Section 43-29-13 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-13. PRACTICES EXCEPTED FROM PROVISIONS OF THIS CHAPTER.) The following persons shall not be considered to be engaging in the practice of veterinary medicine in this state:

1. Those who administer to livestock, the title to which rests in himself, or in his regular employer, except where the ownership of the animal was transferred to avoid the requirements of this chapter, or those who perform gratuitous services.
2. Those who conduct experimentation in scientific research in the development of methods, techniques, or treatment, directly or indirectly applicable to the problems of medicine, and who in connection therewith use animals.
3. Those who are regular students in a legally chartered and recognized college of veterinary medicine, while in the performance of studies and acts assigned by their instructors.
4. Those who are licensed in another state or nation when engaged in this state in consultation with veterinarians legally practicing herein, providing such consultation does not exceed thirty days in any one year.
5. Those who are senior students in an approved school of veterinary medicine and who shall obtain from the board a student permit to practice in the office and under the direct supervision of any veterinarian practicing within this state.
6. Those who are employees of the United States of America or the state of North Dakota while in the performance of their duties as such employees.
7. Those selling drugs, medicine, household remedies, or appliances at wholesale or retail and advising as to the use and purpose of such drugs, medicine, household remedies or appliances.
8. Those who render auxiliary or supporting assistance under the responsible supervision of a North Dakota licensed veterinarian, such as veterinary aids, nurses, laboratory technicians, animal technicians, interns or other employees of such licensed practitioners.

SECTION 12. AMENDMENT.) Section 43-29-14 of the 1971 Supplement to the North Dakota Century Code is hereby amended and

reenacted to read as follows:

43-29-14. REFUSAL, SUSPENSION, AND REVOCATION OF LICENSE AND CERTIFICATE.) The state board of veterinary medical examiners may either refuse to issue a license or refuse to issue a certificate of registration, or suspend, or revoke a license and certificate of registration upon any of the following grounds:

1. Fraud or deception in procuring the license.
2. The publication or use of any untruthful or improper statement, or representation, with a view of deceiving the public, or any client or customer in connection with the practice of veterinary medicine.
3. Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; or conviction of a violation of any federal or state law relating to narcotic use.
4. Immoral, unprofessional, or dishonorable conduct manifestly disqualifying the licensee from practicing veterinary medicine.
5. Gross malpractice, including failure to furnish to the board, upon written application by it, any report or information relating thereto.
6. The employment of unlicensed persons to perform work which under this chapter can lawfully be done only by persons licensed to practice veterinary medicine.
7. Fraud or dishonest conduct in applying or reporting diagnostic biological tests or in issuing health certificates.
8. Failure of the licensee to keep his premises in a reasonably clean and sanitary condition, and failure to use reasonably sanitary methods in the practice of veterinary medicine.
9. Violation of the rules as duly promulgated by the board in accordance with the law.
10. Conviction on a charge of cruelty to animals or a like offense.
11. Willful or repeated violations of any provisions of this chapter or any of the rules of the board.

SECTION 13. AMENDMENT.) Section 43-29-15 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-15. HEARING ON CHARGES - APPEAL.) Any person may prefer charges on any of the grounds as set forth in subsections

1 to 11 of section 43-29-14 by filing with the board in writing a sworn statement setting forth the specific charges upon which the complaint is made. Upon receiving any such complaint the board shall give at least twenty days' notice to the person complained about of the time and place for hearing thereon, together with a copy of the complaint filed, and after hearing all evidence and testimony presented thereon, the board shall have the power to revoke, or suspend for a limited time, the license and registration certificate of any registrant found guilty by the board of improper conduct on any of the grounds as set forth in subsections 1 to 11 of section 43-29-14. Any person whose license has been revoked by the board may within thirty days thereafter upon written notice to the board appeal to the district court in the county of his residence for a hearing de novo of the charges on which his license was revoked. The registrant shall have the right at any such hearing to be represented by counsel; to call witnesses in his behalf and to cross-examine adverse witnesses.

Any person whose license has been revoked may apply to the board for reinstatement and relicensure, and if the board is satisfied that such conduct will be discontinued may reissue a license to such person.

SECTION 14.) Section 43-29-16.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-29-16.1. ABANDONMENT OF ANIMALS BY OWNER.)

1. Any animal placed in the custody of a licensed doctor of veterinary medicine for treatment, boarding, or other care, which shall be abandoned by its owner or his agent for a period of more than ten days after a written notice, by registered or certified letter, return receipt requested, is given to the owner or his agent at his last known address, may be turned over to the custody of the nearest humane society or dog pound in the area or disposed of as such custodian may deem proper.
2. The giving of notice to the owner, or the agent of the owner, of such animal by the doctor of veterinary medicine, as provided in subsection 1, shall relieve the doctor of veterinary medicine and any custodian to whom such animal may be given of any further liability for disposal; it is further provided that such procedure by the licensed doctor of veterinary medicine shall not constitute grounds for disciplinary procedure under this chapter.
3. For the purpose of this section the term "abandoned" shall mean to forsake entirely or to neglect or refuse to provide or perform the care and support of an animal by its owner or his agent; such abandonment shall constitute the relinquishment of all rights and claim by the owner of such animal.

SECTION 15. AMENDMENT.) Subsection 3 of section 43-29-17 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Willfully and falsely, with intent to deceive the public, claim or pretend to be a graduate of, or to hold a degree or diploma showing the satisfactory completion of a course in veterinary science in a school, college, or university recognized by the board;

Approved March 27, 1973

CHAPTER 360

SENATE BILL NO. 2268
(Melland, Tweten)

NURSING HOME ADMINISTRATORS

AN ACT to amend and reenact sections 43-34-03, 43-34-05, and 43-34-10 of the North Dakota Century Code, relating to the licensing of nursing home administrators.

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

SECTION 1. AMENDMENT.) Section 43-34-03 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 43-34-03. QUALIFICATIONS FOR LICENSURE.) The board shall have authority to issue licenses to qualified persons entitling them to serve and practice nursing home administration or otherwise hold themselves out as duly licensed nursing home administrators, and shall establish qualification criteria for such persons. No license shall be issued to a person unless the person has met the following conditions:

1. He or she is at least twenty-one years of age, a citizen of the United States, of good moral character, and of sound physical and mental health;
2. If the applicant for license is deemed not to be qualified by the board after the initial evaluation and testing, then the board may prescribe a course of instruction and training, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes, laws governing the operation of nursing homes and the protection of the interests of patients therein, and the elements of good nursing home administration, or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and
3. He or she has passed an examination administered by the board and designed to test for competence in the subject matter referred to in subsection 2 hereof.

*NOTE: Section 43-34-03 was also amended by section 56 of House Bill No. 1420, chapter 120.

All persons applying for a license must meet the conditions and requirements as may be prescribed by the board. However, a person meeting the standards of good moral character, sound physical and mental health, and otherwise suitable, and who was a nursing home administrator during all of the calendar year immediately preceding the calendar year in which the state licensing program becomes effective, may be granted a waiver for a period of two years after the effective date of this chapter, or until June 30, 1971, whichever is earlier, to allow the person or persons to meet the conditions or requirements as set by this board.

SECTION 2. AMENDMENT.) Section 43-34-05 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-05. LICENSE FEES.) Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board, which fee shall not exceed twenty-five dollars per annum. Said license shall expire on the thirty-first day of December in the year of its issuance, and shall be renewable annually, on a calendar year basis, upon payment of the license fee. Any licensee, or applicant for license, may take a special examination for the purpose of being eligible for reciprocity with other states, upon the payment of an additional fee to be established by the board for that purpose.

SECTION 3. AMENDMENT.) Section 43-34-10 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-10. RENEWAL OF LICENSE.) Every holder of a nursing home administrator's license shall renew it annually, by making application to the board. Such renewals shall be granted as a matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such manner or under such circumstances as would constitute grounds for suspension or revocation of a license.

Approved March 12, 1973

CHAPTER 361

SENATE BILL NO. 2122
(Holand, Barth)

PROFESSIONAL SOIL CLASSIFIERS

AN ACT to establish the profession and regulation of professional soil classifying, a creation of a board of professional soil classifiers, and providing penalties.

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

SECTION 1. DEFINITIONS.) Unless the context or subject matter otherwise requires:

1. "Soil classifier" shall mean a professional soil classifier as defined in subsection 2 of this section.
2. "Professional soil classifier" shall mean a person who by reason of his special knowledge of the physical, chemical and biological sciences applicable to soils as natural bodies and of the methods and principles of soil classification as acquired by soils education and soil classification experience in the formation, morphology, description and mapping of soils is qualified to practice soil classifying and who has been duly registered by the state board of registration for professional soil classifiers.
3. "Soil classifier-in-training" shall mean a person who complies with the requirements for education and character and who has passed an examination in the fundamental soil and related subjects as provided for in sections 10, 11, 12 and 13 of this chapter.
4. "Soil" is all of the groups of natural bodies occupying the unconsolidated portion of the earth's surface capable of supporting plant life and having properties due to the combined effect of climate and living organisms, as modified by topography and time, upon parent materials.
5. "Kind of soil" is a group of natural bodies that has a discrete combination of landscape, morphological, chemical and physical properties.

6. "Soil classification" is plotting the boundaries, describing and evaluating the kinds of soil as to their behavior and response to management under the various uses.
7. "Practice of soil classifying and practice of professional soil classifying" shall mean any service or work the adequate performance of which requires education in the physical, chemical, biological and soil sciences, training and experience in the application of the special knowledge of these sciences to soil classification, the soil classification by accepted principles and methods, investigation, evaluation and consultation on the effect of measured, observed and inferred soil properties upon the various uses, the preparation of soil descriptions, maps and reports and interpretive drawings, maps and reports of soil properties and the effect of soil properties upon the various uses, and the effect of the various uses upon kinds of soil, any of which embraces such service or work either public or private incidental to the practice of soil classifying.

A person shall be construed to practice or offer to practice soil classifying within the meaning and intent of this chapter who by verbal claim, sign, advertisement, letterhead, card or use of some other title represents himself to be a soil classifier, but shall not mean or include the practice of soil classifying by persons exempt under the provisions of section 24 nor the work ordinarily performed by persons who sample and test soil for fertility status or construction materials and engineering surveys and soundings to determine soil properties influencing the design and construction of engineering and architectural projects. Notwithstanding the foregoing provisions, a person shall not be construed to practice soil classifying unless he offers soil classifying services to or performs such soil classifying for the public.

8. "Board" shall mean the state board of registration for professional soil classifiers hereinafter provided in this chapter.
9. "Responsible charge" shall mean direct control and personal supervision of soil classification.

SECTION 2. BOARD - APPOINTMENTS - TERMS.) A state board of registration for professional soil classifiers is hereby created whose duty it shall be to administer the provisions of this chapter. The board shall consist of three professional soil classifiers appointed by the governor from

among a list of nominees submitted to him by the Professional Soil Classifiers Association of North Dakota and two members at large appointed by the governor. The members of the board shall be appointed for five years, staggered so the term of one member shall expire June thirtieth of each year and so that the terms of the members at large do not expire in consecutive years. Each member of the board shall receive a certificate of his appointment from the governor and shall file with the secretary of state his written oath and affirmation of the faithful discharge of his official duties. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of five years a registered professional soil classifier or a member at large to take the place of the member whose term on said board is about to expire. A member may be reappointed to succeed himself. Each member shall hold office until a successor has been duly appointed and has qualified.

SECTION 3. BOARD - QUALIFICATIONS.) Each member of the board shall be a citizen of the United States and a resident of this state.

SECTION 4. BOARD - COMPENSATION AND EXPENSES.) Each member of the board may receive \$25.00 for each day actually engaged in the services of the board and shall be reimbursed for all actual traveling, incidental and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

SECTION 5. BOARD - REMOVAL OF MEMBERS - VACANCIES.) The governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any sufficient cause in the manner prescribed by law for the removal of state officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section 2.

SECTION 6. BOARD - ORGANIZATION AND MEETINGS.) The board shall hold at least two regular meetings each year. Special meetings may be held as the by-laws of the board provide. The board shall elect or appoint annually the following officers: a chairman, a vice-chairman and a secretary. A quorum of the board shall consist of three members.

SECTION 7. BOARD - POWERS.) The board shall have the power to administer this Act under chapter 28-32 and:

1. To adopt and amend all by-laws, rules of procedure and regulations to administer and carry out the provisions of this chapter and for the conduct of its affairs and functions consistent with the Constitution and laws of this state or this chapter which may be reasonably necessary for the proper performance of its duties and the regulation of its proceedings, meetings, records, examinations and the conduct thereof, and to adopt and promulgate

a code of ethics which shall be binding upon all persons registered under or subject to this chapter.

2. To employ such clerks, technical experts and attorneys as it may deem necessary or desirable to carry out the provisions of this chapter.
3. To apply in the name of the state for relief by injunction without bond, to enforce the provisions of this chapter or to restrain any violation thereof. In such proceedings it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding.

SECTION 8. RECEIPTS AND DISBURSEMENTS.) The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter and shall deposit and disburse the same in accordance with section 54-44-12. The secretary shall give a surety bond to the state in such sum as may be required by the laws of this state. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. Under no circumstances shall the total amount of warrants issued in payment of the expenses and compensation provided for in this chapter exceed the amount of moneys collected.

SECTION 9. RECORDS AND REPORTS.) The board shall:

1. Keep a record of its proceedings and of all applications for registration which record shall show the name, age and last-known address of each applicant, the place of business of such applicant, his education, experience and other qualifications, type of examination required, whether or not a certificate of registration was granted, whether or not the applicant was rejected, the date of the action of the board, and such other information as may be deemed necessary by the board which record of the board shall be prima facie evidence of the proceeding of the board and a transcript thereof duly certified by the secretary under seal shall be admissible as evidence with the same force and effect as if the original were produced.
2. Annually as of January first submit to the governor a report of its transactions of the preceding year and shall transmit to him a complete statement of the receipts and expenditures of the board attested by affidavits of its chairman and its secretary.

SECTION 10. GENERAL REQUIREMENTS FOR REGISTRATION - PROFESSIONAL SOIL CLASSIFIER.) To be eligible for registration as a professional soil classifier or certification as a soil classifier-in-training, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require, together with five references, three of which shall be professional soil classifiers having personal knowledge of his soil classifying experience; or in the case of an application for certification as a soil classifier-in-training, by three character references.

SECTION 11. REGISTRATION WITHOUT EXAMINATION - PROFESSIONAL SOIL CLASSIFIER.) An applicant otherwise qualified shall be admitted to registration as a professional soil classifier without examination within one year after July 1, 1973, if he is:

1. A person of good character who has been a resident of the state of North Dakota for at least one year immediately preceding the date of his application and was a practicing soil classifier on July 1, 1973, and meets the requirements of this chapter and has performed work of a character satisfactory to the board; or,
2. A person holding a certificate of registration in the practice of soil classifying on the basis of comparable qualifications issued to him by a proper authority of another state, possession or territory of the United States and who in the opinion of the board meets the requirements of this chapter.

SECTION 12. REGISTRATION WITH EXAMINATION - PROFESSIONAL SOIL CLASSIFIER.) An applicant otherwise qualified shall be admitted to registration as a professional soil classifier if he has successfully passed an examination in the principles and practice of soil classifying as prescribed by the board and has one of the following additional qualifications:

1. Is a graduate of a soils curriculum approved by the board as satisfactory and with a specific record of an additional four years or more of experience of a grade and character which indicates to the board that the applicant is competent to practice soil classifying and who holds a valid soil classifier-in-training certificate; or,
2. Is a person who has satisfactorily completed a soils curriculum not approved by the board and eight years or more of experience in soil classifying work of a character and grade which indicates to the board that the applicant is competent to practice soil classifying; or,

3. Is a person who holds a valid soil classifier-in-training certificate with a specific record of four years or more of experience as a soil classifier-in-training of a grade and character which indicates to the board that the applicant is competent to practice soil classifying; or,
4. Is a person with experience of not less than four years of soil classification research or as a teacher of soils in a college or university offering an approved soils curriculum of four years or more, and a minimum of two years of soil classifying experience of a character and grade which indicates to the board that the applicant is competent to practice soil classifying.

SECTION 13. QUALIFICATIONS OF SOIL CLASSIFIER-IN-TRAINING.) Unless otherwise qualified, a person shall be admitted to certification as a soil classifier-in-training, which certification shall be valid for four years, if he is a person who is:

1. A graduate of a soils curriculum approved by the board and has passed an examination in the fundamentals of soil classification; or,
2. An applicant who has completed a soil curriculum not approved by the board and who has a specific record of four years of soil classification experience of a grade and character satisfactory to the board and who passes an examination in the fundamentals of soil classification.

SECTION 14. APPLICATION FOR REGISTRATION.) Application for registration as a professional soil classifier and for certification as a soil classifier-in-training shall be on a form prescribed and furnished by the board, shall contain statements made under oath showing the applicant's education, a detailed summary of his experience, and references as required by this chapter and shall be accompanied by an application fee established by the board of not less than five nor more than twenty-five dollars.

SECTION 15. REGISTRATION FEES.) Registration fees shall be established by the board subject to the following limitations:

1. The registration fee for professional soil classifiers shall be in an amount not less than twenty nor more than one hundred dollars.
2. The registration fee for soil classifier-in-training certification or enrollment shall be established by the board in an amount not less than ten nor more than fifty dollars.

3. Should the board deny the issuance of a certificate to an applicant, the fee paid shall be retained as an application fee.

SECTION 16. EXAMINATIONS.) Examinations shall be held at such times and places as the board shall determine. Examinations required on fundamental soil subjects may be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of soil classifying experience as provided in this chapter. The passing grade on any examination shall not be less than seventy percent. A candidate failing one examination may apply for re-examination, which may be granted upon payment of a fee established by the board of not less than ten nor more than twenty-five dollars. Any candidate for registration having an average grade of less than fifty percent may not apply for re-examination for a period of one year from the date of such examination.

SECTION 17. CERTIFICATES.) The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who in the opinion of the board has met the requirements of this chapter. Enrollment cards shall be issued to those who qualify as soil classifiers-in-training. Certificates of registration shall carry the designation "professional soil classifier", shall show the full name of the registrant without any titles, shall be numbered and shall be signed by the chairman and the secretary under the seal of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a professional soil classifier during the term for which the said certificate is valid providing the same has not been revoked or suspended.

SECTION 18. EXPIRATIONS AND RENEWALS.) Certificates of registration shall expire on the last day of the month of December following their issuance and shall become invalid after that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this chapter of the date of the expiration of said certificate of registration and the amount of the fee required for its renewal. Such notice shall be mailed to the registrant at his last-known address at least one month in advance of the expiration of said certificate. Renewal may be effected at any time prior to or during the month of December by the payment of a fee established by the board not to exceed the fees established for registration. Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for re-examination and penalty fees.

SECTION 19. REISSUANCE OF CERTIFICATES.) A new certificate of registration to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the board. A reasonable charge shall be made for such issuance.

SECTION 20. CODE OF ETHICS.) The board shall cause to have prepared and shall adopt a code of ethics a copy of which shall be delivered to every registrant and applicant for registration under this chapter. Such delivery shall constitute due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of such revisions and amendments. Such code of ethics when adopted shall apply to all certificate holders.

SECTION 21. DISCIPLINARY ACTION - REVOCATIONS, SUSPENSIONS OR REPRIMANDS.) The board shall have the power to suspend, refuse to renew or revoke the certificate of registration of, or reprimand any registrant who is guilty of: the practice of fraud or deceit in obtaining a certificate of registration, any gross negligence, incompetence or misconduct in the practice of soil classifying, any felony or crime involving moral turpitude, or violation of the code of ethics adopted and promulgated by the board.

SECTION 22. DISCIPLINARY ACTION - PROCEDURE.) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of ethics against any individual registrant. Such charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary of the board. All charges unless dismissed by the board as unfounded or trivial shall be heard by the board within three months after the date on which they shall have been preferred. The time and place for said hearing shall be fixed by the board and a copy of the charges together with a notice of the time and place of hearing shall be served upon the accused either personally or sent by registered or certified mail to the last-known address of such individual registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant shall have the right to appear in person or by counsel or both, to cross-examine witnesses appearing against the accused, and to produce evidence and witnesses in defense of the accused. If the accused person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges. If after such hearing a majority of the board votes in favor of sustaining the charges, the board shall make findings of fact, draw its conclusions and issue its order therein and serve the same upon the accused. In said order the board may reprimand, suspend, refuse to renew or revoke the accused individual's certificate of registration. Any person who feels aggrieved by any action of the board in denying, suspending, refusing to renew or revoking his certificate of registration may appeal therefrom to the district court under the procedures provided by chapter 28-32 of the North Dakota Century Code.

SECTION 23. RIGHT TO PRACTICE.)

1. No person shall practice or offer to practice professional soil classifying as defined by this chapter unless such person is duly registered to

practice under or exempt from the provisions of this chapter.

SECTION 24. EXEMPTION CLAUSE.) This chapter shall not be construed to prevent or affect:

1. Temporary permits. The practice or offer to practice soil classifying by a person not a resident or having no established place of business in this state provided such person is legally qualified by the provisions of this chapter to practice soil classifying as defined herein in his own state which extends similar privileges to persons registered under this chapter provided such person shall make application accompanied by the appropriate application fee to the board in writing prior to his practicing or offering to practice soil classifying, may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job provided, however, no right to practice soil classifying shall accrue to such applicant with respect to any other work not set forth in said permit.
2. Employees and subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this chapter or an employee of a person practicing lawfully under subsection 1 of this section, provided such work does not include final soil classifying decisions and is done under the direct supervision of and verified by a person holding a certificate of registration under this chapter or a person practicing lawfully under subsection 1 of this section.
3. The practice of any other legally recognized profession or trade.
4. The practice of soil classifying by any person regularly employed to perform soil classifying services solely for his employer or for a subsidiary or affiliated corporation of his employer providing the soil classifying performed is in connection with the property, products or services of his employer.

SECTION 25. VIOLATION AND PENALTIES.) Any person who shall practice or offer to practice professional soil classifying in this state without being registered in accordance with the provisions of this chapter, or any person, firm, partnership, organization, association, corporation or other entity using or employing the words "soil classifier" or "professional soil classifier" or any modification or derivative thereof in its name or form of business or activity except as authorized in

this chapter, or any person presenting or attempting to use the certificate of registration of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under this chapter, or any person, partnership, corporation or other entity who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor.

Approved March 29, 1973