

# OCCUPATIONS AND PROFESSIONS

## CHAPTER 293

H. B. No. 559

(Melroe, Neukircher, Johnston, Hilleboe, Thal and Loewen)

### REAL ESTATE COMMISSION

#### AN ACT

Creating a state real estate commission; prescribing the powers and duties of the commission; providing for the regulation, supervision, and licensing of real estate brokers and salesmen as defined in this Act; prescribing penalties for violation of provisions of this Act.

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

§ 1.) There is hereby created the State Real Estate Commission which shall consist of five members, two only of whom shall be active real estate brokers, appointed by the governor. The commission shall organize by the election of a chairman.

§ 2.) Immediately after the effective date of this Act, the governor shall appoint five members of the commission who shall hold office for the following periods of time from the effective date of this Act; one for one year; one for two years; one for three years; one for four years; one for five years. At the expiration of the term of any member of the commission, the governor shall appoint a successor for a term of five years. In the event of a vacancy on the commission for any reason the governor shall appoint a member for the unexpired term of that member.

A majority of the commission, in meeting duly assembled, may perform and exercise all of the duties and powers devolving on the commission. The commission shall report annually to the governor, its receipts and expenditures and a full statement of its work during the year together with such recommendations as it may deem expedient.

The commission shall adopt a seal with North Dakota Real Estate Commission engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the commission, duly certified and authenticated by the seal of such commission, shall be received in evidence in all courts equally and with like effect as the original.

§ 3.) The commission shall employ a secretary-treasurer who shall furnish bond as required by the commission and who shall keep a record of all proceedings, transactions, communications and official acts of the commission, be custodian of all moneys received for licenses which shall, by him, be deposited for safe keeping in depositories designated by the commission. He shall be custodian of all records of the commission and perform such other duties as the commission may require. The commission is authorized to fix the salary of the secretary-treasurer, to employ such other employees as may be necessary to properly carry out the provisions of this Act, to fix salaries and prescribe duties of such employees and to make such other expenditures as are necessary to carry out the provisions of this Act. The commission shall meet annually and upon call by the secretary-treasurer upon a written request of three or more members of the commission. The place of meeting of the said commission shall be at the office of the secretary-treasurer. The location of the office of the secretary-treasurer shall be at such places within the state as the commission may designate. The commission shall maintain all files, records and property of the commission at the office of the secretary-treasurer.

§ 4.) The members of the commission shall receive fifteen dollars for each day actually engaged in the service of the commission and shall be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this Act and no part thereof shall be paid out of the state treasury.

§ 5.) It shall be unlawful on and after January 1, 1958, for any person, copartnership, association or corporation, to act as a real estate broker or real estate salesman, or to advertise or assume to act as such real estate broker or real estate salesman, without a license issued by the real estate commission and no person, firm, copartnership, association or corporation shall be entitled to collect any fees, compensation or commission as a real estate broker or real estate salesman without having first complied with the provisions of this Act. No copartnership, association or corporation shall be granted a license, unless every member or officer of such copartnership, association or corporation actually engaged as a real estate broker or real estate salesman as defined herein, shall hold a license as a real estate broker, and unless every employee who acts as a real estate salesman for such copartnership, association or corporation shall hold a license as a real estate salesman.

§ 6.) A real estate broker within the meaning of this Act is any person, firm, partnership, copartnership, association or

corporation, who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiate the purchase or sale or exchange of real estate, or the improvements thereon for others, as a whole or partial vocation. The term "real estate" as used in this Act shall include leaseholds and other interests less than leaseholds, excluding gas, oil, and mineral rights.

A real estate salesman within the meaning of this Act is any person who for a compensation or valuable consideration is employed either directly or indirectly by a real estate broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or of the improvements thereon, as a whole or partial vocation.

A single act performed, or isolated transactions for a commission or valuable consideration in the buying or selling real estate of or for another, or offering for another to buy or sell, or exchange real estate, shall not constitute the person, firm, partnership, copartnership, association or corporation, performing, offering, or attempting to perform any of the acts enumerated herein, a real estate broker or a real estate salesman within the meaning of the Act.

§ 7.) The term "real estate broker" or "real estate salesman" shall not be held to include any person, partnership, association or corporation, who as a bona fide owner or lessor, shall perform any of the aforesaid acts:

1. With reference to property owned, or leased by them, nor shall it apply to the regular employees thereof, where such acts are performed in the regular course of, or as an incident to the management of such property and the investment therein;
2. Nor shall this Act be construed to include an attorney at law, admitted to practice in North Dakota, nor shall this Act apply to any persons selling real estate as an auctioneer, provided such sale is advertised as a bona fide public auction; nor shall this Act apply to any bank or trust company or any of its officers or employees in the performance of their duties as an officer or employee of any such bank or trust company;
3. Nor to any person holding in good faith a duly executed power of attorney from the owner, authorizing the final consummation and execution for the sale, purchase, leasing or exchange of real estate when such acts are not of a recurrent nature and done with the intention of evading this section;
4. Nor to the acts of any person while acting as a receiver, trustee, administrator, executor, guardian or under court

order, or while acting under authority of a deed or trust or will;

5. Nor shall this Act apply to public officers while performing their duties as such.

§ 8.) Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesman in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years prior to date of application.

§ 9.)

1. Every application for a real estate broker's license or for a real estate salesman's license shall be in writing upon blanks prepared by the commission and shall contain such data and information as the commission may require.
2. The applicant, broker, or salesman, shall file with application a surety bond issued by an insurer authorized to transact business in North Dakota. The bond shall be in the amount of one thousand dollars for a salesman and two thousand dollars for a broker, with the state real estate commission as obligee, conditioned for the prompt payment to the person entitled thereto of any amounts received by the real estate broker or salesman, or to protect any person from loss resulting from fraud or dishonesty by the applicant in connection with his real estate transactions. The bond shall remain operative for the period of the license.

§ 10.) A nonresident broker regularly engaged in the real estate business as a vocation, and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, shall not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker by another state as satisfactorily qualifying him for license as a broker, provided that said nonresident broker has qualified for license in his own state and also that said other state permits licenses to be issued to licensed brokers in this state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the secretary-treasurer, said consent

stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. Said consent shall be duly acknowledged, and if made by a corporation, shall be authenticated by the seal of such corporation. Any service of process or pleading shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered mail to the last known main office of the applicant against whom said process or pleading is directed, and no default in any such proceedings or action shall be taken except upon affidavit or certificate of the commission or the secretary-treasurer, that a copy of said process or pleading was mailed to the defendant as herein required, and no judgment by default shall be taken in any such action or proceeding until after thirty days from the date of mailing of such process or pleading to the nonresident defendant.

§ 11.)

1. The commission shall have full power to refuse a license for cause, or to revoke or suspend a license where the licensee, or proposed licensee in performing or attempting to perform any of the acts mentioned herein, shall have
  - a. Willfully violated any provisions of this Act, or
  - b. Been guilty of any fraudulent act or practice in connection with the sale of real estate as a broker or salesman, or
  - c. Pursued a continued and flagrant course of misrepresentation in the sale of real estate as a broker or salesman, or
  - d. Acted for more than one party in a real estate transaction without the knowledge of all parties for whom he acts, or
  - e. Failed to remit and account for any moneys coming into his possession which belong to others, or subsequent to the effective date of this Act commingled moneys belonging to others with his own funds, or
  - f. Been convicted in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offense.

No license shall be revoked or refused except after hearing before the board upon notice of not less than twenty days, with a copy of the charges for revocation, or the reasons for refusal having been duly served upon the applicant or licensee in the same manner as provided by law for the service of a

summons in civil actions in the district court, and then only if the charges or reasons for refusal are sustained. An appeal from the decision of the commission may be taken to the district court of the county where the person whose license is revoked or refused resides in the manner provided by law and the rules of practice and procedure adopted by the supreme court.

§ 12.)

1. Every person, partnership, association or corporation licensed as a real estate broker shall be required to have and maintain a definite place of business within this state, for the transaction of real estate business, or such business and any other business conducted by him. The certificate of registration as broker and the certificate of each real estate salesman employed by such broker shall be prominently displayed in said office. The said place of business shall be designated in the license, and no license issued under the authority of this Act shall authorize the licensee to transact business at any other address. In case of removal from the designated address, the licensee shall make application to the commission before said removal or within ten days after said removal, designating the new location of such office, whereupon the commission shall forthwith issue a new license for the new location for the unexpired period. The broker's home may qualify as such place of business.
2. All licenses issued to real estate salesmen shall designate the employer of such salesman. Prompt notice in writing, within ten days, shall be given to the commission by any real estate salesman of a change of employer, and of the name of the licensed broker into whose employ the salesman is about to enter, and a new license shall thereupon be issued by the commission to such salesman for the unexpired term of the original license, upon the return to the commission of the license previously issued. The change of employer or employment by any licensed real estate salesman, without notice to the commission as aforesaid, shall automatically cancel the license to him theretofore issued. Upon termination of a salesman's employment, the broker employer, shall forthwith return the salesman's license to the commission for cancellation. It shall be unlawful for any real estate salesman to perform any of the acts contemplated by this Act either directly or indirectly after his employment has been terminated and license as a salesman has been returned for cancellation, until said license has been reissued by the commission.

§ 13.) Fees for real estate brokers and real estate salesmen shall be as follows:

1. A fee of twenty-five dollars shall accompany an application for a real estate broker's license.
2. For each license as real estate broker, issued to a member of a partnership, association, or officer of a corporation other than the member or officer named in the license issued to such partnership, association, or corporation, there shall be a fee of twenty dollars.
3. A fee of twenty dollars shall accompany an application for a real estate salesman's license.
4. It shall be the duty of all persons, licensed to practice as a real estate broker or salesman, to register annually with the commission and to pay for each such annual registration as a real estate broker, the sum of twenty dollars and pay for such each annual registration as a real estate salesman, the sum of ten dollars. Said application, for renewal of real estate broker's or salesman's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.
5. For each additional office or place of business, there shall be an annual fee of five dollars.
6. For each change of office or place of business, there shall be a fee of five dollars.
7. For each duplicate or transfer of salesman's license, a fee of five dollars.
8. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars.

§ 14.) Every real estate broker as herein defined shall remit immediately to his principal all money received by him belonging to his principal, except where by the terms of his employment he is permitted to retain possession of such money until the final settlement and consummation of such transaction, in which event he shall immediately deposit said money in a bank in a special or trust account and such money shall not be used by such real estate broker, except in connection with said transaction.

§ 15.)

1. The commission is hereby authorized to conduct or hold or to assist in conducting or holding real estate courses

or institutes, and to incur and pay the necessary expenses in connection therewith, which courses or institutes shall be open to any licensee without any charge or fee.

2. The commission is hereby authorized to assist libraries, real estate brokers and real estate salesmen, institutes and foundations, with financial aid or otherwise, in providing texts, sponsoring studies, surveys and programs for the benefit of real estate and the elevation of the real estate business.

§ 16.) The secretary-treasurer shall, at least annually, publish a list of the names and addresses of all licensees licensed by the board under the provisions of this Act, together with such other information relative to the enforcement of the provisions of this Act as the board may deem of interest to the public. One of such lists shall be mailed to the clerk of courts in each county of the state and shall be held by said clerk of court as a public record. Such lists shall also be mailed by the secretary-treasurer to any person in this state upon request, and to all licensed brokers without charge.

§ 17.) Any person, firm, copartnership, association, or corporation violating any of the provisions of this Act shall upon conviction thereof, be punishable by a fine of not less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00).

§ 18.) If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act, which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

Approved March 7, 1957.



## CHAPTER 294

H. B. No. 571

(Stockman, Burk and Fristad)

## BARBERS' BOARD

## AN ACT

To amend and reenact sections 43-0407, 43-0412, and 43-0442 of the North Dakota Revised Code of 1943, as amended, relating to barbers and the board of barber examiners.

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

§ 1. **Amendment.)** Section 43-0407 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0407. Compensation; Mileage; How Paid.)** Each member of said board shall receive twelve dollars per day for actual services and shall also be paid their actual expenses as provided by law incurred in attending said meetings and in the performance of their official duties. All compensation shall be paid out of any money in the hands of the treasurer of said board as such.

§ 2. **Amendment.)** Section 43-0412 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0412. General Powers Of Board.)** The board is an instrumentality of the state and shall act for the purpose of administering the provisions of this chapter, and shall have such specific powers as are necessary to administer and enforce the same. The board shall have the following additional powers:

1. To supervise and regulate barbering practice in the state of North Dakota in the manner and for the purposes provided herein;
2. To investigate as conditions permit and regulate as conditions require all matters pertaining to the proper supervision and control of all barber shops and the work of all barbers within this state, in conformity with the intents and purposes of this chapter;
3. To act as mediator and arbitrator in any controversy or issue that may arise among or between barbers as between themselves, or that may arise between them

- as groups, in harmony with and supplementary to any lawfully constituted medium of arbitration now existing or hereafter created, having jurisdiction of such matters;
4. To issue subpoenas and to administer oaths as provided in section 43-0413 whenever necessary to carry out the purposes and intents of this chapter, and to issue commissions to take depositions of witnesses absent from this state whenever necessary for such purposes; and
  5. The board shall sponsor an educational program to carry out the purposes of protecting the public health and safety by encouraging barber shops that are clean, healthful and sanitary with capable skilled professional barbers. The board is directed to use the sum of three dollars from each fee paid for the renewal of any barber's certificate for the purpose of such educational program.

This chapter shall be construed to be supplementary to, and not in abrogation of, any provisions of the public health laws or laws relating to general public health and sanitation, the North Dakota Barbers' Act, or any local health ordinance or regulation. The operation or effect of any provisions of this chapter conferring a general power upon the board shall not be impaired or qualified by the granting to the board by this chapter of any specific power.

**§ 3. Amendment.)** Section 43-0442 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

**43-0442. Fees.)** The fees to be paid by an applicant are as follows:

1. For examination for a certificate to practice master barbering, fifteen dollars;
2. For issuance of such certificate, two dollars;
3. For examination for a certificate to practice as an apprentice barber, seven dollars;
4. For issuance of such certificate, two dollars;
5. For renewal of master barber's certificate, ten dollars;
6. For restoration of expired master barber's certificate, a five dollar penalty fee in addition to the regular renewal fee;
7. For renewal of apprentice barber's certificate, six dollars;

8. For restoration of expired apprentice barber's certificate, a five dollar penalty fee in addition to the regular renewal fee;
9. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars; and
10. Annual establishment fees to be paid by each shop owner in advance, two dollars for the first barber chair and one dollar for each additional barber chair which is in use one month or more in any one year.

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

Approved March 16, 1957.

## CHAPTER 295

S. B. No. 59

(Livingston, Dewing, Wenstrom)

## CHIROPODY BOARD

## AN ACT

Relating to the duties of the secretary-treasurer of the board of registry in chiropody and to amend and reenact section 43-0501 of the 1953 Supplement to the North Dakota Revised Code of 1943 and section 43-0515 of the North Dakota Revised Code of 1943 and repealing section 43-0507 of the North Dakota Revised Code of 1943, relating to chiropodists and doctors of surgical chiropody.

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

**§ 1. Amendment.)** Section 43-0501 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0501. Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Chiropodist" shall mean one who examines, diagnoses, and treats abnormal nail conditions, excrescences occurring on the feet, including corns, warts, callosities, bunions, and arch disorders. or who treats the human foot medically, mechanically, or by physiotherapy in a chiropodic manner; a "doctor of surgical chiropody" is a chiropodist who has a degree from an accredited college of chiropody. A doctor of surgical chiropody in addition to the aforementioned privileges of practice is hereby permitted to practice minor foot surgery and to administer local anesthetics. Minor foot surgery shall consist only of any surgical procedure of the foot, except amputation of the foot, that can be done under a local anesthetic.
2. "Board" shall mean the board of registry in chiropody.

**§ 2. Amendment.)** Section 43-0515 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0515. Renewal Of License: Fee; Failure To Pay; Reinstatement.)** Each licensed and practicing chiropodist in this state shall pay an annual renewal license fee of thirty 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 three 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 the sum of fifty dollars.

**§ 3. Secretary-Treasurer Of Board: Duties; Record; Custodian Of Fees; Reports.)** The secretary-treasurer of the board shall have the following duties:

1. Keep a full record of the proceedings of the board;
2. Be custodian of all fees coming into the possession of the board;
3. At such times as may be required by the board, furnish a complete statement of receipts and disbursements under oath, together with vouchers, receipts, and such other evidence of the receipts and disbursements as may be required by the board.

**§ 4. Repeal.)** Section 43-0507 of the North Dakota Revised Code of 1943 is hereby repealed.

Approved February 26, 1957.

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## CHAPTER 296

S. B. No. 295  
(Delayed Bills Committee)

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### CHIROPRACTORS' LICENSE

#### AN ACT

To amend and reenact section 43-0611 of the North Dakota Revised Code of 1943 relating to chiropractors' license.

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

**§ 1. Amendment.)** Section 43-0611 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0611. License: When Issued; Who Issues; Title Used By Licensed Chiropractor.)** A license to practice chiropractic in this state shall be issued by the board to an applicant who has submitted proof of the required qualifications and passed the required examination. No license to practice chiropractic shall

be granted except upon the affirmative vote of at least three of the members of the board. A licensed chiropractor may not use the title physician, or surgeon, but may use the title doctor of chiropractic, or D. C.

Approved March 13, 1957.

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## CHAPTER 297

S. B. No. 53  
(Klefstad and Hernet)

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### DENTISTRY

#### AN ACT

To amend and reenact section 43-0811 of the North Dakota Revised Code of 1943 relating to examination, qualification, and application to practice dentistry in this state.

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

§ 1. **Amendment.**) Section 43-0811 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0811. Examination Required: Application; Qualifications; Fee.)** Any person who desires to practice dentistry in this state shall make application to the secretary-treasurer of the board for a certificate of registration and shall submit to an examination. The applicant shall enclose with his application a recent autographed picture of himself, the sum of twenty-five dollars, and proof that he has the following qualifications:

1. Is a graduate of a dental college recognized by the board;
2. Is a citizen of the United States, or has filed a sworn statement with the board of his intent to become a citizen of the United States.

Approved February 9, 1957.

## CHAPTER 298

S. B. No. 152  
(Wolf, by request)

## DENTISTS' CERTIFICATE OF REGISTRATION

## AN ACT

To amend and reenact sections 43-0816 and 43-0817 of the North Dakota Revised Code of 1943, relating to the fees for the renewal of a certificate of registration for dentists.

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

§ 1. **Amendment.**) Section 43-0816 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0816. Certificate; Term; Displayed In Place Of Business; Renewal; Fee.)** A certificate of registration issued under the provisions of this chapter shall be valid for only one year and shall be renewed on or before the first day of January in each year. The fee for renewal of the certificate shall be not more than ten dollars. Any person who receives a certificate or a renewal thereof shall display the same conspicuously in his place of business. The certificate or the renewal thereof, shall be prima facie evidence of the right of the holder to practice dentistry in this state during the time for which it is issued. All fees provided for in this section and in sections 43-0817 and 43-0824 may be collected by the board in a civil action.

§ 2. **Amendment.**) Section 43-0817 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-0817. Renewal Fee Of Person Who Has Changed Residence To Another State.)** Any person duly licensed to practice dentistry in this state who has changed his residence to some other state or country and whose certificate is subject to revocation or suspension because of his failure to pay the annual renewal fee may be reinstated, his suspension revoked, and his certificate of renewal issued upon his paying to the secretary-treasurer of the board the amount of the fees accrued, but the amount of fees required shall not exceed twenty dollars.

Approved February 15, 1957.

## CHAPTER 299

S. B. No. 225

(Hernett, Meidinger, Roen and Schrock)

## OPTOMETRISTS' QUALIFICATIONS

## AN ACT

To amend and reenact subsection 3 of section 43-1317 of the North Dakota Revised Code of 1943, as amended, relating to qualifications for the practice of optometry.

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

**§ 1. Amendment.)** Subsection 3 of section 43-1317 of the North Dakota Revised Code of 1943 as amended by chapter 284 of the Session Laws of North Dakota for 1955 is hereby amended and reenacted to read as follows:

3. Is a graduate of a class "A" optometry school or college.

Approved March 12, 1957.

## CHAPTER 300

H. B. No. 646

(Harding, Knudsen, Esterby, Mueller, Brown and Baldwin)

## PHARMACIST SALE OF CERTAIN GOODS

## AN ACT

To amend and reenact section 43-1514 of the North Dakota Revised Code of 1943, relating to manufacturing, compounding, selling or dispensing of drugs, poisons, medicines and chemicals.

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

**§ 1. Amendment.)** Section 43-1514 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1514. Drugs, Poisons, Medicines, Chemicals; Who May Sell.)** No drug, poison, medicine, or chemical, except patent or proprietary preparations, shall be manufactured, compounded, sold, or dispensed in this state for medicinal use by any person other than a registered pharmacist, assistant regis-



tered pharmacist, interneer pharmacist enrolled in a school of pharmacy after the freshman year as provided in subsection 4 of section 43-1515 of the 1953 Supplement to the North Dakota Revised Code of 1943, or regularly licensed physician, nor shall any person except a registered pharmacist, assistant registered pharmacist, or a regularly licensed physician, or interneer pharmacist enrolled in a school of pharmacy after the freshman year as provided in subsection 4 of section 43-1515 of the 1953 Supplement to the North Dakota Revised Code of 1943, dispense or compound a prescription of a medical practitioner except as provided in this chapter.

Approved March 19, 1957.

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## CHAPTER 301

H. B. No. 647

(Knudsen, Mueller, Harding, Esterby and Brown)

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### PHARMACIST EXAMINATION FEES

#### AN ACT

To amend and reenact section 43-1520 of the North Dakota Revised Code of 1943, relating to fees for examination.

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

§ 1. **Amendment.**) Section 43-1520 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1520. Fees For Examination.**) Each applicant for registration as a pharmacist in this state shall pay to the secretary of the board the sum of twenty-five dollars before examination. If the applicant fails to pass a satisfactory examination, he may be reexamined at any regular meeting of the board, upon the payment of a further fee of five dollars.

Approved March 5, 1957.

## CHAPTER 302

S. B. No. 186

(Meidinger, Knudson, Saumur, Garaas and Wenstrom)

## MEDICAL PRACTICE

## AN ACT

To amend and reenact sections 43-1701, 43-1702, 43-1706, 43-1707, 43-1712, 43-1713, 43-1718, 43-1720, 43-1721, 43-1722, 43-1725, 43-1730, 43-1731, and 43-1734 and to repeal section 43-1719, of the North Dakota Revised Code of 1943, relating to the regulation of the practice of medicine.

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

**§ 1. Amendment.)** Section 43-1701 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. "Physician" shall include physician and surgeon;
2. "Practice of medicine" shall include the practice of medicine, surgery and obstetrics. The following persons shall be regarded as practicing medicine:
  - a. One who holds himself out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings;
  - b. One who suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any person, with the intention of receiving, directly or indirectly, any fee, gift, or compensation;
  - c. One who maintains an office for the examination or treatment of persons afflicted with disease or injury of the body or mind;
  - d. One who attaches the title M.D., surgeon, doctor, or any other word or abbreviation to his name, indicating that he is engaged in the treatment or diagnosis of the diseases or injuries of human beings shall be held to be engaged in the practice of medicine.
3. "Board" shall mean the state board of medical examiners.

**§ 2. Amendment.)** Section 43-1702 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1702. Persons Exempt From The Provisions Of Chapter.)** The provisions of this chapter shall not apply to the following:

1. Students who have had training in approved schools of medicine and who are continuing and confining their training and performing the duties of an interne or a resident in any hospital or institution maintained and operated by a state or territory of the United States, or in any hospital within a state or territory operating under the supervision of a medical staff, the members of which are licensed to practice medicine and which hospital is approved for internships and residencies by the appropriate accrediting agency;
2. Any physician residing on the border of a neighboring state and duly licensed under the laws thereof, who does not open an office or appoint a place to meet patients or to receive calls within this state;
3. The domestic administration of family remedies;
4. Dentists practicing their profession when properly licensed;
5. Optometrists practicing their profession when properly licensed;
6. The practice of Christian Science or other religious tenets or religious rules or ceremonies as a form of religious worship, devotion, or healing, if the person administering, making use of, assisting in, or prescribing, such religious worship, devotion, or healing does not prescribe or administer drugs or medicines and does not perform surgical or physical operations, and if he does not hold himself out to be a physician or surgeon;
7. An osteopathic physician duly licensed to practice in this state pursuant to the statutes regulating such profession;
8. Commissioned medical officers of the armed forces of the United States, the United States Public Health Service, and medical officers of the Veterans' Administration of the United States, in the discharge of their official duties, and licensed physicians from other states or territories if called in consultation with a person licensed to practice medicine in this state;
9. Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession;

10. Chiropractors practicing their profession when properly licensed.

§ 3. **Amendment.)** Section 43-1706 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1706. Officers Of The Board.)** The board shall elect a president and vice president from its own number and a secretary-treasurer. The secretary-treasurer need not be a member of the board. He shall be the general administrative and prosecuting officer of such board.

§ 4. **Amendment.)** Section 43-1707 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1707. Meetings Of Board: Seal Of Board.)** The board shall hold meetings for examinations in January and July of each year and may call such special meetings as may be necessary. The meetings shall be held at such places as the board may designate. The board shall have a seal.

§ 5. **Amendment.)** Section 43-1712 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1712. Board To Make Annual Report To Governor.)** The board, on January first of each year, shall file with the governor a report of all annual registration fees received and the disbursements made therefrom.

§ 6. **Amendment.)** Section 43-1713 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1713. Board To Adopt Rules And Regulations.)** The board from time to time shall adopt rules and regulations to carry into effect the provisions of this Act, including, but without limitation, regulations prescribing all requisite qualifications of education, residence, training and character for admission to examination for licensure.

§ 7. **Amendment.)** Section 43-1718 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1718. Qualifications Of Applicant For Examination.)** An applicant for a license to practice medicine shall present evidence satisfactory to the board that he has the following qualifications:

1. That he has attended some reputable medical college or colleges approved by the board for four college years of at least eight months each;
2. That he is a graduate of some reputable medical college approved by the board;
3. That he has such preliminary education as is necessary to admit him to the junior or third year of the university of North Dakota or some equally reputable American college or university;
4. That he is at least twenty-one years of age;
5. That he has satisfactorily completed a one year internship in an approved hospital for approved internship or in a hospital approved by the board.

§ 8. **Amendment.**) Section 43-1720 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1720. Examinations: How Conducted; Subjects.**) Examination of applicants for license to practice medicine shall be made by the board in the manner deemed by it to be most practicable and expeditious to test the applicant's qualifications. Each applicant shall be designated by a number instead of his name so that his identity shall not be disclosed to the members of the board until the examinations have been graded. The subjects covered by the examinations shall include anatomy and its subdivisions; physiology; bacteriology; pathology; pharmacology; medicine; surgery; obstetrics and gynecology; and pediatrics, together with such other subjects as may in the judgment of the board be appropriate. A minimum grade in each subject shall be seventy percent and minimum general average shall be seventy-five percent.

§ 9. **Amendment.**) Section 43-1721 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1721. License Granted Without Examination To Persons Licensed In Other States.**) The board may in its discretion license by endorsement an applicant who has complied with licensure requirements and who has passed an examination given by a recognized certifying agency approved by the licensing agency, provided such examination was, in the opinion of the board, equivalent in every respect to its examination. The board may also, in its discretion, enter into reciprocal agreements with the licensing agencies of other states or territories or the District of Columbia providing for a reciprocal waiver of further examination or any part thereof. In any

case the applicant must appear before the board for such examination into his qualifications as may be required by the board. The board may by regulation make provision for temporary and special licenses to be in effect in the interval between board meetings.

**§ 10. Amendment.)** Section 43-1722 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1722. License: Fees.)** An applicant for a license to practice medicine found by the board to be qualified for licensure, shall be granted a license to practice medicine in this state; provided, however, that if the applicant is not at the time a citizen of the United States, he shall be granted only a temporary license, valid for not to exceed six years, such license to be converted by the board into a permanent license only upon his acquiring full United States citizenship before the expiration of such period and only if, during the entire period from the issuance of such license to the acquisition of citizenship, he shall have practiced the profession of medicine continuously within this state, otherwise to terminate upon the expiration date of such temporary license. The license shall be signed by the president, secretary-treasurer, and members of the board and shall have the seal of the board affixed thereto or impressed thereon. The fee for the examination shall be determined by regulation of the board.

**§ 11. Amendment.)** Section 43-1725 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1725. Annual Registration Fee.)** The annual registration fee for any person licensed to practice medicine in the state shall be fixed by regulation of the board and not to exceed one hundred dollars. All fees shall be paid to and held by the secretary-treasurer of the board and shall be subject to disbursement by the board in performing its duties.

**§ 12. Amendment.)** Section 43-1730 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1730. Payment Of Delinquent Registrations: Reinstatement.)** Any practitioner of medicine and surgery who has been licensed to practice in this state by the board, and who has been suspended from practice and has had his license revoked because of his failure to pay the annual registration fee, shall be reinstated, his suspension revoked, and his license renewed by his paying to the secretary-treasurer of the board the amount of the registration fee in which he is then in default.

§ 13. Amendment.) Section 43-1731 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1731. Revocation Or Refusal To Grant License; Grounds; Record.)** The board may refuse to grant a license to practice medicine in this state or may 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.

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

**\*§ 15. Amendment.)** Section 43-1734 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**43-1734. Practicing Without A License; Violation Of Chapter; Penalty.)** Any person who practices medicine in this state without complying with the provisions of this chapter, and any person who violates any of the provisions of this chapter is guilty of a misdemeanor. In addition to the criminal penalties provided the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this Act without proof of actual damages sustained by any person.

**§ 16. Repeal.)** Section 43-1719 of the North Dakota Revised Code of 1943 and all acts or parts of acts in conflict herewith are hereby repealed.

Approved March 15, 1957.

**\*Note:** Original, engrossed, and enrolled bills show no section 14.

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## CHAPTER 303

H. B. No. 640  
(Bjerkan and Rolfsrud)  
(By request)

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### PRACTICE OF LAND SURVEYING

#### AN ACT

To regulate the practice of land surveying; providing for the registration of qualified persons by the state board of registration for professional engineers; prescribing minimum qualifications and other requirements for registration; establishing fees with expiration and renewal requirements; and providing for enforcement and penalties.

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

**§ 1. Definitions.)** As used in this Act unless the context or subject matter otherwise requires;

1. "Land surveyor" shall mean a person who, through technical knowledge and skill gained by education, experience, or either or both, is qualified to practice land surveying as hereinafter defined;



2. "Practice of land surveying" shall mean the assuming of responsible charge of the surveying of land for the establishment of corners, lines, boundaries, and monuments, the laying out and subdivision of land, the defining and locating of corners, lines, boundaries, and monuments after they have been established, the survey of land areas for the purpose of determining the topography thereof, the making of topographical delineations, and the preparing of maps and accurate records thereof, when the proper performance of such services requires technical knowledge and skill; and
3. "Board" shall mean the state board of registration for professional engineers provided for by chapter 43-19 of the North Dakota Revised Code of 1943.

**§ 2. Registration Of Land Surveyors.)** In order to safeguard property interests and rights, provide accurate public records, protect land titles, and insure correct determination and description of land areas for conveyancing or for the establishment or reestablishment of boundaries and the plotting of lands and subdivisions thereof, any person practicing or offering to practice land surveying shall submit evidence that he is qualified so to practice and shall be registered as provided in this Act. No person shall practice or offer to practice in this state, land surveying, as defined in this Act, and no person shall use in connection with his name, nor otherwise assume, use, or advertise any title or description tending to convey the impression that he is a registered land surveyor, unless such person has been duly registered under the provisions of this Act.

**§ 3. General Requirements For Registration.)** The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a land surveyor:

1. Graduation Plus Experience. Graduation from a school or college approved by the board as of satisfactory standing, including the completion of an approved program of courses in surveying; and an additional two years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying; or
2. Experience Plus Examination. A specific record of six years or more of experience in land surveying work of a character satisfactory to the board and indicating that the applicant is competent to practice land surveying; successfully passing a written, or written and oral, examination in surveying prescribed by the board; or

3. Long Established Practice. A specific record of ten years or more of lawful practice in land surveying work of a character satisfactory to the board if the applicant is not less than thirty years of age; and
4. Character. No person shall be eligible for registration as a land surveyor who is not of good character and reputation.

**§ 4. Applications And Registration Fees.)** Applications for registration shall be on forms prescribed and furnished by the board, shall contain statements made under oath showing the applicant's education and a detailed summary of his technical work, and shall contain not less than five references, of whom three or more shall be registered professional engineers or land surveyors having personal knowledge of his experience. The registration fee shall be ten dollars, which shall accompany the application. Should the board deny the issuance of a certificate of registration to any applicant, one-half of the registration fee shall be retained as an application fee and the balance returned to the applicant. The board shall have the authority, with the approval of the governor, to raise or lower the fees for certificates and renewals by an amount not to exceed fifty percent of the fees prescribed in this section to keep the board self-sustaining in the administration of this Act.

**§ 5. Examinations.)** When an oral or written examination is required it shall be held at such time and place as the board shall determine. The scope of examination and methods of procedure shall be prescribed by the board. A candidate failing on examination may apply for reexamination at the expiration of six months and shall be reexamined without the payment of an additional fee. Any subsequent examination may be granted upon payment of a fee to be determined by the board.

**§ 6. Certificates; Seals.)** The board shall issue a certificate of registration authorizing the practice of land surveying upon payment of the registration fee as provided in this Act to any applicant who, in the opinion of the board, has satisfactorily met the requirements of this Act. Certificates of registration shall show the full name of the registrant, shall have a serial number and shall be signed by the chairman and the secretary of the board under seal of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all the rights and privileges of a registered land surveyor while the said certificate remains unrevoked and unexpired. Each registrant, upon registration, shall obtain a seal of a design authorized by the board, bearing the registrant's name and the legend, "Registered Land Surveyor." Documents and reports signed by the registrant in his professional capacity shall be stamped with

the said seal when filed with public authorities, during the life of the registrant's certificate, but it shall be unlawful for anyone to stamp or seal any document with said seal after the certificate of the registrant named thereon has expired or has been revoked, unless said certificate has been renewed or reissued.

**§ 7. Expiration And Renewals.)** Certificates of registration shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one year. Such notice shall be mailed at least one month in advance of the date of expiration of said certificate. Renewal may be effected at any time during the month of December by the payment of a fee of five dollars. The failure on the part of any registrant to renew his certificate annually in the month of December shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased twenty percent for each month or fraction of a month that payment of a renewal fee is delayed, but the maximum fee for delayed renewal shall not exceed twice the normal renewal fee and at the end of five months of delinquency the registrant shall be notified by registered mail that his registration is null and void.

**§ 8. Practitioners At Time Act Becomes Effective.)** At any time within one year after July 1, 1957, upon due application therefor and payment of the registration fee, the board shall issue a certificate of registration, without oral or written examination, to any land surveyor who shall submit evidence under oath satisfactory to the board that he is of good character, has been a resident of the state of North Dakota for at least one year immediately preceding the date of his application, was practicing land surveying on July 1, 1957, and has performed work of a character satisfactory to the board. After July 1, 1958, the board shall issue certificates of registration only as provided in section 3 and 9 of this Act. Any land surveyor meeting the above requirements who is in the military service of the United States on July 1, 1957, and who was practicing land surveying for at least one year immediately preceding such military service, shall have six months after honorable discharge to obtain a certificate of registration without written or oral examination.

**§ 9. Reciprocity.)** The board, upon application therefor and the payment of the fee required by section 4 of this Act, may issue a certificate of registration as a land surveyor to any

person who holds a certification of qualification or registration as a land surveyor issued to him by the proper authority of any state if the requirements for the registration or qualification of land surveyors under which certificate was issued are of a standard not lower than the requirements specified in section 3 of this Act, and if such state extends similar privileges to persons registered under this Act.

**§ 10. Revocation.)** The board may revoke the certificate of registration of any registrant who is found guilty of:

1. The practice of any fraud or deceit in obtaining a certificate of registration; or
2. Any gross negligence, incompetency, or misconduct in the practice of land surveying.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred. The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of said registrant, at least thirty days before the date fixed for the hearing. At any hearing, the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense. If, after such hearing, two, or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registrant.

**§ 11. Reissuance Of Certificates.)** The board, for reasons it may deem sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, if two or more members of the board vote in favor of such reissuance. A new certificate of registration, to replace any certificate revoked, lost, destroyed, or mutilated may be issued, subject to the rules of the board, and a charge of two dollars shall be made for such issuance.

**§ 12. Appeal.)** Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the district court, and, after full hearing, said court shall make such decree sustaining or reversing the action of the board as it may deem just and proper.

**§ 13. Violations And Penalties.)** Any person who:

1. Shall practice, or offer to practice, land surveying in this state without being registered in accordance with the provisions of this Act;
2. Shall present or attempt to use as his own the certificate of registration or the seal of another;
3. Shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration;
4. Shall falsely impersonate any other registrant of like or different name;
5. Shall attempt to use an expired or revoked certificate of registration; or
6. Shall violate any of the provisions of this Act;

shall be guilty of misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment for not more than three months, or by both fine and imprisonment.

**§ 14. Limitation On Scope Of Act.)** This Act shall not be construed to prevent nor to affect:

1. Other Professions or Trades. The practice of any other legally recognized profession or trade;
2. Nonresidents. The practice of a person not a resident of and having no established place of business in this state, practicing or offering to practice herein land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year, if such person is legally qualified by registration to practice land surveying in the state of his residence and the requirements or qualifications for obtaining a certificate of registration in such state are not lower than those specified in this Act;
3. Recent Arrivals in State. The practice of a person not a resident of and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice land surveying in the state for more than thirty days in any calendar year, if he shall have filed with the board an application for certificate of registration and shall have paid the fee required by this Act, and if such person is legally qualified by registration to practice land surveying in the state of his residence and the requirements or qualifica-

tions for obtaining a certificate of registration in such state are not lower than those specified in this Act, but such practice shall continue only for such time as the board requires for the consideration of the application for registration;

4. Employees and Subordinates. The work of an employee or a subordinate of a person holding a certification of registration under this Act, or an employee of a person practicing lawfully under subsection 2 and 3 of this section, if such work is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this Act or a person practicing lawfully under subsection 2 and 3 of this section; nor
5. Government Officers and Employees. The practice of officers and employees of the government of the United States while engaged within this state in the practice of land surveying for said government.

**§ 15. Receipts.)** The secretary of the board shall receive and account for all money derived under the provisions of this Act and shall pay the same monthly to the state treasurer, who shall credit all such moneys to the professional engineer's fund. Upon proper voucher and audit of the state auditing board expenditures from such fund may be made for per diem and necessary and actual traveling, incidental, and clerical expenses of the board and the limitations of section 43-1909 of the North Dakota Revised Code of 1943 shall apply to the moneys derived under the provisions of this Act.

Approved March 13, 1957.