

OCCUPATIONS AND PROFESSIONS

CHAPTER 393

HOUSE BILL NO. 1404
(Bunker, E. Metzger, Larson)

ABSTRACTERS' FEES

AN ACT to amend and reenact section 43-01-18 of the North Dakota Century Code, relating to the fees of abstracters.

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

SECTION 1. AMENDMENT.) Section 43-01-18 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-18. FEES CHARGEABLE BY ABSTRACTER.) An abstracter may charge the following fees, and no more for making and certifying to an abstract:

1. For the first entry on an abstract or continuation thereof, three dollars;
2. For every entry other than the first entry, two dollars and twenty-five cents;
3. For a complete certification covering the records of the several county offices, twenty dollars; for a certification covering lands in excess of one quarter section in the same abstract of title an additional fee of seven dollars and fifty cents, for each quarter section or portion thereof in excess of one, may be charged; for a certification covering premises in more than one block in any subdivision in the same abstract of title, an additional fee of seven dollars and fifty cents, for such premises in each additional block in excess of one, may be charged;
4. For each name searched for judgments, real estate taxes, bankruptcy proceedings, federal tax liens, state tax liens, mechanics' liens and mechanics' lien notices, one dollar;
5. For all miscellaneous instruments, one dollar and fifty cents for the first one hundred words, and one dollar for each additional hundred words or fraction thereof; and
6. Such fees as may be fixed by special statute.

Approved March 25, 1975

CHAPTER 394

SENATE BILL NO. 2269
(Jones, Lips)

PUBLIC ACCOUNTANCY ACT

AN ACT to regulate the practice of public accounting in the public interest; to create a state board of accountancy and to prescribe its powers and duties; and to provide penalties for violations of the provisions of this Act; and to repeal Chapter 43-02 of the North Dakota Century Code.

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

SECTION 1. NAME AND DECLARATION OF LEGISLATIVE INTENT.)
This Act may be cited as the Public Accountancy Act of 1975.

It is the policy of this state, and the purpose of this Act, to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status of performance of commercial and noncommercial enterprises, whether public or private. The public interest requires that persons attesting as experts in accountancy to the reliability or fairness of presentation of such information be qualified in fact to do so. A public authority competent to prescribe and assess the qualifications of public accountants shall be established. The attestation of financial information by persons professing expertise in accountancy shall be reserved to only those persons who have demonstrated their ability and fitness to observe and apply the standards of the accounting profession.

SECTION 2. BOARD OF ACCOUNTANCY.)

1. The state board of public accountancy shall consist of five members appointed by the governor from a list of qualified nominees submitted to him by nominating committees formed from the certified public accountants and licensed public accountants in North Dakota. Four members of the board shall be residents of this state who hold certified public accountant certificates issued under the laws of this state and one member of the board shall be a resident of this state who is a licensed public accountant under the laws of this state. The licensed public accountants shall nominate the licensed public accountant member of the board and the certified public accountants shall nominate the certified public accountant members of the board. At the time when the number

of licensed public accountants in this state drops below twenty-five, the licensed public accountants will lose their representative on the board, except that the licensed public accountant then serving on the board shall be allowed to complete his term of office. Subsequently, the board shall consist of five certified public accountants. The terms of office shall be so arranged that one term and only one shall expire on the 30th day of June of each year. Their successors shall be appointed for terms of five years. Each member of the board shall qualify by taking the oath of office required of civil officers and shall hold his office until his successor is appointed and qualified. A vacancy on the board shall be filled by appointment by the governor from a new list of at least three nominees submitted to him by the appropriate nominating committee.

2. At its first meeting subsequent to the 30th day of June in each year, the board shall organize by electing one of its members as president, one as secretary, and one as treasurer, but the office of secretary and treasurer may be held by one person. A majority of the board shall constitute a quorum for the transaction of business.
3. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof spent in the discharge of his duties, such mileage as is provided by section 54-06-09, as amended from time to time, and shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties.
4. All expenses incident to the examinations to be held under the provisions of this Act, the expenses of preparing and issuing certificates and licenses, the traveling and other allowable expenses of the members of the board, and stationery, printing, clerk hire, and incidental office expenses shall be paid by the board from the fees collected by it, and no expense incurred under the provisions of this Act shall be a charge against the funds of this state. No part of the funds administered by the board shall revert to the general fund of this state.
5. The board shall keep a complete record of all its proceedings and shall submit to the governor and secretary of state a biennial report as prescribed by section 54-06-04.1.
6. The board shall have the following powers:
 - a. To administer oaths to all applicants or persons appearing before it in respect to investigations,

examinations, the issuance of certified public accountant certificates and licenses, or the issuance of public accountant licenses;

- b. To conduct investigations and examinations and issue certificates and licenses to properly qualified accountants;
- c. To determine the qualifications of all applicants;
- d. To establish such rules and regulations as may be necessary to carry out the purposes of this Act and to maintain a high standard of integrity, continuing education, and proficiency among the holders of certified public accountant certificates and among licensed public accountants;
- e. To prescribe and enforce a code of professional ethics; and
- f. To employ an executive director whose salary shall be established by the board.

SECTION 3. CERTIFIED PUBLIC ACCOUNTANTS.)

- 1. The board shall issue a certificate to practice as a certified public accountant to any person who:
 - a. Is, or in good faith has declared his intention to become, a citizen of the United States;
 - b. Is a resident of North Dakota;
 - c. Is eighteen years of age or over;
 - d. Is of good moral character;
 - e. Has had at least four years of public accounting experience on his own account or in the office of a public accountant in active practice, or in an accounting or auditing position with the government of the United States or a state, or is a graduate of an accredited four year college or university with an academic emphasis in accounting; and
 - f. Has passed the Uniform Certified Public Accountant Examination together with any additional examination prescribed by the board;

provided, however, that the board may refuse to grant a certificate if such person is at the time of his application certified in any other state and that certificate is not then in good standing, or if such person has ever been certified in any state but is not certified at the time of his application.

2. The written examination referred to in this Act shall be the Uniform Certified Public Accountant Examination and shall be held twice a year on the dates specified by the American Institute of Certified Public Accountants and at places designated by the board. The board may in its discretion add other subjects to the examination in addition to those covered by the Uniform Certified Public Accountant Examination. A grade of seventy-five percent shall be required in each subject to constitute a passing grade.
3. At the time of filing his application, each applicant for a certificate to practice as a certified public accountant shall pay to the board a fee in an amount to be fixed by regulation of the board and not to exceed two hundred dollars. If the applicant passes accounting practice or any other two subjects covered by the Uniform Certified Public Accountant Examination, but shall fail to pass the examination as a whole, he shall be entitled to reexamination on the subjects which he has failed. Such reexamination may be taken as often as necessary to achieve a passing grade but only at the next five examinations held, provided that if the applicant is serving temporarily in the Armed Forces on active duty during the time such examinations are held, such examination shall be excluded in computing the five examinations unless the applicant takes an examination while so serving, in which case such examination shall be included in computing the five examinations. Each applicant shall pay to the board a fee of not to exceed one hundred dollars for each reexamination in accounting practice and a fee of not to exceed fifty dollars for each reexamination in any other subject.
4. The board, upon application in writing, may waive the examination and issue a certificate to practice as a certified public accountant to a person who is not a resident of this state, if he:
 - a. Has the other qualifications required by subsection 1 of section 3 and submits to the board such evidence as to qualifications as it may require;
 - b. Holds a certificate in good standing to practice as a certified public accountant in another state where the standards, in the opinion of the board, are equivalent to the standards maintained in this state, provided, however, that the other state extends reciprocity to the certificate holders of this state; and
 - c. Has remitted a fee of not to exceed two hundred dollars, the exact amount to be fixed by regulation of the board.

SECTION 4. LICENSED PUBLIC ACCOUNTANTS.)

1. Within one year of the effective date of this Act a license to practice public accountancy in the state of North Dakota shall be granted to any natural person submitting a written application on forms provided by the board together with an application fee in an amount to be fixed by regulation of the board and not to exceed one hundred dollars and meeting the following qualifications without having to take an examination therefor:
 - a. Applicant must be a citizen of the United States or have duly declared his intention of becoming a citizen;
 - b. Applicant must be a resident of North Dakota or have a place of business in North Dakota or be regularly employed herein;
 - c. Applicant must be of good moral character;
 - d. Applicant must have attained the age of eighteen years; and
 - e. Applicant must meet one of the following additional qualifications on or before July 1, 1976:
 - (1) Applicant must be one who holds himself out to the public as a public accountant and who has been engaged in the practice of public accountancy as his principal occupation for at least the two-year period immediately preceding his application;
 - (2) Applicant must be one who for at least the two year period immediately preceding his application has been an employee whose principal duty has been the practice of accounting for a certified public accountant or a public accountant engaged in the practice of public accountancy as his principal occupation;
 - (3) Applicant must be one serving in the Armed Forces of the United States who immediately prior to entering such service held himself out to the public as a public accountant and who was engaged in the practice of public accounting as his principal occupation for at least the two year period immediately preceding his entrance into the Armed Forces. An applicant who was serving in the Armed Forces on the effective date of this Act shall have one year from the date of his discharge to apply for his license; or

- (4) Applicant must be one engaged for at least the two year period immediately preceding his application in an accounting or auditing position with the government of the United States or a state for which an examination in accountancy or qualifying experience or education in accountancy is required.
2. Within one year of the effective date of this Act any person enrolled in an accredited college or university may register with the board declaring his intent to qualify for a license as a public accountant. A registration fee of ten dollars shall be remitted to the board at the time of registration. Such registrants will be granted a license to practice public accountancy in the state of North Dakota upon submission of a written application on forms provided by the board together with an application fee in an amount to be fixed by regulation of the board and not to exceed one hundred dollars if they meet the following qualifications on or before June 30, 1980:
 - a. Applicant must meet the requirements of subdivisions a, b, c, and d of subsection 1 of section 4 of this Act;
 - b. Applicant must have graduated from an accredited four year college or university with an academic emphasis in accounting; and
 - c. Applicant must be conditioned, as that term is from time to time defined by the board, on the Uniform Certified Public Accountant Examination.
3. The board, upon application in writing before June 30, 1976, may issue a license to practice as a licensed public accountant to a person who is not a resident of this state, if he:
 - a. Has the other qualifications required by subsection 1 of section 4;
 - b. Holds a license in good standing to practice as a licensed public accountant in another state where the standards, in the opinion of the board, are equivalent to the standards maintained in this state, provided, however, that the other state extends reciprocity to the license holders of this state; and
 - c. Has remitted a fee of not to exceed one hundred dollars, the exact amount to be fixed by regulation of the board.
4. An applicant under this section shall submit to the board

such evidence as to qualifications as it may require.

SECTION 5. REVOCATION, SUSPENSION, OR REINSTATEMENT OF
CERTIFICATE OR LICENSE - PROCEDURE AND APPEAL.)

1. The board may suspend for a period not to exceed five years or may revoke a certificate and/or a license to practice under this Act for any of the following reasons:
 - a. If the holder thereof has been convicted of a felony;
 - b. If the holder thereof has been convicted of an offense involving moral turpitude;
 - c. For fraud or misrepresentation in the application for the certificate or license or in the examination for the certificate;
 - d. For failing to adhere to the code of professional ethics as prescribed by the board;
 - e. For the failure of the holder of a certificate or license, if at the time the certificate or license was issued he was not a citizen of the United States, to qualify as a citizen within the time allowed by law;
 - f. If the out of state certificate or license of a non-resident who has been certified or licensed in North Dakota under the provisions of subsection 4 of section 3 or subsection 3 of section 4 is suspended, revoked, or cancelled in the state where it originally was issued;
 - g. For failure to register as provided by section 6; or
 - h. For violation of any of the provisions of this Act or of any of the officially promulgated rules and regulations of the board.
2. The board may reinstate any certificate or license revoked under subsection 1 of section 5 of this Act upon payment of a sum equal to the aggregate of annual license fees that would have been payable during the period of revocation if the certificate or license had not been revoked.
3. In any case where the provisions of this Act are administered by the board, and the law authorizes the board to revoke or suspend a certificate or license of a certified public accountant or licensed public accountant, the certificate or license holder shall have a right to a hearing before the board on such revocation or suspension and shall have a right to appeal to the courts from the decision of the board on such hearing and all of the

provisions of Chapter 28-32 relating to proceedings before an administrative agency shall be applicable to and shall govern the notice of hearing, the hearing, and the right of appeal from the board's decision.

SECTION 6. ANNUAL REGISTRATION FEE - ISSUANCE OF LICENSES.)

On or before July 1 of each year, every person legally certified to practice as a certified public accountant and every person legally licensed to practice as a licensed public accountant within this state shall file with the secretary-treasurer of the board a registration statement upon blanks prepared and provided by the board and shall pay to the secretary-treasurer an annual registration fee in an amount to be fixed by regulation of the board and not to exceed two hundred dollars. The secretary-treasurer of the board upon payment of the annual registration fee by a person certified to practice as a certified public accountant or by a person licensed to practice as a licensed public accountant in this state shall issue him an annual license.

SECTION 7. CRIMINAL OFFENSES.)

1. Any person who willfully:

- a. Represents himself to the public as having received a certificate as a certified public accountant when he has not received such certificate; or represents himself to the public as having received a license as a licensed accountant when he has not received such license;
- b. Assumes to practice as a certified public accountant or assumes the title "certified public accountant" or the abbreviation "CPA" or "CA" or any other words, letters, or abbreviations tending to indicate that such person is a certified public accountant without first having received a certificate and registered annually as provided in this Act; or assumes to practice as a licensed public accountant or assumes the title "licensed public accountant" or the abbreviation "LPA" or "LA" or any other words, letters, or abbreviations tending to indicate that such person is a licensed public accountant without first having received a license and registered annually as provided in this Act; or
- c. Continues to practice as a certified public accountant or to use such title or any other title, word, or abbreviation tending to indicate that he is a certified public accountant, after his certificate to practice has been revoked or while it is suspended; or continues to practice as a licensed public accountant or to use such title or any other title, word, or abbreviation tending to indicate that he is a licensed public accountant, after his license to practice has been revoked or while it is suspended;

shall be guilty of a Class A misdemeanor.

2. Any certified public accountant or licensed public accountant who willfully falsifies a report, statement, investigation, or audit shall be guilty of a Class A misdemeanor.
3. Any person not licensed or certified under this Act who willfully:
 - a. Signs or affixes his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any report of audit, opinion, or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans, and appropriations; or
 - b. Holds himself out to the public as an "accountant" or "auditor" by use of either or both of such words on any sign, card, letterhead, or in any advertisement or directory;

shall be guilty of a Class A misdemeanor.

4. Any partnership or corporation that willfully:
 - a. Assumes the title "certified public accountant" or the abbreviation "CPA" or "CA" without each member or shareholder thereof having received a certificate as a certified public accountant and registered as provided in section 6; or
 - b. Assumes the title "licensed public accountant" or the abbreviation "LPA" or "LA" without each member or shareholder thereof having received a license as a licensed public accountant and registered as provided in section 6;

shall be guilty of a Class A misdemeanor.

SECTION 8. CORPORATIONS FOR THE PRACTICE OF PUBLIC ACCOUNTING.) One or more individual persons may organize a corporation for the practice of public accounting under the Professional Corporation Act of this state; provided, however, that a corporation formed for such purpose under the Business Corporation Act of this state and duly existing prior to July 1, 1975, shall nevertheless be allowed to practice public accounting in this state.

SECTION 9. PERSONS AND PRACTICES EXEMPT FROM APPLICATION OF THIS ACT.) The provisions of this Act shall not apply to the following persons and practices:

1. Any employee of a person licensed to practice as a certified public accountant or as a licensed public accountant or any employee of a partnership or corporation authorized to practice as a "CPA" or "LPA" partnership or corporation so long as such employee does not engage on his own account in any practices regulated by this Act.
2. Any person, partnership, or corporation who offers to prepare or prepares any tax return with respect to any tax imposed by any governmental authority, whether federal, state, or local, or advises others in connection with tax matters.
3. Any person, partnership, or corporation who holds a current license from another state which license authorizes the practice of public accountancy, from temporarily practicing in this state provided such temporary practice is incidental to a regular practice outside this state and is conducted in conformity with the code of ethics and rules of professional conduct promulgated by the board.
4. The acts of public officials or public employees acting in the performance of their public duties.
5. The acts of officials, employees, partners, or principals of any organization in affixing their signatures to any statement or report in reference to the financial affairs of such organization with any wording designating the position, title, or office which said person holds in said organization.
6. Transactions between manufacturing and sales organizations and their customers where accounting services accompany the sale of products provided that such accounting services are incidental thereto and that any financial report made under this exemption be clearly titled, "Unaudited Financial Report".
7. Any person, partnership, or corporation offering or performing bookkeeping services, provided however that such services do not constitute a violation of any of the provisions of section 7 of this Act.

SECTION 10. DEFINITIONS.)

1. Board. The term "board" when used in this Act means the board of public accountancy created by section 2 of this Act.

2. Masculine terms when used herein shall also include the feminine.
3. State. The term "state" when used in this Act includes any state, territory, the District of Columbia, and any insular possession of the United States.

SECTION 11. CONSTRUCTION.) If any provisions of this Act or the application thereof to anyone or to any circumstances is held invalid, the remainder of the Act and the application of such provision to others or other circumstances shall not be affected thereby.

SECTION 12. REPEAL.) Chapter 43-02 of the North Dakota Century Code is hereby repealed; provided, however, that nothing contained in this Act shall invalidate or affect any action taken under any law in effect prior to the effective date hereof, nor shall it invalidate or affect any proceeding instituted under such law before the effective date hereof.

SECTION 13. EFFECTIVE DATE.) This Act shall take effect on July 1, 1975.

Approved March 7, 1975

CHAPTER 395

SENATE BILL NO. 2123
(Committee on Industry, Business, and Labor)
(At the request of the Secretary of State)

ARCHITECTS' CERTIFICATES

AN ACT to amend and reenact section 43-03-16 of the North Dakota Century Code, relating to architects' certificates of registration, and the duties of the secretary of the board of architecture.

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

SECTION 1. AMENDMENT.) Section 43-03-16 of the 1973 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.) 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. The secretary of the board shall maintain a list of architects certified under this section. This list shall contain the architect's name, current business address, certification number, and the expiration date of his certificate.

Approved March 13, 1975

CHAPTER 396

HOUSE BILL NO. 1488
(E. Metzger, Martinson)

PODIATRISTS

AN ACT to amend and reenact sections 43-05-01, 43-05-02, 43-05-03, 43-05-09, 43-05-10, 43-05-11, 43-05-12, 43-05-14, 43-05-15, 43-05-16, and 43-05-17 of the North Dakota Century Code, relating to definitions of podiatrists, and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 43-05-01 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-01. DEFINITION.) For the purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Podiatrist" shall mean one who examines, diagnoses, and treats ailments of the human foot by medical, surgical, and other means, except amputation of the foot that can be done with or without a local anesthetic.
2. "Board" shall mean the board of registry in podiatry.

SECTION 2. AMENDMENT.) Section 43-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-02. EXCEPTIONS.) The provisions of this chapter shall not apply to the following:

1. Physicians and surgeons licensed by the state board of medical examiners;
2. Physicians and surgeons of the United States armed forces and of the United States public health service;
3. Duly licensed chiropractors;
4. The sale of shoes or preformed arch supports in the stores of this state.

SECTION 3. AMENDMENT.) Section 43-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-03. BOARD OF REGISTRY IN PODIATRY - APPOINTMENT OF MEMBERS - TERM OF OFFICE - QUALIFICATIONS - VACANCIES.) The board of registry in podiatry shall consist of four persons appointed by the governor for a term of four years each with the terms of office so arranged that one term only shall expire on the thirteenth day of June of each year. Three members of the board shall hold doctor of podiatric medicine degrees and shall have practiced podiatry in this state for at least two years prior to their appointment, and the fourth person shall be a doctor of medicine, who shall hold a doctor of medicine degree and shall have practiced in this state for at least two years prior to his appointment.

A member of the board shall qualify by taking the oath of office required of civil officers and shall hold his office until his successor is appointed and qualified. The governor shall fill any vacancy by appointment for the unexpired term.

SECTION 4. AMENDMENT.) Section 43-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-09. LICENSE TO PRACTICE PODIATRY REQUIRED.) No person in this state shall practice podiatry, nor hold himself out to be a podiatrist, nor assume nor attempt to act as a podiatrist, unless he first has obtained a license to do so.

SECTION 5. AMENDMENT.) Section 43-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-10. APPLICATION - EXAMINATION FEE.) In order to obtain a license to practice as a doctor of podiatric medicine, an application shall be made to the board through the secretary-treasurer. The applicant shall submit evidence that he has the required qualifications and shall pay to the secretary-treasurer a fee of one hundred fifty dollars. The application shall be filed on or before the first day of June.

SECTION 6. AMENDMENT.) Section 43-05-11 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-11. QUALIFICATIONS OF LICENSEE.) An applicant for a license to practice podiatry shall possess the following qualifications:

1. Be eighteen years of age;
2. Be of good moral character;
3. Be a graduate of a college of podiatric medicine satisfactory to the board.

All persons holding a license to practice podiatry in this state upon the effective date of this Act, shall continue to be eligible for a license to practice podiatry under this chapter.

Upon renewal of any license, the podiatry board shall have the power to require the applicant to show sufficient proof of continuing medical education since the last application, which may include seminars or podiatry meetings. The podiatry board shall have the discretion to waive said requirements in case of illness or other extenuating circumstances.

SECTION 7. AMENDMENT.) Section 43-05-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-12. EXAMINATION - SUBJECTS COVERED - MARK REQUIRED - WHEN GIVEN.) Before an applicant may be licensed as a doctor of podiatry, he shall pass satisfactorily an examination in the following subjects, limited in their scope to the treatment of the human foot:

1. Basic sciences;
2. Physical diagnosis;
3. Orthopedics;
4. Materia medica;
5. Emergencies;
6. Foot surgery;
7. And other subjects as may be required by the board.

The minimum requirement for the license shall be a general average of seventy-five percent. Regular examinations shall be given at such time as the board may designate. If an applicant shall pass the examination given under this chapter, he shall be entitled to a license. In lieu of the examination herein provided for, the board may accept the successful completion of the examination administered by the national board of podiatry examiners as meeting the aforesaid requirements.

SECTION 8. AMENDMENT.) Section 43-05-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-14. WHEN LICENSE ISSUED WITHOUT EXAMINATION.) The board may issue a license without examination to a podiatrist of another state or Canadian province if:

1. Such other state or Canadian province grants like privileges to podiatrists of this state;
2. Such other state or Canadian province maintains equal statutory requirements for practicing podiatry;

3. Such applicant pays a fee of seventy-five dollars;
4. Such applicant has been engaged legally in the active practice of podiatry for at least two years immediately preceding the date of his application.

SECTION 9. AMENDMENT.) Section 43-05-15 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-15. RENEWAL OF LICENSE - FEE - ESTABLISHED BY BOARD - FAILURE TO PAY - REINSTATEMENT.) Each licensed and practicing podiatrist in this state shall pay an annual renewal uniform license fee to be established by the board, which license fee may be increased in accordance with the number of years licensed and practicing in North Dakota, but not to exceed one hundred fifty dollars on or before the first day of June of each year and shall be entitled to an annual certificate or license upon payment of said fee. If the renewal fee is not paid within six months after June first of each year, the license of the delinquent licensee shall be revoked and shall not be reissued except upon a new application and the payment of a sum equal to such fee as established by the board plus twenty-five dollars.

SECTION 10. AMENDMENT.) Section 43-05-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-16. GROUNDS FOR REVOKING OR REFUSING TO GRANT LICENSE.) After notice and due hearing the board may refuse to renew a license to practice podiatry or may revoke an existing license for any one or more of the following causes:

1. Prescribing for or treating any disease or defect of any part of the human body which in the opinion of the board is outside the scope of the practice of podiatry;
2. The use of untruthful or improbable statements to patients or in his advertisements;
3. The willful betrayal of professional secrets of a patient;
4. A false statement of an applicant in an application for a license or an affidavit connected with an application;
5. Conviction of any crime involving moral turpitude;
6. Proof of the use by the applicant or licensee of morphine, opium, cocaine, or any other substance or drug having a similar effect;
7. Giving away or prescribing any substance or compound containing morphine, opium, cocaine, or similar drug, exchanging the same for money or its equivalent, or vending or bartering the same for other than legal and legitimate therapeutic purposes.

It shall be unlawful for any person licensed under this chapter to maintain his or her professional office in conjunction or relation with any business other than those engaged in the practice of the medical sciences. The board of registry in podiatry may revoke the license of anyone violating this provision.

SECTION 11. AMENDMENT.) Section 43-05-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-17. PENALTY.) Any person violating any provision of this chapter shall be guilty of a class B misdemeanor.

Approved April 8, 1975

CHAPTER 397

SENATE BILL NO. 2229
(Committee on Finance and Taxation)
(At the request of the Tax Department)

CONTRACTOR'S BOND REQUIREMENTS

AN ACT to amend and reenact section 43-07-11 of the North Dakota Century Code, relating to bond requirements for contractors.

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

SECTION 1. AMENDMENT.) Section 43-07-11 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-11. CONTRACTOR'S BOND - REQUIREMENTS.) Every contractor as hereinbefore defined shall be required to execute and file with the application for license required by this chapter a good and valid bond issued by a surety company authorized to do business in this state or, in the case of class D contractors only, a personal bond with two sureties who are acceptable to the registrar and who are residents of the state of North Dakota. Every such bond for a class A contractor shall be written in the amount of two thousand dollars; bonds for class B, C, and D contractors shall be in the amount of one thousand dollars, each running to the state of North Dakota and conditioned upon the payment of all taxes, including the premiums under the workmen's compensation law and contributions due under the unemployment compensation law of the state of North Dakota, all use taxes required to be paid by the contractor to the state of North Dakota and all income taxes withheld or required to be withheld from employees pursuant to chapter 57-38, which may accrue to the state of North Dakota or the political subdivisions thereof on account of the execution and performance of the construction contract or subcontract; provided that any bond required by this section shall be in addition to any bond required by the provisions of section 48-01-05 and shall also be in addition to the obligation imposed by the provisions of section 57-40.2-14 upon a surety company to the state of North Dakota. Every contractor, as hereinbefore defined, upon making application for renewal of his license shall not be required to furnish a contractor's bond; however, the secretary of state as registrar shall not issue a certificate of renewal to any contractor upon notification by any department or agency of the state or political subdivision thereof, any secrecy provisions contained in the North Dakota tax laws notwithstanding, that the contractor has not paid a tax or other obligation presently due to the state of North Dakota or its political subdivisions. Upon notification that the contractor has been delinquent in the payment of any tax or other obligation to the state of North Dakota or the political subdivisions thereof, the secretary of state shall require the bond specified herein prior to the renewal of the license.

Approved March 19, 1975

CHAPTER 398

HOUSE BILL NO. 1277
(E. Metzger)

COMPENSATION AND POWERS OF ELECTRICAL BOARD

AN ACT to amend and reenact sections 43-09-04 and 43-09-05 of the North Dakota Century Code, relating to the members of the state electrical board and to the powers and duties of the state electrical board.

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

SECTION 1. AMENDMENT.) Section 43-09-04 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-04. OFFICERS OF BOARD - COMPENSATION OF MEMBERS.) The members of the board shall select from their members a president and a treasurer and the commissioner of insurance shall be secretary of the board. Each appointive member of the board shall receive such amount as may be set by the board but not more than fifty dollars per day for the actual services rendered, and in addition thereto, each member shall receive the necessary and actual expenses incurred by him in the discharge of his duties. The mileage and travel expense allowed shall not exceed the amount provided for in section 54-06-09.

SECTION 2. AMENDMENT.) Section 43-09-05 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*43-09-05. POWERS AND DUTIES OF STATE ELECTRICAL BOARD - REPORT.) The board shall adopt a seal and may make reasonable rules and regulations to carry out the provisions of this chapter. The board shall submit a biennial report as prescribed by section 54-06-04 with the governor and the secretary of state. The board shall appoint qualified inspectors, who shall within fifteen days after notice of completion of any electrical wiring installation involving a value of one hundred fifty dollars or more in municipalities having ordinances requiring such inspection, inspect such electrical installation and approve or condemn the same. A report thereof shall be made on forms prescribed by the board.

Approved April 5, 1975

*NOTE: Section 43-09-05 was also amended by section 31 of House Bill No. 1137, chapter 466.

CHAPTER 399

HOUSE BILL NO. 1147
(R. Metzger)

PLUMBERS' AND ELECTRICIANS' LICENSES

AN ACT to create and enact section 43-18-11.1 of the North Dakota Century Code, relating to the need for a plumber's license; and to amend and reenact section 43-09-16 of the North Dakota Century Code, relating to the need for an electrician's license.

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

SECTION 1. AMENDMENT.) Section 43-09-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-16. WHEN LICENSE NOT REQUIRED.) The following persons shall not be required to hold an electrician's license:

1. Employees of public utilities engaged in the manufacture and distribution of electrical energy when engaged in work directly pertaining to the manufacture and distribution of electrical energy. This exemption shall terminate at the first point of service attachment, except for the installing or testing of electric meters and measuring devices and the maintenance of their service;
2. Employees of telephone, telegraph, and radio communication service when engaged in work pertaining directly to such service; and
3. Employees of dealers in household appliances, such as room air conditioners, clothes dryers, dishwashers, freezers, garbage disposals, refrigerators, stoves, washing machines, water heaters, and similar appliances when such employees are installing and connecting such appliances to an existing electrical receptacle.

SECTION 2.) Section 43-18-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-18-11.1. WHEN LICENSE NOT REQUIRED.) Employees of dealers in household appliances need not be licensed pursuant to this chapter when installing household appliances, if any necessary plumbing work is incidental to the installation of the appliance and the work could be performed by a plumber's apprentice.

Approved April 8, 1975

CHAPTER 400

SENATE BILL NO. 2312
(Reiten)

DISCLOSURE OF FUNERAL PRICES

AN ACT to amend and reenact section 43-10-05 of the North Dakota Century Code, relating to the powers of the state board of embalmers to require rules reasonably designed to disclose the cost of merchandise and services for funerals.

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

SECTION 1.) Section 43-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-05. POWER OF BOARD TO ADOPT RULES FOR TRANSACTION OF BUSINESS - SEAL.) The board may:

1. Adopt such regulations for the transaction of its business and the management of its affairs as it deems expedient.
2. Adopt and use a seal.
3. Promulgate regulations requiring that each funeral home, at the time of selection of merchandise and services from such funeral home, disclose in writing to the person or persons making the selection:
 - a. The total price at retail of the merchandise and services selected and a listing of what merchandise and services are included within such total.
 - b. The price at retail of each item of supplemental service or merchandise requested.
 - c. The amount of cash advances to the extent that the same are known or can be ascertained at the time of the selection.
 - d. The terms by which payment for merchandise and services is to be made.

Approved March 19, 1975

CHAPTER 401

HOUSE BILL NO. 1278
(E. Metzger)

PRE-NEED FUNERAL REPORTS

AN ACT to amend and reenact sections 43-10.1-03, 43-10.1-04, 43-10.1-05, 43-10.1-06, 43-10.1-07, and 43-10.1-08 of the North Dakota Century Code, relating to reports required in relation to pre-need funeral services.

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

SECTION 1. AMENDMENT.) Section 43-10.1-03 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-03. ANNUAL REPORT FILED WITH COMMISSIONER OF SECURITIES.) On or before January thirty-first of each year, the owner or manager of each cemetery association or licensed funeral establishment that has entered into any pre-need funeral service contracts shall file a report covering the period of the preceding calendar year with the commissioner of securities, 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 entered into on behalf of the licensed funeral establishment or cemetery association during the preceding calendar year and the date each contract was made.
3. The lump sum consideration paid upon such pre-need funeral service contract required to be reported under subsection 2 of this section or the total amount in dollars of any installments paid upon each pre-need funeral service contract required to be reported under subsection 2 of this section.
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 fifty 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 commissioner of securities 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 2. AMENDMENT.) Section 43-10.1-04 of the 1973 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 commissioner of securities a corporate or personal surety bond approved by the commissioner of securities in an amount deemed adequate by the commissioner of securities. The bond shall be payable to the state of North Dakota, and in such form and style as the commissioner of securities may require 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 3. AMENDMENT.) Section 43-10.1-05 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-05. VERIFICATION BY COMMISSIONER OF SECURITIES.) Within ninety days after the filing of a report as required by section 43-10.1-03, the commissioner of securities shall verify such report by mailing to five percent of the purchasers or persons making payments upon such pre-need funeral service contracts and to the banks or trust companies where the report indicates the consideration filed has been deposited, a questionnaire which the purchaser or person making payment and the bank or trust company is requested to complete and return, verifying the facts stated in the report in regard to the contract or the deposit of funds. The commissioner of securities shall verify the facts on additional contracts reported if the commissioner shall have reason to believe additional verification to be necessary, but shall always verify at least one contract listed in every report.

SECTION 4. AMENDMENT.) Section 43-10.1-06 of the 1973 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 commissioner of securities 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, the commissioner may in his discretion 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, 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, the commissioner may 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 5. AMENDMENT.) Section 43-10.1-07 of the 1973 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 commissioner of securities, 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 exist for violation of this chapter or any other law of this state, the commissioner of securities may 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.

SECTION 6. AMENDMENT.) Section 43-10.1-08 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-08. PENALTIES FOR VIOLATION OF CHAPTER.) Any person who shall refuse, fail, or neglect to file any report and provide any information as required by section 43-10.1-03 after written notification by the commissioner of securities that he is required to do so, or who shall otherwise violate any provisions of this chapter, shall be guilty of a class A misdemeanor.

Approved March 25, 1975

CHAPTER 402

HOUSE BILL NO. 1292
(Berg)

HAIRDRESSERS' BOARD COMPENSATION

AN ACT to amend and reenact sections 43-11-06 and 43-11-35 of the North Dakota Century Code, relating to compensation granted to members of the board of hairdressers and cosmetologists, and for a penalty; and to repeal subsection 3 and paragraph d of subsection 8 of section 43-11-16 of the North Dakota Century Code, relating to qualifications for registration of schools of hairdressing and cosmetology.

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

SECTION 1. AMENDMENT.) Section 43-11-06 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-06. COMPENSATION OF MEMBERS OF BOARD - HOW PAID.) Each member of the board shall receive thirty-five dollars for each day employed in the actual discharge of duties and necessary expenses so incurred. The secretary of the board shall receive an annual salary of not more than seven thousand eight hundred dollars to be fixed by the board, and necessary expenses actually incurred in the performance of official duties. The compensation and expenses of all members of the board shall be paid from the fund in the state treasury to the use of the board on requisition signed by the president and the secretary of the board and the warrant of the state auditor.

SECTION 2. AMENDMENT.) Section 43-11-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-35. PENALTY.) Any person who, without a certificate, shall practice any of the occupations, maintain a school, or act in any capacity, wherein a certificate is required by the provision of this chapter, shall be guilty of a class B misdemeanor.

SECTION 3. REPEAL.) Subsection 3 and paragraph d of subsection 8 of section 43-11-16 of the 1973 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 25, 1975

CHAPTER 403

SENATE BILL NO. 2230
(Committee on Industry, Business, and Labor)
(At the request of the Board of Hairdressers
and Cosmetologists)

FEES FOR HAIRDRESSING SCHOOLS

AN ACT to amend and reenact section 43-11-17 of the North Dakota Century Code, relating to the certificates of registration issued to schools of hairdressing, cosmetology, and shops, and the fee for annual registration.

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

SECTION 1. AMENDMENT.) Section 43-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-17. CERTIFICATE OF REGISTRATION ISSUED FOR SCHOOLS OF HAIRDRESSING, COSMETOLOGY, AND SHOPS - FEE FOR ANNUAL REGISTRATION.) The board may issue an annual certificate of registration for a school giving instruction in hairdressing and cosmetology. The annual registration fee for such school shall be determined annually by the board but shall not exceed the sum of one hundred dollars. The board shall, after inspection and approval, issue a shop registration certificate, the annual fee for which shall be determined annually by the board but shall not exceed fifty dollars for new registrations and not exceed ten dollars for shops previously registered.

Approved March 27, 1975

CHAPTER 404

HOUSE BILL NO. 1463
(Martinson, Kermott, Powers)

MEDICAL STUDENTS' EXEMPTION

AN ACT to amend and reenact subsection 1 of section 43-17-02 of the North Dakota Century Code, relating to persons exempt from provisions of chapter.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 43-17-02 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Students who have had training in approved schools of medicine or osteopathy and who are continuing their training and performing the duties of an intern or a resident in any hospital or institution maintained and operated by the state, an agency of the federal government, or in any hospital operating under the supervision of a staff of physicians, the members of which are licensed to practice medicine and which hospital is approved for internships and residencies by the appropriate accrediting agency; and students practicing under the direction of a preceptor while enrolled in and regularly attending an approved medical school;

Approved March 25, 1975

CHAPTER 405

HOUSE BILL NO. 1484
(Raymond)

PHYSICIANS' TRAINED ASSISTANTS

AN ACT to create and enact subsection 10 of section 43-17-02 of the North Dakota Century Code, relating to the exemption of persons from the license requirements of the chapter.

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

SECTION 1.) Subsection 10 of section 43-17-02 of the 1973 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

10. Any person rendering services as a physician's trained assistant, if such service is rendered under the supervision, control, and responsibility of a licensed physician and provided that the state board of medical examiners shall prescribe rules and regulations governing the conduct, activities, and supervision of physicians' trained assistants. Physicians' trained assistants shall not be authorized to perform any services which must be performed by persons licensed pursuant to chapter 43-12, 43-13, 43-15, and 43-28 or services otherwise regulated by licensing laws, notwithstanding the fact that medical doctors need not be licensed specifically to perform the services contemplated under such chapters or licensing laws.

Approved April 8, 1975

CHAPTER 406

HOUSE BILL NO. 1482
(Farrington, Goetz)

REVOCATION OF PHYSICIANS' LICENSES

AN ACT to amend and reenact sections 43-17-31 and 43-17-32 of the North Dakota Century Code, relating to refusal to license or revocation of a physician's license by the state board of medical examiners, and appeal therefrom.

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

SECTION 1. AMENDMENT.) Section 43-17-31 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-31. REVOCATION, SUSPENSION, OR REFUSAL TO GRANT LICENSE - GROUNDS - RECORD.) The board may refuse to grant a license to practice medicine in this state or may suspend or revoke such license and cause the licentiate's name to be removed from the record in the office of the register of deeds upon any of the following grounds:

1. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
2. The performance of an unlawful abortion or assisting or advising the performance of any unlawful abortion.
3. The conviction of a felony.
4. Becoming addicted to a drug or intoxicants to such a degree as to render the licensee unsafe or unfit to practice medicine.
5. Sustaining any physical or mental disability which renders the further practice of medicine dangerous.
6. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
7. The use of any false or fraudulent statement in any document connected with the practice of medicine.

8. Knowingly performing any act which in any way assists an unlicensed person to practice medicine.
9. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or terms of a medical practice act.
10. The practice of medicine under a false or assumed name.
11. The advertising for the practice of medicine in any unethical or unprofessional manner.
12. Obtaining a fee as personal compensation or gain for an employer or a person on fraudulent representation that a manifestly incurable condition can be permanently cured.
13. The willful violation of privileged communication.
14. Failure of a doctor of osteopathy to designate his school of practice in the professional use of his name by such terms as "osteopathic physician and surgeon", "doctor of osteopathy", "D.O.", or similar terms.

The board shall keep a record of all of its proceedings in the matter of suspending, revoking, or refusing licenses together with the evidence offered.

SECTION 2. AMENDMENT.) Section 43-17-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-32. APPEAL FROM DECISION OF BOARD REFUSING, SUSPENDING, OR REVOKING A LICENSE.) An appeal from the final decision of the board refusing to grant, suspending, or revoking a license to practice medicine in this state may be taken to the district court of the county in which the decision was made in accordance with the provisions of chapter 28-32 of the title Judicial Procedure, Civil.

Approved March 25, 1975

CHAPTER 407

SENATE BILL NO. 2187

(Committee on Industry, Business, and Labor)
(At the request of the State Plumbing Board)

PLUMBING BOARD

AN ACT to create and enact two new sections to chapter 43-18 of the North Dakota Century Code, relating to injunctions and reciprocity regarding plumbers; and to amend and reenact sections 43-18-01, 43-18-02, 43-18-03, 43-18-04, 43-18-05, 43-18-08(3), 43-18-10, 43-18-11, 43-18-13, 43-18-15, 43-18-16, 43-18-17, 43-18-21, 43-18-23, and 43-18-24 of the North Dakota Century Code, relating to the plumbing board.

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

SECTION 1. AMENDMENT.) Section 43-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Master plumber" shall mean a person skilled in the planning, supervision, and the practical installation, alteration, and repair of plumbing, and familiar with the laws, rules, and regulations governing the same;
2. "Journeyman plumber" shall mean any person, other than a master plumber, who, as his principal occupation, is engaged in the practical installation, alteration, and repair of plumbing;
3. "Plumber's apprentice" shall mean any person other than a journeyman or a master plumber, who, as his principal occupation, is engaged in learning and assisting in the installation, alteration, and repair of plumbing and drainage, under the immediate and personal supervision of either a master or a journeyman plumber;
4. "Plumbing" shall mean the act of installing in buildings the pipes, fixtures, and other facilitating apparatus for bringing water into, and using the same in buildings, and for removing liquids and water-carried wastes therefrom; and
5. "Board" shall mean the state board of plumbing.

SECTION 2. AMENDMENT.) Section 43-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-02. STATE BOARD OF PLUMBING - MEMBERS - APPOINTMENT - QUALIFICATIONS.) The state board of plumbing shall consist of the chief sanitary engineer, or the head of any division of the state department of health who may be named by the chief sanitary engineer to act in his stead, and four persons appointed by the governor. All of the appointed members shall have been residents of this state for at least five years immediately preceding their appointment, and one of them shall be a master plumber with at least five years of experience in North Dakota, one shall be a journeyman plumber with at least five years of experience in North Dakota, one shall be a registered professional engineer practicing mechanical engineering in North Dakota, and one shall be a representative of the consuming public.

SECTION 3. AMENDMENT.) Section 43-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-03. STATE BOARD OF PLUMBING - MEMBERS - TERMS OF OFFICE - VACANCIES - HOW FILLED.) Each appointed member of the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of four years and until his successor is appointed and qualified. The terms of office of the appointed members shall be so arranged that one term only shall expire on the thirtieth day of June of each year. The four members appointed by the governor to the first board shall be appointed within thirty days after this Act becomes effective to serve for the following terms: one master plumber for one year, one journeyman plumber for two years, one mechanical engineer for three years, and a representative of the consuming public for four years. A vacancy on the board caused by the death, resignation, or expiration of the term of any appointed member shall be filled for the unexpired term by appointment by the governor from the class of members to which the deceased or retiring member belonged.

SECTION 4. AMENDMENT.) Section 43-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-04. OFFICE AND OFFICERS OF BOARD.) The members of the board shall elect from their number a president, a vice president, and a treasurer, and they shall select a secretary, but the office of secretary and treasurer may be held by the same person. The secretary or secretary-treasurer need not be a member of the board but shall be a licensed plumber. The board shall have its headquarters at the state capital.

SECTION 5. AMENDMENT.) Section 43-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-05. MEMBERS OF BOARD AND EMPLOYEES - COMPENSATION.)

Each appointed member of the board shall receive twenty dollars per day for each day actually engaged in the performance of his duties under this chapter, and all members of the board, and all employees thereof, shall receive their traveling expenses incurred in the performance of their duties. Allowances for traveling expenses shall be as provided by law for state officials and employees. All such compensation and expense shall be paid out of the state plumbing board fund. The compensation provided for in this section shall not be paid to any member of the board who receives salary or other compensation as a regular employee of the state or any of its political subdivisions or any institution or industry operated by the state.

SECTION 6. AMENDMENT.) Subsection 3 of section 43-18-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Prescribe rules and regulations not inconsistent with the provisions of this chapter for the examination, regulation, and licensing of plumbers, either as master plumbers, journeyman plumbers, plumber's apprentices, or any of such classifications.

SECTION 7. AMENDMENT.) Section 43-18-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-10. FIRM ENGAGED IN INSTALLING PLUMBING TO EMPLOY MASTER PLUMBER - EXCEPTIONS.) No person, firm, or corporation shall engage in the business of installing plumbing and shall not install plumbing in connection with the dealing in and selling of plumbing materials and supplies in any incorporated city of this state having a system of waterworks or sewerage, unless at all times a registered and licensed master plumber, who is responsible for the proper installation thereof, is in charge of such work. There shall not be more than five plumber's apprentices under the immediate and personal supervision of either a master plumber or journeyman plumber employed on any installation, alteration, or repair project.

SECTION 8. AMENDMENT.) Section 43-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-11. LICENSE REQUIRED - EXCEPTION FOR HOMEOWNER AND FULL-TIME EMPLOYEE.) No person, firm, or corporation shall engage in the business of a master plumber, journeyman plumber, or plumber's apprentice in any incorporated city of this state having a system of waterworks or sewerage unless registered and licensed to do so by the board. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standards prescribed by the board on premises or that part of premises owned and actually occupied by him as his residence, or on premises where he is employed in full-time maintenance work, unless otherwise forbidden to do so by a local ordinance.

SECTION 9. AMENDMENT.) Section 43-18-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 43-18-13. LICENSE - HOW OBTAINED - FEE.) Any person qualified under the rules of the board who desires to take the examination to become a registered and licensed plumber shall make application to the board therefor and pay to the treasurer of the board the examination fee. Such fee shall not exceed one hundred dollars for a master plumber's certificate and license and fifty dollars for a journeyman plumber's certificate and license. The board, when the condition of its fund permits and when in its judgment it is deemed advisable, may reduce the amount of the examination fees, but it may not increase the same above the amount hereinbefore specified. Any such change shall be adopted by the board to take effect on the first day of January following its action and shall apply to all examination fees in the classes specified in the ruling. The applicant shall present himself at the next regular meeting of the board for examination of applicants. If upon examination the applicant is found by the board to be qualified as a master plumber or journeyman plumber, or both, it shall issue to him a certificate of registration and license which shall entitle him to do the work and be a plumber as specified in the license. A master plumber's and journeyman plumber's license may be issued to one and the same person, and the holder of a master plumber's license may be granted a journeyman plumber's license without the payment of the journeyman's fee. All certificates and licenses shall be numbered consecutively and shall not be transferable, and no person shall work under the license issued to another person.

SECTION 10. AMENDMENT.) Section 43-18-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-15. TEMPORARY LICENSE - WHEN ISSUED.) The board, upon the payment of the regular examination fee, may issue a temporary permit to engage in the business of master plumber or journeyman plumber, or both, to any person who furnishes satisfactory evidence of his qualifications. Such permits shall be revocable permits and shall be effective to December thirty-first of the year in which they are issued. No person shall be issued such temporary permits for longer than four years.

SECTION 11. AMENDMENT.) Section 43-18-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-16. PLUMBER LICENSED BY BOARD MAY PRACTICE AT ANY PLACE IN STATE - EXCEPTION.) A plumber registered and licensed by the board to engage in the business of master plumber, journeyman plumber, or plumber's apprentice may engage in or work at the business or plumbing at any place in this state, except in cities that have adopted ordinances requiring a municipal license or registration in addition to the state license before permitting

*NOTE: Section 43-18-13 was also amended by section 1 of House Bill No. 1517, chapter 408.

any plumber to work in such municipality.

SECTION 12. AMENDMENT.) Section 43-18-17 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-17. RENEWAL OF LICENSE - FEE.) A certificate and license issued under the provisions of this chapter shall be valid for only one year and shall expire on the thirty-first day of December of the year in which it was issued. The certificate shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of a sum not to exceed one hundred dollars for a master plumber's certificate and license, and the sum of fifty dollars for a journeyman plumber's certificate and license. The board, when the condition of its fund permits and when in its judgment it is deemed advisable, may reduce the amount of the renewal fees, but it may not increase the same above the amount hereinbefore specified. Any such change shall be adopted by the board to take effect on the first day of January following its action and shall apply to all renewals in the classes specified in the ruling.

SECTION 13. AMENDMENT.) Section 43-18-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-21. APPRENTICESHIP.)

1. Every apprentice plumber shall within thirty days after beginning his apprenticeship register with the state plumbing board on a registration application form which will be supplied by the board, showing date of beginning apprenticeship, age, schooling, previous experience, employer, and such other information as the board may require, except that a person who is working in a school-work program need not register.
2. Each applicant for registration as an apprentice must have reached the age of eighteen years. The board may accept registration of persons beginning a course in plumbing at an accredited school and from any persons who furnish satisfactory evidence to the board that they were actually employed as an apprentice plumber prior to July 1, 1975.
3. An apprentice shall serve a term of seven thousand six hundred hours. When the applicant furnishes proof of previous practical experience in the trade, or is a graduate of a course in plumbing in an accredited school, the board may grant him hourly credit toward his term of apprenticeship. Graduates of the plumbing course of an accredited school having at least a nine-month (one thousand twenty hours) course in plumbing may receive the following number of hours credit for each hour of the course according to the graduating grade average they received:

- a. A average - two hours;
 - b. B average - one and three-quarters hours;
 - c. C average - one and one-half hours; and
 - d. D average - one hour.
4. A master plumber employing a registered apprentice shall report to the board any changes made in relation to continued employment of such apprentice. It shall be the employer's duty and responsibility not to permit an apprentice to perform work unless he is under the direct supervision and in the immediate presence of either a master or journeyman plumber. Between five thousand seven hundred and seven thousand six hundred hours of apprenticeship training a registered apprentice, employed by a master plumber, may work by himself, or in cities of one thousand population or less and in all rural areas, such a registered apprentice may work in his own employ.

A registration certificate issued under the provisions of this section shall be valid for only one year and shall expire on the thirty-first day of December of the year in which it was issued. The certificate shall be renewed by the board upon application made within thirty days after the expiration thereof and on payment of the sum set by the board, but not to exceed twenty dollars for the first year, thirty dollars for the second year, forty dollars for the third year, and fifty dollars for the fourth year of apprenticeship. This certificate of registration shall be the license required to be employed as a plumber's apprentice in this state.

SECTION 14. AMENDMENT.) Section 43-18-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-23. WORKING AS PLUMBER WITHOUT LICENSE.) It shall be unlawful for any person to work, for compensation, as a master plumber, journeyman plumber, or plumber's apprentice without being registered and licensed as a plumber in such classification.

SECTION 15. AMENDMENT.) Section 43-18-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*43-18-24. VIOLATION OF CHAPTER - PENALTY.) Any person who violates any of the provisions of this chapter or of the state plumbing code, or who fails to do any act required by said code, shall be guilty of an infraction.

SECTION 16.) A new section to chapter 43-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

*NOTE: Section 43-18-24 was also amended by section 488 of Senate Bill No. 2039, chapter 106.

INJUNCTION.) In addition to the criminal penalty provided in section 43-18-24, the civil remedy of injunction shall be available to plumbing inspectors to restrain and enjoin violations of any provisions of this chapter. Any person claiming to be injured in person or property because of violations of this chapter may bring a civil action for damages.

SECTION 17.) A new section to chapter 43-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

RECIPROCITY WITH OTHER STATES.) The board may register, without examination, upon payment of the required fee, nonresident applicants registered under the laws of other states having requirements for regulating plumbers which the board determines are substantially equivalent to the requirements of this state in those instances where such other state grants similar privileges to North Dakota residents licensed under this chapter.

Approved March 27, 1975

CHAPTER 408

HOUSE BILL NO. 1517
(Glassheim)

PLUMBERS' LICENSES

AN ACT to amend and reenact section 43-18-13 of the North Dakota Century Code, relating to the examination for a master or journeyman plumber's license.

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

SECTION 1. AMENDMENT.) Section 43-18-13 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*43-18-13. LICENSE - HOW OBTAINED - FEE.) Any person qualified under the rules of the board who desires to take the examination to become a registered and licensed plumber shall make application to the board therefor and pay to the treasurer of the board the examination fee. Such fee shall be sixty dollars for a master plumber's certificate and license and twenty dollars for a journeyman plumber's certificate and license. The applicant shall present himself at the next regular meeting of the board for examination of applicants. If upon examination the applicant is found by the board to be qualified as a master plumber or journeyman plumber, or both, it shall issue to him a certificate of registration and license which shall entitle him to do the work and be a plumber as specified in the license. A master plumber's and journeyman plumber's license may be issued to one and the same person, and the holder of a master plumber's license may be granted a journeyman plumber's license without the payment of the journeyman's fee. All certificates and licenses shall be numbered consecutively and shall not be transferable, and no person shall work under the license issued to another person. Should a person fail upon examination to qualify as a master or journeyman plumber, such person shall have the right to review the examination to determine the reasons for failure and shall have the right to appeal to the board.

Approved March 25, 1975

*NOTE: Section 43-18-13 was also amended by section 9 of Senate Bill No. 2187, chapter 407.

CHAPTER 409

HOUSE BILL NO. 1190
(Atkinson)

REAL ESTATE EDUCATION FUND

AN ACT to provide for a real estate education, research, and recovery fund, and the administration thereof, for hearings, payments, and purposes; and to amend and reenact section 43-23-09 of the North Dakota Century Code, relating to license applications and bonds.

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

SECTION 1. REAL ESTATE EDUCATION, RESEARCH, AND RECOVERY FUND - PURPOSES - ADMINISTRATION.) There is hereby created a real estate education, research, and recovery fund, which shall be used to provide a fund whereby aggrieved persons may make application for the payment of unsatisfied judgments, and for the furnishing of education and research in the field of real estate for the benefit of licensees, all in accordance with the provisions and limitations contained within this Act. The fund shall be administered by the state real estate commission as provided within this Act.

SECTION 2. FEES PAID INTO FUND.)

1. In addition to the appropriate licensing fees paid by real estate brokers and salesmen, each person licensed for the calendar year 1976 as a real estate broker or salesman shall pay, at the time of application for such license, a separate fee in the amount of twenty dollars which shall be credited into the education, research, and recovery fund. Each person so licensed for the calendar year 1977 shall pay a like fee in the amount of twenty dollars which shall be credited into the fund. Thereafter, any person who is licensed as a real estate broker or salesman for the first time, either for the calendar year 1978 or for a subsequent calendar year, shall pay a fee of twenty dollars at the time of obtaining such license which shall be credited into the fund. Except for assessments paid into the fund as provided in subsection 2 of this section, any person obtaining a broker's or salesman's license for the first time which becomes effective for the calendar year 1978 or for a subsequent calendar year, shall pay the fee of twenty dollars into the fund only once.

2. If, on June thirtieth of any year, following the establishment of the real estate education, research, and recovery fund, the amount remaining in the fund is less than sixty thousand dollars, every licensed real estate broker and salesman, when renewing his license, shall pay, in addition to the annual renewal fee, a sum not to exceed twenty dollars, which shall have been determined by the commission to be sufficient to restore the balance in the fund to at least sixty thousand dollars.
3. The commission shall maintain a minimum of sixty thousand dollars in the fund for recovery purposes. Such funds shall be invested and reinvested by the commission and interest from said investments shall be deposited to the credit of the fund. Sufficient liquidity shall be maintained so that moneys are available to satisfy all claims which are processed through the commission by means of the procedures established in this Act.
4. The commission, in its discretion, may use any moneys in the fund in excess of sixty thousand dollars, regardless of whether it is from education, research, and recovery fund fees or accrued interest thereon, for the following purposes:
 - a. To promote the advancement of education and research in the field of real estate for the benefit of those licensed under chapter 43-23.
 - b. To underwrite educational seminars and other forms of educational projects for the benefit of real estate licensees.
 - c. To establish a real estate chair or courses at North Dakota institutions of higher learning for the purpose of making such courses available to licensees and the general public.
 - d. To contract for a particular educational or research project in the field of real estate to further the purposes of chapter 43-23.
5. The secretary-treasurer of the commission shall furnish a bond in the amount of sixty thousand dollars, upon such conditions as the commission may prescribe.

SECTION 3. CLAIMS AGAINST FUND - ORDERS FOR PAYMENT.)

When any aggrieved person obtains a final judgment in any court of competent jurisdiction against any person licensed under chapter 43-23 of this Code, on grounds of fraudulent, deceptive, or dishonest practices, or conversion of trust funds arising directly out of any act or transaction when the judgment debtor was licensed and performed acts for which a license is required

under chapter 43-23 of this Code, and which act or transaction occurred on or after July 1, 1975, the aggrieved person may, upon obtaining such final judgment, file an application in the court in which the judgment was entered for an order directing payment out of the fund in the amount of the actual and direct loss up to the sum of fifteen thousand dollars, unpaid on the judgment, provided that nothing contained within this Act shall be construed to obligate the fund for more than fifteen thousand dollars per transaction regardless of the number of persons aggrieved or parcels of real estate involved in the transaction. The application shall be verified and shall be served on the commission and upon the judgment debtor and an affidavit of service filed with the court.

SECTION 4. HEARINGS.) The court shall conduct a hearing upon the filing of the application, which may be continued, within the discretion of the court, for such period as the court may deem appropriate. At such hearing the aggrieved person shall be required to show that:

1. He is not the spouse of the debtor, or the personal representative of such spouse.
2. He has complied with all the requirements of this Act.
3. He has obtained a judgment as set out in section 3 of this Act, stating the amount thereof and the amount owing thereon at the date of the application.
4. He has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets which may be sold or applied in satisfaction of the judgment.
5. By such search, he has discovered no personal or real property or other assets liable to be sold or applied, or that he has discovered certain of them, describing them, owned by the judgment debtor and liable to be so applied, and that he has taken all necessary action and proceedings for the realization thereof, and that the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.
6. He has diligently pursued his remedies against all the judgment debtors and all other persons liable to him in the transaction for which he seeks recovery from the real estate education, research, and recovery fund.

7. He is making the application not more than one year after the judgment becomes final.

SECTION 5. MOTION FOR DISMISSAL - COMMISSION MAY DEFEND ACTION.) Whenever the court proceeds upon an application as set forth in this Act, it shall order payment out of the real estate education, research, and recovery fund only upon a determination that the aggrieved party has a valid cause of action within the purview of this Act and has complied with the provisions of this Act. The judgment shall be only prima facie evidence of such cause of action and for the purposes of this Act shall not be conclusive. The commission may defend any such action on behalf of the fund and shall have recourse to all appropriate means of defense and review including examination of witnesses. The commission may move the court at any time to dismiss the application when it appears there are no triable issues and the petition is without merit. The motion may be supported by affidavit of any person or persons having knowledge of the facts, and may be made on the basis that the petition, and the judgment referred to therein does not form the basis for a meritorious recovery claim within the purview of this Act; provided, however, the commission shall give written notice at least ten days before such motion. The commission may, subject to court approval, compromise a claim based upon the application of an aggrieved party. It shall not be bound by any prior compromise or stipulation of the judgment debtor.

SECTION 6. JUDGMENT DEBTOR MAY DEFEND - DEFAULT JUDGMENTS.) The judgment debtor may defend any such action on his own behalf and shall have recourse to all appropriate means of defense and review, including examination of witnesses. Whenever an applicant's judgment is by default, stipulation, or consent, or whenever the action against the licensee was defended by a trustee in bankruptcy, the applicant shall have the burden of proving his cause of action for fraudulent, deceptive, or dishonest practices, or conversion of trust funds. Otherwise, the judgment shall create a rebuttable presumption of the fraudulent, deceptive, or dishonest practices, or conversion of trust funds. This presumption is a presumption affecting the burden of producing evidence.

SECTION 7. ORDER FOR PAYMENT.) If the court finds after the hearing that said claim should be levied against the portion of the fund allocated for the purpose of carrying out the provisions of this Act, the court shall enter an order directed to the commission requiring payment from the fund of whatever sum it shall find to be payable upon the claim pursuant to the provisions of and in accordance with the limitations contained in this Act.

SECTION 8. LIMITATION OF PAYMENT - PRORATA DISTRIBUTION.) Notwithstanding any other provision of this Act, the liability of that portion of the fund allocated for the purposes of this Act shall not exceed fifteen thousand dollars for any one licensee. If the fifteen thousand dollar liability of the fund is insufficient to pay in full the valid claims of all aggrieved persons by whom claims have been filed against any one licensee, such

fifteen thousand dollars shall be distributed among them in the ratio that their respective claims bear to the aggregate of such valid claims or in such other manner as the court deems equitable. Distribution of such moneys shall be among the persons entitled to share therein, without regard to the order or priority in which their respective judgments may have been obtained or their claims have been filed. Upon petition of the commission the court may require all claimants and prospective claimants against one licensee to be joined in one action, to the end that the respective rights of all such claimants to the fund may be equitably adjudicated and settled.

SECTION 9. REPAYMENT TO FUND.) Should the commission pay from the fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesman, the license of the broker or salesman shall be automatically suspended upon the effective date of an order by the court as set forth herein authorizing payment from the fund. No such broker or salesman shall be granted reinstatement until he has repaid in full, plus interest at the rate of four percent a year, the amount paid from the fund on his account. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this Act.

SECTION 10. CLAIMS SATISFIED IN ORDER OF FILING.) If, at any time, the money deposited in the fund and allocated for purposes other than real estate education and research is insufficient to satisfy any duly authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate of four percent a year.

SECTION 11. DEPOSITS BY COMMISSION.) Any sums received by the commission pursuant to any provision of this Act shall be deposited in a federally insured depository in this state, and credited to the real estate education, research, and recovery fund, and said sums shall be allocated exclusively for the purposes provided in this Act.

SECTION 12. SUBROGATION RIGHTS OF COMMISSION.) When, upon the order of the court, the commission has paid from the fund any sum to the judgment creditor, the commission shall be subrogated to all of the rights of the judgment creditor to the extent of the amount so paid and the judgment creditor shall assign all his right, title, and interest in the judgment to the extent of the amount so paid to the commission and any amount and interest so recovered by the commission on the judgment shall be deposited in the fund.

SECTION 13. DISCIPLINARY ACTION BY COMMISSION.) Nothing contained in this Act shall limit the authority of the commission to take disciplinary action against any licensee under other provisions of chapter 43-23, nor shall the repayment in full of all obligations to the fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant

to the provisions of chapter 43-23.

SECTION 14. AMENDMENT.) Section 43-23-09 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-09. LICENSE APPLICATION.)

Every application for a real estate broker's license, a real estate salesman's license, or a mortgage broker's license shall be in writing upon blanks prepared by the commission and shall contain such data and information as the commission may require.

Approved April 4, 1975

CHAPTER 410

HOUSE BILL NO. 1473
(Wagner)

VETERINARY EXAMINERS' FEE DISPOSITION

AN ACT to amend and reenact section 43-29-11 of the North Dakota Century Code, relating to the disposition of fees collected by the North Dakota state board of veterinary medical examiners.

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

SECTION 1. AMENDMENT.) Section 43-29-11 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-11. FEES DEPOSITED WITH STATE TREASURER - SEPARATE FUND - VOUCHERS.) All moneys and fees collected or received by the board under the provisions of this chapter shall be deposited with the state treasurer to be held by him for all legitimate expenses of the board. The state treasurer shall keep such moneys in a separate fund continued from year to year and shall disburse the same only on warrants drawn against such fund by the president or the executive secretary of the board.

Approved March 18, 1975

CHAPTER 411

SENATE BILL NO. 2118
(Committee on Industry, Business, and Labor)
(At the request of the Attorney General)

PRIVATE DETECTIVE LICENSING

AN ACT to create and enact a new subsection to section 43-30-04 of the North Dakota Century Code, relating to private detective licensing powers of attorney general; to amend and reenact subsection 5 of section 43-30-05 of the North Dakota Century Code relating to qualifications of applicant; to amend and reenact section 43-30-07 of the North Dakota Century Code, relating to private detective identification card and to amend and reenact section 43-30-09 of the North Dakota Century Code, relating to detective agency license.

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

SECTION 1.) A new subsection to section 43-30-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Require submission of the names, addresses, dates of birth and any other information deemed to be necessary with regard to prospective employees of any private detective agency licensed pursuant to the provisions of this chapter.

SECTION 2. AMENDMENT.) Subsection 5 of section 43-30-05 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Who has filed with the attorney general a bond executed by the applicant and by a reputable surety company to be approved by the attorney general in the penal sum of five thousand dollars conditioned for the faithful and honest conduct of the business of such applicant, which bond shall be in the form prescribed by the attorney general and shall be taken in the name of the people of the state of North Dakota and shall provide that any person injured by the breach of the conditions of such bond may bring an action on said bond in the name of the people of the state of North Dakota for the use of such person so injured to recover legal damages suffered by reason of such breach; provided, however, that the aggregate

liability of the surety for all such damages shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving thirty days' notice in writing to the attorney general and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation.

SECTION 3. AMENDMENT.) Section 43-30-07 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-07. CONTENTS OF LICENSE - POSTING.) Whenever the provisions of this chapter have been complied with, the attorney general shall issue a license as a private detective. This license shall show the name and the business location of each license holder, the date on which it is issued, and the date of expiration, and shall have imprinted thereon the seal of the attorney general and such other matter as shall be prescribed by the attorney general.

Each applicant shall furnish to the attorney general, in conjunction with his application for a license, for a duplicate license, or for a renewal, restoration, or extension of a license a signed photograph of said applicant taken not more than three years prior to the date of said application, the dimensions of which shall be prescribed by the attorney general, which photograph shall be affixed to the license issued to such applicant.

It shall be the duty of each license holder to conspicuously display his license at all times in his place of business.

Notice in writing shall be given to the attorney general by such license holder of any change of principal business location whereupon the attorney general shall issue a new license for the unexpired period without charge. A change of business location without notification to the attorney general and without the issuance by him of a new license shall automatically cancel the license theretofore issued.

SECTION 4. AMENDMENT.) Section 43-30-09 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-09. DETECTIVE AGENCY LICENSE.) Upon payment of the required fee, the attorney general shall grant, without examination, a license to conduct a detective agency to any of the following:

1. An individual who makes application therefor in writing, who is the holder of a license as a private detective issued by the attorney general under the provisions of this chapter.
2. A partnership which makes application therefor in writing and all of the members of which hold licenses

as private detectives issued by the attorney general under the provisions of this chapter.

3. A corporation which is authorized by its articles of incorporation to engage in the business of conducting a detective agency, provided at least one officer or executive employee holds a license as a private detective issued by the attorney general under the provisions of this chapter, and that every officer of said corporation actively participating in the detective business in this state holds such a license.

Every person, firm, or corporation desiring to obtain such a license shall apply therefor to the attorney general in writing on applications prepared and furnished by said attorney general, which application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

The holder of such a license may employ, to assist him in the work of private detective and in the conduct of such business, as many persons as such license holder may deem necessary. Any person so in the employ of such license holder need not be the holder of a license as a private detective issued pursuant to the provisions of this chapter.

The applicant for a private detective agency license shall be required to file with the attorney general a bond executed by the applicant and a reputable surety company approved by the attorney general in an amount determined by the number of persons employed by the applicant, based upon the following schedule:

One to five employees - \$7,500.00

Six to ten employees - \$10,000.00

Eleven to twenty employees - \$15,000.00

More than twenty employees - \$20,000.00

A new bond shall be executed at any time the number of employees exceeds the maximum number in a given category, as above described.

No private detective agency shall employ any person to assist it in the work of private detective and in conduct of its business until such prospective employee's name, address, and other information as required by 43-30-04 of this section has been submitted to the attorney general and the attorney general has approved the employment of such individual, except that an individual may be employed as a probationary employee for a time not to exceed fourteen days, if the information required by 43-30-04 of this chapter is submitted to the attorney general within two days of the beginning of such probationary period, and if the probationary employee is covered by the bond as required pursuant to subsection 5 of section 43-30-05.

Approved March 27, 1975

CHAPTER 412

SENATE BILL NO. 2119
(Committee on Industry, Business, and Labor)
(At the request of the Attorney General)

DETECTION OF DECEPTION EXAMINERS

AN ACT to amend and reenact subsection 5 of section 43-31-07 of the North Dakota Century Code, relating to examinations for licensing of detection of deception examiners; and to amend and reenact section 43-31-15 of the North Dakota Century Code, relating to exemptions from licensing of detection of deception examiners.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 43-31-07 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Who has passed an examination conducted by the attorney general, or under his supervision, to determine his competency to obtain a license to practice as an examiner except that an examiner who was continually engaged in the administration of examinations for the two-year period immediately prior to July 1, 1975, or who had successfully completed a training course prior to July 1, 1975, from a school deemed acceptable by the attorney general, and who was previously exempt from the provisions of this chapter as an examiner in the exclusive employ of the state of North Dakota, a county, municipality or political subdivision thereof as then provided by section 43-31-15 of the North Dakota Century Code shall be exempt from the requirement of an examination; and

SECTION 2. AMENDMENT.) Section 43-31-15 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-15. EXEMPTIONS.) The provisions of this chapter shall not apply to any examiner in the exclusive employment of the United States of America or any department, bureau, or agency thereof.

Approved March 13, 1975

CHAPTER 413

HOUSE BILL NO. 1553
(Martinson)

RENEWAL OF HEARING AID DEALER LICENSES

AN ACT to amend and reenact section 43-33-11 of the North Dakota Century Code, relating to the sale and fitting of hearing aids.

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

SECTION 1. AMENDMENT.) Section 43-33-11 of the 1973 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-11. ANNUAL RENEWAL OF LICENSE - FEES - EFFECT OF FAILURE TO RENEW.) Each person who engages in the fitting and sale of hearing aids shall annually, on or before January thirtieth, pay to the department a fee of fifty dollars, together with a certificate showing attendance for a minimum of two days at a school or seminar, approved by the board, pertaining to the fitting and sales of hearing aids, for a renewal of his license and shall keep such license conspicuously posted in his office or place of business at all times. Where more than one office is operated by the licensee, duplicate licenses shall be issued by the department for posting in each location. A thirty-day grace period shall be allowed after January thirtieth, during which time licenses may be renewed on payment of a fee of seventy-five dollars together with the certificate of annual training to the department. After expiration of the grace period, the department may renew such licenses upon the payment of one hundred dollars together with the certificate of annual training to the department. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within two years from the date of such expiration and is accompanied with a certificate of training as herein designated during the twelve months immediately preceding the date of application.

Approved March 25, 1975

CHAPTER 414

HOUSE BILL NO. 1546
(Unhjem, Eagles)

AUDIOLOGISTS AND SPEECH PATHOLOGISTS

AN ACT to provide for the licensure of audiologists and speech pathologists, and providing a penalty.

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

SECTION 1. POLICY.) It is declared to be a policy of the state of North Dakota that, in order to safeguard the public health, safety, and welfare, to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons and from unprofessional conduct on the part of such persons, and to obtain the highest possible quality audiology and speech pathology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering audiology and speech pathology services to the public.

SECTION 2. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "Board" means the state board of examiners of audiology and speech pathology.
2. "Person" means any individual, organization, or corporate body, except that only an individual may be licensed under this Act.
3. "Audiologist" means an individual who practices audiology and who presents himself to the public by any title or description of services incorporating the words audiologist, hearing clinician, hearing therapist, or any similar title or description of service. No person may use the term "audiologist" in referring to himself unless he meets all the requirements of this Act pertaining to audiology.
4. "Audiology" means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling instruction, habilitation or rehabilitation related to hearing and disorders of hearing including vestibular testing, for the purpose of evaluating, identifying, preventing, ameliorating, or modifying such disorders

and conditions in individuals or groups of individuals.

5. "Habilitation" and "rehabilitation" include, but are not limited to, hearing aid evaluation and recommendation, auditory training, and speech reading.
6. "Speech pathologist" means a person who practices speech pathology and must meet all requirements of this Act pertaining to speech pathology.
7. "The practices of speech pathology" means the application of principles, methods, and procedures for measurement, testing, evaluation, identification, prediction, counseling, or instruction related to the development and disorders of speech, voice, rhythm, language, or tongue thrust for the purpose of identifying, evaluating, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions, individuals, or groups of individuals.
8. "State association" means the North Dakota speech and hearing association.
9. "National association" means the American speech and hearing association, the national administrative office of which is located in the District of Columbia.

SECTION 3. LICENSE REQUIRED - EXCEPTIONS.) No person shall practice or represent himself as an audiologist or speech pathologist in this state unless he is licensed in accordance with the provisions of this Act. However, nothing in this Act shall be construed to prevent or restrict:

1. A physician or surgeon from engaging in the practice of medicine in this state;
2. A hearing aid dealer from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids in this state as provided in chapter 43-33;
3. Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed;
4. A person who holds a valid and current credential as a speech or hearing specialist, issued by the department of public instruction, or a person employed as an audiologist or speech pathologist by the government of the United States, if such person performs speech pathology or audiology services solely within the confines or under the jurisdiction of the governmental or state educational organization by which he is employed. However, such person may, without obtaining a license under this Act, consult with or disseminate his re-

search findings and other scientific information to speech pathologists or audiologists outside the jurisdiction of the organization by which he is employed;

5. The activities and services of a person pursuing a course of study leading to a degree in speech pathology or audiology at a college or university if such activities and services constitute a part of a supervised course of study and such person is designated audiology or speech pathology intern, audiology or speech pathology trainee, or by any other such titles clearly indicating the training status appropriate to his level of training;
6. The activities and services of persons fulfilling the clinical experience requirement of section 4 of this Act, if such activities and services constitute a part of the experience required for the section's fulfillment;
7. Any person not a resident of this state from practicing in this state as long as he is able to present to the board proof of a bona fide practice in this state, so long as he meets the requirements of this Act and is licensed under this Act;
8. The performance of audiology or speech pathology services in this state by any person not a resident of this state who is not licensed under this Act:
 - a. If such services are performed for no more than five days in any calendar year and in cooperation with an audiologist or speech pathologist licensed under this Act, and if such person meets the qualifications and requirements for application for licensure described in subsections 1, 2, and 3 of section 4 of this Act; or
 - b. Who is the holder of a certificate of clinical competence in audiology or speech pathology or is licensed by another state whose licensure requirements are at least equivalent to those established by this Act, may offer audiology or speech pathology services in this state for no more than thirty days in any calendar year, if such services are performed in cooperation with an audiologist or speech pathologist licensed under this Act.
9. Any person holding a valid credential as a teacher of the hearing-impaired issued by the Council on Education of the Deaf from engaging in the practice of habilitation and rehabilitation of hearing-impaired persons.
10. No speech pathologist or audiologist licensed pursuant to this Act shall receive any remuneration of any kind from the sale of any type of hearing aid unless he is licensed as provided in chapter 43-33.

SECTION 4. ELIGIBILITY FOR LICENSURE.) To be eligible for licensure by the board as an audiologist or speech pathologist, a person shall:

1. Be of good moral character;
2. Possess at least a master's degree or its equivalent in the area of speech pathology or audiology from an educational institution recognized by the board;
3. Submit evidence of the completion of educational, clinical experience, and employment requirements based on appropriate national standards and prescribed by rules and regulations adopted pursuant to this Act;
4. Pass an examination approved by the board, which may be taken either before or after the completion of the employment requirements of subsection 3 of this section.

SECTION 5. BOARD OF EXAMINERS ON AUDIOLOGY AND SPEECH PATHOLOGY.)

1. The board of examiners on audiology and speech pathology is hereby established.
2. The board shall be comprised of seven members who shall be appointed by the governor from names submitted to the governor by the state association. Appointees shall be residents of this state for at least one year immediately preceding their appointment, and shall be engaged in rendering services to the public, in teaching, or in research in audiology or speech pathology for at least three years preceding their appointment. Two board members shall be audiologists, two shall be speech pathologists, one shall be an otolaryngologist, one shall be a hearing aid specialist, and one member who shall be a consumer.
3. The governor shall, within sixty days after the effective date of this Act, appoint the members of the board. He shall appoint two speech pathologists and two audiologists for a term of three years, and the remaining members for a term of two years. Thereafter, the governor shall appoint such members to the board as vacancies occur.
4. The board shall meet during the first month of each calendar year to select a chairman and for other appropriate purposes. At least one additional meeting shall be held during each calendar year. Special meetings may be convened at the call of the chairman or at the written request of any three board members. All meetings shall be open to the public, except that the board may hold closed sessions to prepare, approve,

grade, or administer examinations, or, to prepare a response indicating any reason for an applicant's failure upon the written request of such applicant.

5. Four members of the board shall constitute a quorum.

SECTION 6. POWERS AND DUTIES OF THE BOARD.)

1. The board shall administer, coordinate, and enforce the provisions of this Act, evaluate the qualifications, and supervise the examinations of applications for licensure under this Act, and may issue subpoenas, examine witnesses, and administer oaths, and shall, at its discretion, investigate allegations of practices violating the provisions of this Act.
2. The board shall adopt rules and regulations relating to professional conduct commensurate with the policy of this Act, including but not limited to regulations which establish ethical standards of practice and for other purposes, and may amend or repeal the same in accordance with chapter 28-32. Following their adoption, such rules and regulations shall govern and control the professional conduct of every person who holds a license to practice audiology or speech pathology in this state. The rules and regulations adopted by the board may relate to professional conduct and may establish ethical standards for dispensing of hearing aids by licensed audiologists but shall not restrict the dispensing of hearing aids by licensed audiologists.
3. The board shall conduct such hearings and keep such records and minutes as are necessary to orderly dispatch of its functions. The board shall provide adequate notice of all hearings authorized by this subsection.
4. The conferral or enumeration of specific powers elsewhere in this Act shall not be construed as a limitation of the general functions conferred by this section.

SECTION 7. ADMINISTRATIVE PROVISIONS.)

1. The board may employ at its pleasure an executive secretary and such officers and employees as may be necessary, and shall outline their duties and fix their compensation.
2. The board shall adopt a seal by which it shall authenticate its proceedings.
3. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

4. All appropriate expenses incurred by the board in the administration of the provisions of this Act shall be paid by the executive secretary or treasurer upon vouchers approved by the board.

SECTION 8. COMPENSATION OF BOARD MEMBERS.) Board members shall receive no salary for their services, but shall receive per diem compensation and all travel expenses for attendance at such meetings.

SECTION 9. LICENSURE - APPLICATION FOR EXAMINATION.)

1. A separate examination shall be required for licensure in speech pathology or audiology. Any person may be licensed in both areas if he meets the respective qualifications of each area.
2. Any person eligible for licensure under section 4 of this Act may make application for examination to the board at least thirty days prior to the date of examination upon a form and in such a manner as the board shall prescribe.
3. Any application shall be accompanied by the fee prescribed by section 15 of this Act. Such fee shall not be refunded.
4. An applicant who shall fail an examination may apply for reexamination in the manner prescribed by this section. The examination may be taken only three times within a three-year period.
5. The board may issue a temporary permit to practice activities regulated by this Act to any person who furnishes satisfactory evidence of his qualifications to the board. A temporary permit shall be issued for no longer than one year.

SECTION 10. EXAMINATION FOR LICENSE.)

1. Each application for licensure under this Act shall be examined by the board in written examination. Separate examinations shall be given for the areas of speech pathology and audiology. Standards for acceptable performance shall be established by the board.
2. Applicants for licensure shall be examined at a time and place and under such supervision as the board may determine at least once each year. Examinations shall be announced at least sixty days prior to their administration and shall be accompanied by appropriate notice to all applicants.
3. The board may examine all applicants in such theoretical or applied fields of audiology or speech

pathology it considers appropriate and may examine applicants with regard to professional skills and judgment in the utilization of audiology or speech pathology techniques and methods.

4. The board shall maintain a permanent record of all examination scores.

SECTION 11. WAIVER OF EXAMINATION OR PARTS THEREON.)

1. All persons actually or previously engaged in this state in the practice of audiology or speech pathology shall be licensed by the board upon proof of bona fide practice in this state presented to the board in a manner prescribed by regulations promulgated by the board. However, any such applicant must file an application for such within three years of the effective date of this Act.
2. The board may waive the examination and grant licensure to any applicant who shall present proof of licensure in another state, including the District of Columbia, or territory of the United States which maintains professional standards considered by the board to be equivalent to those set forth in this Act.

SECTION 12. ISSUANCE OF LICENSE.) The board shall issue a license to any person who meets the requirements of this Act and who pays the initial license fee prescribed in section 15 of this Act.

SECTION 13. SUSPENSION AND REVOCATION OF LICENSE.)

1. The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has engaged in unprofessional conduct. Such unprofessional conduct may include:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - b. Engaging in unprofessional conduct, as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;
 - c. Conviction of a felony in any court of the United States, if the acts for which he is convicted are determined by the board to have a direct bearing on such applicant's or licensee's ability to serve the public in the capacity of a speech pathologist or audiologist;

- d. Violation of any lawful order, rule, or regulation rendered or adopted by the board; or
 - e. Violation of any provision of this Act.
2. The board may deny any application for an application for, or suspend, revoke, or impose probationary conditions upon any licensee after a hearing, as provided by this Act.
3. One year from the date of revocation of any license under this section, the licensee may make application to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may require an examination for such reinstatement.
4. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is a conviction within the meaning of this section. At the direction of the board, and after due notice and hearing in accordance with the provisions of chapter 28-32, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:
 - a. The time for appeal has elapsed;
 - b. The judgment of conviction has been affirmed on appeal; or
 - c. An order granting probation has been made suspending the imposition of sentence.

SECTION 14. RENEWAL OF LICENSE.)

1. All licenses issued under this Act shall expire at the end of each calendar year if not renewed. A fee shall be required for such renewal, as prescribed in section 15 of this Act. The board may, in the event the renewal fee is rendered after the renewal date, renew a license upon payment of the renewal license fee plus a late payment penalty, which penalty shall equal the amount prescribed by the board pursuant to subdivision c of subsection 1 of section 15 of this Act, multiplied by the number of full months which have elapsed since expiration of the license. No person who requests renewal of license whose license has expired shall be required to submit to examination as condition to renewal if such renewal application is made within two years from the date of such expiration.
2. A suspended license is subject to expiration and may be renewed as provided in this section, but such renewal shall not entitle the licensee, while the license

remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order of judgment by which the license was suspended.

3. A license revoked on disciplinary grounds is subject to expiration as provided in subsection 1 of this section, but it may not be renewed. If such license is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the late renewal payment penalty defined in subsection 2 of this section.

SECTION 15. FEES.)

1. Provided that no fee or combination of fees shall exceed fifty dollars per person annually, the board shall prescribe amounts for fees for the following purposes:
 - a. Application for examination;
 - b. Initial licensing;
 - c. Renewal of licensure; and
 - d. Late renewal payment monthly penalty.
2. Every person to whom a license is issued pursuant to this Act shall, as a condition precedent to its issuance, and in addition to any application, examination, or other fee, pay the prescribed initial license fee. The board may, by regulation, provide for the waiver of all or part of such fee where the license is issued less than one hundred twenty days before the date on which it will expire.
3. Fees promulgated by the board shall be exclusive and no municipality shall have the right to require any person licensed under this Act to furnish any bond, pass any examination, or pay any license fee or occupation tax.

SECTION 16. NOTICE.) The board shall publish, in an appropriate manner, the licensure standards prescribed by this Act, any amendments thereto, and such rules and regulations as it may promulgate under the authority vested by subsection 2 of section 6 of this Act within sixty days of their respective promulgation.

SECTION 17. CONTINUING PROFESSIONAL EDUCATION.) The board shall require all applicants for license renewal to present evidence of satisfactory completion of continuing education requirements, as determined by the board. Licensure fees shall be used for continuing education.

SECTION 18. PENALTIES.) Any person who shall violate any provision of this Act shall be guilty of a class A misdemeanor. Nothing contained in this Act shall be construed to prevent or impair the administration or enforcement of any other provisions of the laws of this state.