

# OCCUPATIONS AND PROFESSIONS

## CHAPTER 430

SENATE BILL NO. 2400  
(Lips)

### CERTIFIED PUBLIC ACCOUNTANTS

AN ACT to create and enact section 43-02-14.1 of the North Dakota Century Code, relating to an annual license fee for certified public accountants; to create and enact subsection 5 of section 43-02-08 relating to the powers of the board of accountancy; to amend and reenact sections 43-02-11, 43-02-12, 43-02-13, 43-02-14, 43-02-15 and subsections 2 and 3 of section 43-02-17 of the North Dakota Century Code relating to examination, revocation of certificates, fees for examination for certificates for certified public accountants, use of the title "certified public accountant", and penalties.

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

SECTION 1.) Subsection 5 of section 43-02-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

5. To employ an executive director whose salary shall be established by the board.

SECTION 2. AMENDMENT.) Section 43-02-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-11. EXAMINATION - WHEN NOT NECESSARY.) 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:

1. Has the other qualifications required by section 43-02-10.
2. 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.
3. Has remitted a fee of not to exceed one hundred dollars.

The applicant for a certificate without examination shall submit to the board such evidence as to qualifications as it may require.

SECTION 3. AMENDMENT.) Section 43-02-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-12. GROUNDS FOR REVOCATION OR SUSPENSION OF CERTIFICATE.) The board may revoke or suspend for a period of not to exceed five years a certificate to practice as a certified public accountant for any of the following reasons:

1. If the holder thereof has been convicted of a felony;
2. If the holder thereof is found guilty of conduct involving moral turpitude;
3. For fraud or misrepresentation in the application for the certificate or in the examination therefor;
4. For the failure of the holder of a certificate, if at the time the certificate was issued he was not a citizen of the United States, to qualify as a citizen within one year after the time allowed by law;
5. If the certificate of a nonresident who was certified under the provisions of section 43-02-11 is suspended, revoked or canceled in the state where it originally was issued;
6. For failure to register as provided by section 43-02-14.1;
7. For violation of any of the provisions of this chapter.

SECTION 4. AMENDMENT.) Section 43-02-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-13. REVOCATION OR SUSPENSION OF CERTIFICATE - HEARING - NOTICE - PROCEDURE - RECORD.) A certificate to practice as a certified public accountant shall not be revoked or suspended except after a hearing by a majority of the members of the board. The attorney general or an attorney designated by him shall attend the hearing and shall act as the legal advisor of the board. Written notice of the hearing shall be mailed to the holder of the certificate at his last known address at least twenty days before the date of such hearing. Such notice shall state the basis for the proposed action or revocation or suspension and shall appoint a time and place for the hearing. The board may compel the attendance of witnesses at such hearing, administer oaths, and examine witnesses under oath. The board shall keep a record of all proceedings with respect to the revocation or suspension of any certificate.

SECTION 5. AMENDMENT.) Section 43-02-14 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-14. FEE FOR EXAMINATION - FAILURE TO PASS EXAMINATION - RE-EXAMINATION.) 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 not to exceed one hundred dollars. In case the applicant withdraws after approval or is not approved for examination due to the failure of the applicant to qualify under one or more of subsections 1, 2, 3, 4, or 5 of section 43-02-10 fifty per cent of such fee shall be returned to the applicant. If the applicant passes accounting practice or any other two subjects covered by the examination, but shall fail to pass the examination as a whole, he shall be entitled to re-examination on the subjects which he has failed. Such re-examination may be taken 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 examinations 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 forty dollars for each re-examination in accounting practice and a fee of not to exceed twenty dollars for each re-examination in any other subject.

SECTION 6.) Section 43-02-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-02-14.1. ANNUAL REGISTRATION FEE - ISSUANCE OF LICENSE.) On or before July first of each year, every person legally certified to practice as a certified 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 one 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 in this state, shall issue an annual license. The holder of such license shall post it in a conspicuous place in his office.

SECTION 7. AMENDMENT.) Section 43-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-15. USE OF TITLE "CERTIFIED PUBLIC ACCOUNTANT".) No person or partnership shall assume the title "certified public accountant", or the abbreviations, "C.P.A.", "C.A.", or any other words, letters, or abbreviations tending to indicate that such person or partnership is a certified public accountant, without first having received a certificate to practice as a certified

public accountant and registered as provided in section 43-02-14.1. No partnership shall assume such title or abbreviations unless each member thereof has received a certificate as a certified public accountant and registered as provided in section 43-02-14.1.

SECTION 8. AMENDMENT.) Subsections 2 and 3 of section 43-02-17 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Assume to practice as a certified public accountant without first having received a certificate and registered annually as provided in this chapter;
3. Continue 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

Approved March 12, 1971

## CHAPTER 431

HOUSE BILL NO. 1288  
(Metzger, Raymond, J. Peterson)

PUBLIC CONTRACT  
EMPLOYMENT PREFERENCE

AN ACT to create and enact sections 43-07-20, 43-07-21 and 43-07-22, relating to employment of North Dakota residents for work performed under public contracts, providing a penalty, and establishing responsibility for enforcement of the act.

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

SECTION 1.) Section 43-07-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

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

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

SECTION 2.) Section 43-07-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-21. PENALTY - INJUNCTION PROCEEDINGS.) Any person, firm, association, cooperative, or corporation violating any provisions of section 43-07-20 shall be guilty of a misdemeanor and be punished by a fine not to exceed \$1,000.00. A repeated violation shall constitute legal grounds for a court, on proper application by commissioner of labor, to grant an injunction without requiring the posting of a bond or undertaking. All contracts shall provide that \$1,000.00 of the contract price is to be withheld in addition to any other withholding until it has been determined by the commissioner of labor that no action or fines are pending.

SECTION 3.) Section 43-07-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-22. ENFORCEMENT RESPONSIBILITY.) The commissioner of labor shall have the primary responsibility of enforcing the provisions of sections 43-07-20 and 43-07-22 and is hereby authorized to make reciprocal agreements or arrangements with any other state or territory exempting the application of the provisions of this Act, and is authorized to examine records of employment relative to public contracts for such purposes. However, any person being adversely affected because of non-compliance with section 43-07-20 may also institute an appropriate civil action, and, any person having knowledge of a violation may file a criminal complaint with the proper official.

Approved March 24, 1971

## CHAPTER 432

HOUSE BILL NO. 1322  
(White, Bunker, Hentges, Rundle, Eagles)

COSMETOLOGIST GIVING MANICURES  
IN LICENSED BARBER SHOP

AN ACT to amend and reenact subsection 4 of section 43-11-02 of the 1969 Supplement to the North Dakota Century Code, to allow a licensed cosmetologist to perform manicuring services in a licensed barber shop.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 43-11-02 of the 1969 Supplement to the North Dakota Century Code, is hereby amended and reenacted to read as follows:

43-11-02. EXEMPTIONS FROM PROVISIONS OF CHAPTER.) The provisions of this chapter shall not apply to services:

1. In case of emergency;
2. In case of domestic administration without compensation;
3. By persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic;
4. By barbers, nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation; or by a licensed cosmetologist engaged in manicuring the nails of any person in a licensed barber shop;
5. This section shall not be construed as applying to the educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, from which the general public is excluded. For purposes of this section a "bona fide association of cosmetologists" shall mean any organization whose constitution, by-laws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.

Approved March 27, 1971

## CHAPTER 433

HOUSE BILL NO. 1099  
(Hoffner)

CANCELLING ENROLLMENT IN  
SCHOOL OF HAIRDRESSING AND COSMETOLOGY

AN ACT to create and enact sections 43-11-20.1, 43-11-20.2, 43-11-20.3, and 43-11-20.4 of the North Dakota Century Code, relating to partial refunds of tuition paid by students cancelling their enrollment in a school of hairdressing and cosmetology, providing the rate of refund, providing the procedure for cancellation of contracts of instruction, prohibiting the negotiation of promissory instruments given in payment of student tuition until after a certain portion of the course of instruction has been completed and requiring a solicitor's permit.

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

SECTION 1.) Section 43-11-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.1. REFUND OF STUDENT TUITION FEES UPON CANCELLATION OF COURSE.) Schools of hairdressing and cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds shall be made in accordance with the following schedule:

1. When notice is received prior to or within seven days after completion of the first day of instruction, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.
2. When notice is received within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the course, all tuition and other charges except twenty-five percent thereof shall be refunded to the student.
3. When notice is received upon or after completion of one-fourth of the course, but prior to the completion of one-half of the course, all tuition and other charges except fifty percent thereof shall be refunded to the student.



4. When notice is received upon or after the completion of fifty percent of the course, no tuition or other charges shall be refunded to the student.

Notice of the provisions of this section, and of the provisions of sections 43-11-20.2 and 43-11-20.3, shall be posted in a conspicuous place in each school of hairdressing and cosmetology. The notice shall be in such form and shall contain such information as shall be prescribed by the board. The board shall take such action as may be necessary to enforce the provisions of this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the certificate of registration issued pursuant to section 43-11-17. The provisions of this section shall not prejudice the right of any student to recovery in an action against any school of hairdressing and cosmetology for breach of contract or fraud.

SECTION 2.) Section 43-11-20.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.2. NEGOTIATION OF PROMISSORY INSTRUMENTS.) No school of hairdressing and cosmetology shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the course of instruction offered by the school.

SECTION 3.) Section 43-11-20.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.3. CANCELLATION OF CONTRACT FOR INSTRUCTION.) Any person shall have the unrestricted right to rescind, revoke, or cancel a contract for a course of instruction at any school of hairdressing and cosmetology after entering into such contract without incurring any tort or contract liability. In such event, the school of hairdressing and cosmetology may retain the amount of tuition and other charges as set forth in section 43-11-20.1.

SECTION 4.) Section 43-11-20.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-11-20.4. SOLICITOR'S PERMIT REQUIRED.) Schools of hairdressing and cosmetology licensed under the provisions of this chapter shall be exempt from the license requirement of chapter 15-50, but all persons who solicit business for a school of hairdressing and cosmetology, or who sells any course or courses of instruction, shall secure a solicitor's permit and bond as required by chapter 15-50.

Approved March 22, 1971

## CHAPTER 434

HOUSE BILL NO. 1325  
(Wagner, Atkinson, Lang)

## PROFESSIONAL NURSES

AN ACT to amend and reenact sections 43-12-01, 43-12-02, 43-12-03, 43-12-04, 43-12-05, 43-12-06, 43-12-07, 43-12-08, 43-12-09, 43-12-10, 43-12-11, 43-12-13, 43-12-15, 43-12-16, 43-12-17, 43-12-18, 43-12-21, 43-12-22, and 43-12-24 of the North Dakota Century Code, and to repeal sections 43-12-19 and 43-12-20 of the North Dakota Century Code, all relating to professional nurses, and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 43-12-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-01. DEFINITIONS.) In sections 43-12-01 through 43-12-24, unless the context or subject matter otherwise requires:

1. "Board" shall mean the North Dakota board of nursing.
2. The practice of professional nursing means the performance for compensation of any act in the observation, care, and counsel of the ill, injured, or infirm, or in the maintenance of health or prevention of illness in others, or in the supervision and teaching of other personnel, or in the administration of medications and treatments as prescribed by a licensed physician or dentist, requiring substantial specialized judgment and skill based on knowledge and applications of the principles of biological, physical, and social science.
3. "Professional nurse" or "registered nurse" shall mean one who has met all the legal requirements for licensure in this state, has been registered by the board, and who holds a license for the current year, acquired according to the provisions of sections 43-12-01 through 43-12-24.

SECTION 2. AMENDMENT.) Section 43-12-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-02. PERSONS EXEMPTED.) The provisions of sections 43-12-01 through 43-12-24 shall not apply to:

1. The furnishing of nursing assistance in a natural or manmade disaster.
2. The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs approved by the board.
3. The practice by a graduate of a North Dakota approved school of nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible.
4. The practice of any legally licensed nurse who is currently employed in North Dakota by the United States government or any bureau, division, or agency thereof, while in the discharge of his official duties.

SECTION 3. AMENDMENT.) Section 43-12-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-03. NORTH DAKOTA BOARD OF NURSING - MEMBERS - APPOINTMENT - TERMS OF OFFICE.) The North Dakota board of nursing shall consist of five professional nurses, appointed by the governor for terms of five years each, so arranged that one term shall expire on the thirtieth day of June in each year, and in addition, for matters pertaining to practical nursing, there shall be two licensed practical nurses appointed by the governor for terms of four years each, so arranged that one term shall expire on the 30th day of June on each odd numbered year. Each member of the board shall hold office until his successor is appointed and qualified. Persons appointed to the board shall take the oath required of civil officers. Vacancies on the board shall be filled by appointment by the governor for the remainder of the unexpired term. No appointee shall serve more than two consecutive terms.

SECTION 4. AMENDMENT.) Section 43-12-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-04. QUALIFICATIONS OF PROFESSIONAL NURSE MEMBERS OF THE BOARD.) No professional nurse shall be appointed as a member of the board unless such person has the following qualifications:

1. Is recommended by the North Dakota state nurses' association.
2. Is licensed to practice nursing in North Dakota.
3. Has resided at least two years in North Dakota.
4. Is currently engaged in nursing, teaching, or administration.
5. Has had at least five years' experience in the nursing profession including teaching, administration, or supervision.
6. Has graduated from an accredited university or college.

At least ten days before an appointment is to be made, the North Dakota state nurses' association shall recommend three persons to the governor for such appointment.

SECTION 5. AMENDMENT.) Section 43-12-05 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-05. BOARD - ORGANIZATION - MEETINGS - OFFICERS - BOND OF TREASURER - OFFICE OF BOARD.) The board shall meet annually at its office for the purpose of organization. At such meeting the members of the board shall elect from their number a president, a vice president, a secretary, and a treasurer. The office of the secretary and treasurer may be held by the same person, if so determined by the board. The treasurer shall be bonded in a penal sum equal at least to the largest amount of money which will come into his hands in any one year. The amount of such bond shall be determined by the board and in no event shall be less than two thousand dollars. The bond shall be filed in the office of the secretary of state.

In addition, the board shall hold at least two regular meetings in each year for the examination of applicants for licensure as professional nurses and such additional meetings at such times and places as it may determine.

SECTION 6. AMENDMENT.) Section 43-12-06 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-06. COMPENSATION OF MEMBERS OF BOARD - EXPENSES - HOW PAID.) Each member of the board shall receive a per diem fee, not exceeding that authorized by law for other occupational or professional licensing boards as determined by the board, and the expenses necessarily incurred while actually engaged in the performance of the duties of his

office. Such compensation shall be paid from fees received by the board under the provisions of sections 43-12-01 through 43-12-24.

SECTION 7. AMENDMENT.) Section 43-12-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-07. POWERS AND DUTIES OF BOARD.) The board may draw up such rules and regulations as are necessary to carry out the provisions of sections 43-12-01 through 43-12-24 and shall:

1. Adopt an official seal which shall remain in the custody of the executive director of the board.
2. Maintain a permanent record, wherein the names of the nursing education programs approved under the provisions of sections 43-12-01 through 43-12-24 are listed.
3. Maintain a permanent register of the names of all persons to whom licenses to practice professional nursing are issued. Such register shall be open to public inspection.
4. Maintain a roster of nurses who desire to retire temporarily from the practice of nursing in this state.
5. Employ an executive director and such other staff as may be required. The board shall define the duties of the executive director and other staff members and fix their salaries.
6. Receive all fees and moneys collected under sections 43-12-01 through 43-12-24, and deposit and disburse them in accordance with section 54-44-12.
7. Authorize all expenditures necessary for conducting the business of the board and execute any other legitimate project pertaining to nursing education or practice.
8. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor and the legislative assembly. Any balance of such fees after payment of such compensation and expenditures by the treasurer of the board shall be held by the board and is to be used only in administering sections 43-12-01 through 43-12-24.

SECTION 8. AMENDMENT.) Section 43-12-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-08. APPROVAL OF NURSING EDUCATION PROGRAMS - FEE - REVOCATION OF APPROVAL.) Any nursing education program to be approved under the provisions of sections 43-12-01 through 43-12-24 shall meet the requirements of the board for such a program and shall be required to pay an annual fee as determined by the board to the treasurer of the board.

SECTION 9. AMENDMENT.) Section 43-12-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-09. NURSING EDUCATION PROGRAMS - QUALIFICATIONS OF APPLICANTS FOR ADMISSION.) Before any nursing education program shall admit a student, the student shall present certified evidence that he has completed an approved high school course of study or the equivalent thereof as determined by the appropriate educational agency or pass an entrance examination.

SECTION 10. AMENDMENT.) Section 43-12-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-10. SURVEY OF NURSING EDUCATION PROGRAMS.) All nursing education programs in the state shall be surveyed at any time by the executive director, members of the board, or other duly qualified consultants at the board's discretion.

SECTION 11. AMENDMENT.) Section 43-12-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-11. EXECUTIVE DIRECTOR - QUALIFICATIONS AND DUTIES.) The executive director shall be a graduate of an approved nursing education program and of a college or university, preferably with a master's degree. He shall be a registered nurse with at least five years' experience in any combination of the administration, teaching, or supervision of nursing. He shall perform the nursing education and administrative duties assigned by the board.

SECTION 12. AMENDMENT.) Section 43-12-13 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-13. EXAMINATION REQUIRED - APPLICATION - FEE FOR EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) Any person who desires to practice professional nursing in this state shall pass the examination given by the board before a license shall be issued. Such person shall make an application for licensure to the executive director of the board at least three weeks prior to the date set for the examination and shall pay to the treasurer of the board at the time of making such application the fee set by the board. Enclosed with such

application, proof shall be submitted that the applicant has the following qualifications:

1. Has received the preliminary education required for admission into a nursing education program.
2. Has successfully completed a board-approved nursing education program.
3. Is recommended by the faculty of a nursing education program.

SECTION 13. AMENDMENT.) Section 43-12-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-15. EXAMINATION.) An applicant for a license to practice professional nursing in this state shall present himself for examination at the next regular examination held by the board after his application has been filed. Ten days prior to the examination, notice of the time and place of examination shall be mailed to each applicant.

SECTION 14. AMENDMENT.) Section 43-12-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-16. LICENSE - WHEN ISSUED - AUTHORITY UNDER.) If an applicant for a license to practice professional nursing in this state passes his examination, the board shall enter his name in the register provided for in subsection 3 of section 43-12-07 and shall issue to him a certificate of registration and a current license authorizing him to practice as a professional nurse in this state. He shall show the evidence of licensure upon request.

SECTION 15. AMENDMENT.) Section 43-12-17 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-17. RE-EXAMINATION - FEES FOR RE-EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) The board may make such rules and regulations as it deems necessary for the re-examination of applicants who fail to pass a regular examination. The fee for rewriting the examination shall be set by the board.

SECTION 16. AMENDMENT.) Section 43-12-18 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-18. LICENSE ISSUED TO APPLICANT LICENSED IN ANOTHER STATE - EXAMINATION NOT REQUIRED.) Notwithstanding the provisions of section 43-12-13, the board may issue a

license to practice professional nursing in this state to an applicant who has not taken the examination if he:

1. Meets the qualifications for nurse licensure in this state.
2. Produces satisfactory evidence of being duly licensed by examination in another state to practice as a professional nurse. Applicants for licensure from a foreign country or territory shall have been graduated from a nursing education program approved in such country or territory and shall be required to pass the same written examination as applicants from this state.
3. Pays the fee set by the board.

Upon receipt of the application for license and payment of the fee, and of evidence that an applicant has met all the requirements of this chapter, the board may issue a temporary permit to practice professional nursing in this state until the license has been issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

SECTION 17. AMENDMENT.) Section 43-12-21 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-21. RENEWAL OF LICENSE - FEE - FAILURE TO PAY - RELICENSURE - ROSTER OF INACTIVE NURSES.) A license issued under the provisions of sections 43-12-01 through 43-12-24 shall be valid for only one year and shall be renewed on or before the thirty-first day of December in each year. The fee shall be set by the board. On or before the first day of November in each year the executive director of the board shall mail to all registered nurses an application form for a license renewal. The application and fee shall be in the hands of the executive director of the board by the thirty-first day of December in each year. The failure of any person to renew his license annually shall suspend his right to practice professional nursing in this state, but he may be relicensed by paying the required annual renewal fee for each year it has not been paid but not to exceed twenty-five dollars for failure to complete his relicensure on time.

A roster, as provided for in subsection 4 of section 43-12-07, shall be compiled by the executive director of the board. Any nurse, upon payment of a fee set by the board, who voluntarily places his name on such roster on or before the first day of January in the year he desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee without incurring any penalty. Nurses who have not placed their



names on such roster shall be subject to payment of the required renewal fee for each year it has not been paid as specified.

SECTION 18. AMENDMENT.) Section 43-12-22 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-22. REVOCATION OF LICENSE OR PERMIT - GROUNDS FOR - DISCIPLINE - APPEAL - BOARD TO FURNISH LIST OF PERSONS HAVING LICENSES REVOKED TO OTHER STATES.) The board shall have the power to deny, revoke, or suspend any license or permit to practice nursing issued by the board in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
2. Is guilty of a crime of moral turpitude; or
3. Becomes unfit or incompetent to practice by reason of gross negligence; or
4. Is habitually intemperate or is addicted to the use of habit-forming drugs; or
5. Is mentally incompetent; or
6. Is guilty of unprofessional conduct; or
7. Has willfully or repeatedly violated any of the provisions of this chapter.

Upon filing of a sworn complaint with the board, charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, or upon the board's own initiative, the executive officer of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least ten days prior thereto. Subpoenas issued by the board and served in accordance with the law, shall compel the attendance of witnesses and shall cause evidence to be produced at the hearing. The board shall administer such oaths as may be necessary for the proper conduct of the hearings. At the hearing the accused shall have the right to appear personally or be represented by counsel, or both, to produce witnesses or evidence on his own behalf, to cross-examine witnesses, and to have subpoenas issued by the board. If the accused is found guilty of the charges, the board may revoke or suspend a license, reprimand a licensee, or refuse to issue a license to an applicant. A revoked or suspended license

may be reissued after one year at the discretion of the board. The board shall keep a record of all its proceedings in the matter of revoking or suspending licenses or permits, together with the evidence offered. An appeal from the final decision of the board revoking or suspending a license to practice professional nursing in this state may be taken to the district court of Burleigh County in accordance with the provisions of chapter 28-32. The board shall furnish a list of the names and addresses of those whose certificates have been revoked to the boards of nursing, or comparable boards of all other states.

SECTION 19. AMENDMENT.) Section 43-12-24 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-24. VIOLATION - PENALTIES.) No person, corporation, association, or individual shall:

1. Sell or fraudulently obtain or furnish any nursing diploma, license, renewal or record, or aid or abet therein.
2. Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation.
3. Practice professional nursing as defined by this chapter unless duly licensed to do so under the provisions of this chapter.
4. Use in connection with his name any designation tending to imply that he is a licensed registered nurse unless duly licensed so to practice under the provisions of this chapter.
5. Practice professional nursing during the time his license issued under the provisions of this chapter shall be suspended or revoked.
6. Conduct a nursing education program for the preparation of professional nurses unless the program has been approved by the board.
7. Otherwise violate any provisions of this chapter.

Any violation of this section shall be a misdemeanor and shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars for a first offense. Each subsequent offense shall be punishable by a fine of one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

SECTION 20. REPEAL.) Sections 43-12-19 and 43-12-20 of the North Dakota Century Code are hereby repealed.

Approved March 29, 1971

## CHAPTER 435

SENATE BILL NO. 2382  
(Freed)REQUIRING CONTINUING  
OPTOMETRIC EDUCATION

AN ACT to amend and reenact section 43-13-20 of the North Dakota Century Code, relating to the renewal of a certificate of registration to practice optometry, to the requirement of continuing optometric education, and to the payment of a license fee.

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

SECTION 1. AMENDMENT.) Section 43-13-20 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-20. TERM OF CERTIFICATE - RENEWAL - ANNUAL LICENSE FEE - CONTINUING EDUCATIONAL REQUIREMENTS.) A certificate of registration to practice optometry in the state shall be issued for one year only, but may be renewed by paying to the secretary of the board, during the month of January of each year, the license fee for that year, and as of January 1, 1974, by submitting satisfactory proof to the board that within the preceding three-year period the applicant has attended optometric educational programs as required by the board. The board shall grant an applicant an additional year in which to attend such educational programs if an applicant furnishes the board with sufficient proof that he has been unable to attend such education programs during a year, which proof shall include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend such educational programs. The license fee for each year shall be determined annually by the North Dakota state board of optometry and shall not exceed one hundred dollars. The board shall adopt reasonable rules and regulations which shall state the type of optometric educational programs which are approved. The board shall also designate the number of classroom hours which must be attended, which shall not exceed eighteen within each three-year period. Any person who does not meet these requirements by February first of the year in which the license fee becomes due and payable shall be in default and may be reinstated by the board upon the payment of an additional sum of twenty-five dollars, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. Nothing contained herein shall require an applicant to become a member of the North Dakota optometric association or any other association of optometrists.

Approved March 11, 1971

## CHAPTER 436

HOUSE BILL NO. 1156  
(Patrick, Giffey)

## PHYSICAL DESIGN OF PHARMACIES

AN ACT to create and enact subsection 11 of section 43-15-10 of the North Dakota Century Code, relating to powers of the state board of pharmacy.

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

SECTION 1.) Subsection 11 of section 43-15-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. To prescribe reasonable rules and regulations relating to the physical design of space occupied by a pharmacy to ensure appropriate control of and safeguards over the contents of such pharmacy.

Approved March 15, 1971

## CHAPTER 437

HOUSE BILL NO. 1189  
(Wagner)

EXAMINING APPLICANTS  
FOR MEDICAL LICENSURE

AN ACT to amend and reenact sections 43-17-07, 43-17-18, and 43-17-20 of the North Dakota Century Code, relating to the examination of applicants for a license to practice medicine in this state.

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

SECTION 1. AMENDMENT.) Section 43-17-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-07. MEETINGS OF THE BOARD - SEAL OF BOARD.) The board shall hold at least two meetings in each calendar year for the examination of applicants for licensure, 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.

SECTION 2. AMENDMENT.) Section 43-17-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-18. 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 is at least twenty one years of age;
2. That he is a graduate of some reputable medical or osteopathic college approved by the board;
3. That he has satisfactorily completed a one year internship in a hospital approved by the board, or at the discretion of the board that he has completed such post graduate training or such approved hospital residency training, or any combination thereof, as the board deems equivalent thereto.

SECTION 3. AMENDMENT.) Section 43-17-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-20. 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 be those subjects that the board deems appropriate. Upon passing the examinations in a manner satisfactory to the majority of the board, the applicant shall be issued a license.

Approved March 15, 1971

## CHAPTER 438

HOUSE BILL NO. 1064  
(Austin, Bunker, Halcrow, Henning, Hentges)  
(From Legislative Council Study)

### LICENSING ALIEN PHYSICIANS

AN ACT to amend and reenact section 43-17-22 of the North Dakota Century Code, to remove the citizenship requirements for the licensing of physicians.

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

SECTION 1. AMENDMENT.) Section 43-17-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-22. 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. 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.

Approved March 24, 1971

## CHAPTER 439

HOUSE BILL NO. 1326  
(Bunker, Backes, Haugland, R. Peterson)

## LIABILITY FOR HUMAN TRANSPLANTATION

AN ACT to provide that persons engaged in the transplantation or transfusion of human tissues and related purposes shall not be liable for damages except for their own negligence or willful misconduct.

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

SECTION 1. DECLARATION OF LEGISLATIVE PURPOSE AND INTENT.) The availability of scientific knowledge, skills and materials for the transplantation, injection, transfusion or transfer of human tissue, organs, blood and components thereof is important to the health and welfare of the people of this state. The imposition of legal liability without fault upon the persons and organizations engaged in such scientific procedures inhibits the exercise of sound medical judgment and restricts the availability of important scientific knowledge, skills and materials. It is therefore the public policy of this state to promote the health and welfare of the people by limiting the legal liability arising out of such scientific procedures to instances of negligence or willful misconduct.

SECTION 2. LIMITATION OF LIABILITY.) No physician, surgeon, hospital, blood bank, tissue bank, or other person or entity who donates, obtains, prepares, transplants, injects, transfuses or otherwise transfers, or who assists or participates in obtaining, preparing, transplanting, injecting, transfusing or transferring any tissue, organ, blood or component thereof from one or more human beings, living or dead, to another human being, shall be liable as the result of any such activity, save and except that each such person or entity shall remain liable for his or its own negligence or willful misconduct only.

Approved March 29, 1971

## CHAPTER 440

HOUSE BILL NO. 1110  
(Wagner)

CONTINUING EDUCATION  
FOR DENTAL HYGIENISTS

AN ACT to create and enact sections 43-20-12 and 43-20-12.1 of the North Dakota Century Code, relating to the delegation of duties to dental hygienists and to continuing education requirements for dental hygienists; to amend and reenact sections 43-20-02 and 43-20-03 of the North Dakota Century Code, relating to acceptance of a national test in lieu of graduation from hygienist school and practice by dental hygienists.

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

SECTION 1. AMENDMENT.) Section 43-20-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-02. DENTAL HYGIENISTS - QUALIFICATIONS - EXAMINATIONS - REGISTRATION AND LICENSE.) Any person of good moral character not already a licensed dental hygienist of this state, being a graduate of an accredited high school or its equivalent, who is a graduate of a school of dental hygiene approved or provisionally approved by the council on education of the American dental association, upon making application for such license and upon the payment of thirty-five dollars, may be examined by the North Dakota state board of dental examiners on the subjects considered essential by it for a dental hygienist. Such examinations shall be conducted by the board of dental examiners. If the applicant, in the opinion of the board, successfully passes said examination, the applicant shall be registered and licensed as a dental hygienist. For such applicants as fail to pass a satisfactory initial examination, subsequent examinations may be had before the board upon payment of a fee of ten dollars for each subsequent examination, but no applicant shall be allowed to take more than three examinations. Applicants for examination shall submit their credentials to said board at least thirty days prior to the examination date, which date shall correspond to the date of examination for applicants for license to practice dentistry in this state.

The North Dakota board of dental examiners may accept the results of the national board examination as the equivalent to the testing of an applicant by the North Dakota board of dental examiners in all areas covered by the national board examination.



SECTION 2. AMENDMENT.) Section 43-20-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-03. DENTAL HYGIENISTS - PRACTICE BY.) The term dental hygiene and the practice thereof as used in this chapter shall mean the removal of accumulated matter from the natural and restored surfaces of teeth and from restorations in the human mouth, the polishing of such surfaces, and the topical application of drugs to the surface tissues of the mouth and to the surface of teeth; provided, however, that such acts must be performed under the direction and control of a licensed dentist. Persons practicing dental hygiene, other than dentists, shall be referred to as dental hygienists. Additional tasks permitted to be performed by licensed dental hygienists may be outlined from time to time by the board of dental examiners by appropriate rules and regulations.

SECTION 3.) Section 43-20-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-20-12. DENTAL HYGIENISTS - AUXILIARY PERSONNEL - DISTINCTION.) A legally licensed and registered dentist may delegate to competent dental auxiliary personnel those procedures over which the dentist exercises direct supervision and full responsibility, except those procedures which require professional judgment and skill such as diagnosis and treatment planning, the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of an appliance which, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.

SECTION 4.) Section 43-20-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-20-12.1. CONTINUING EDUCATIONAL REQUIREMENT FOR DENTAL HYGIENISTS.) Five years from July 1, 1971, or upon the fifth anniversary of the issuance of his license, whichever occurs last, and each five years thereafter, each person licensed to practice dental hygiene in this state shall provide the state board of dentistry evidence, of a nature suitable to the board, that such licensed person has attended, or participated in such amount of continuing education in dental hygiene as shall be required by the board. The board may accept for compliance with this requirement any of the following which, in the opinion of the board, contributes directly to the dental education of the licensee:

1. Attendance at lectures, study clubs, college post-graduate courses, or scientific sessions of conventions.
2. Research, graduate study, teaching, or service as a clinician.

3. Any other such evidence of continuing education the board may approve.

Any licensed person who shall fail to comply with this requirement shall, at the discretion of the board, be re-examined to determine his competency to continue licensure. If, in the opinion of the board, such licensed person does not qualify for further licensed practice, the board shall suspend such license until such time as the dental hygienist shall provide acceptable evidence to the board of his competency to practice.

Approved March 22, 1971

## CHAPTER 441

HOUSE BILL NO. 1259

(Atkinson, Peterson, Giffey, Lundene, Stoltenow)

## LICENSED PRACTICAL NURSES

AN ACT to amend and reenact subsection 2 of section 43-21-01, and sections 43-21-02, 43-21-03, 43-21-04, 43-21-08, 43-21-09, 43-21-10, 43-21-11, and 43-21-12 of the North Dakota Century Code, relating to practical nurses, and providing a penalty.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-21-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Licensed practical nurse" shall mean one who has met all legal requirements for licensure in this state, has been licensed by the board, and who holds a license for the current year, acquired according to the provisions of sections 43-21-01 through 43-21-12; and

SECTION 2. AMENDMENT.) Section 43-21-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-02. PERSONS EXEMPTED.) The provisions of this chapter shall not apply to:

1. The furnishing of nursing assistance in a natural or manmade disaster.
2. The practice of nursing which is incidental to their program of study by students enrolled in practical nurse education programs approved by the board.
3. The practice by a graduate of a North Dakota approved school of practical nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible.
4. The practice of any legally licensed practical nurse who is currently employed in North Dakota

by the United States Government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

SECTION 3. AMENDMENT.) Section 43-21-03 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-03. EXAMINATION REQUIRED - APPLICATION - FEE FOR EXAMINATION - QUALIFICATIONS FOR EXAMINATION.) Any person who desires to practice as a licensed practical nurse in this state shall pass the examination given by the board before a license shall be issued. Such person shall make an application for licensure to the executive director of the board at least ten days prior to the date set for the examination and shall at the time of making such application pay the fee set by the board. Enclosed with the application shall be proof that the applicant has the following qualifications:

1. Has received the preliminary education required for admission into a school of practical nursing.
2. Has successfully completed a board-approved practical nursing education program.
3. Is recommended by the faculty of a practical nursing education program.

SECTION 4. AMENDMENT.) Section 43-21-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-04. EXAMINATION AND LICENSING OF PRACTICAL NURSES - RE-EXAMINATION FEE.) The state board shall prescribe rules and regulations consistent with the provisions of this chapter for the examination, licensing, and regulation of practical nurses. Written examinations shall be held at least twice in each year, at a time and place to be designated by the state board. Upon successfully passing the examination as administered by the board, the board shall issue to such applicant a license to practice as a licensed practical nurse. A fee set by the board shall be required for rewriting each examination failed.

SECTION 5. AMENDMENT.) Section 43-21-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-08. RENEWAL OF LICENSE - FAILURE TO RENEW - ROSTER.) The license issued under this chapter must be renewed annually and a fee set by the board shall be submitted with every application for renewal. On or before November first of each year, the executive director of the board shall mail to each licensed practical nurse an application form for

renewal of license. Such form must be completed and returned to the executive director of the board together with the renewal fee on or before the thirty-first day of December. The failure of any licensee to renew his license annually shall suspend the right of such person to practice in this state as a licensed practical nurse. A licensee who fails to file the renewal application within the time provided for in this section may be relicensed by paying the required annual renewal fee for each year it has not been paid but not to exceed twenty dollars.

A roster shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places his name on such roster on or before the first day of January in the year he desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a license without incurring any penalty. Nurses who have not placed their name on such roster shall be subject to payment of the required renewal fee as specified.

SECTION 6. AMENDMENT.) Section 43-21-09 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-09. REVOCATION OR SUSPENSION OF LICENSE - HEARING - FURNISHING INFORMATION TO OTHER STATES.) The board may revoke or suspend any license issued under the provisions of this chapter for gross incompetency, dishonesty, or any other act which shall constitute just cause for such revocation or suspension. Such revocation or suspension shall be by a majority vote of the entire board and after a hearing has been held on specific charges filed against such licensee, which charges shall be made in writing under oath and filed by the executive director. A certified copy of the charges and a notice of the hearing before the board shall be serviced on the licensee whose license is sought to be revoked or suspended not less than twenty or more than thirty days prior to the hearing on such charges. The board shall furnish to the boards of nursing of other states, a list of names and addresses of persons whose licenses have been revoked or suspended for cause. A revoked license may be reissued after one year at the board's discretion. A suspended license may be reinstated at any time by the board.

SECTION 7. AMENDMENT.) Section 43-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-10. LICENSE REQUIRED - TITLE - ABBREVIATION.) In order to safeguard life and health, any person before practicing or offering to practice as a licensed practical nurse in this state for compensation, shall be required to submit evidence that he or she is qualified so to practice,

and shall first be licensed as hereinafter provided. After July 1, 1971, it shall be unlawful for any person not licensed under the provisions of this chapter:

1. To practice or offer to practice licensed practical nursing in this state.
2. To use the title "Licensed Practical Nurse", the abbreviation "L.P.N.", or any other sign, card, or device to indicate that such person is a licensed practical nurse.

The board shall keep a register, open to the public, of all persons to whom licenses are issued.

SECTION 8. AMENDMENT.) Section 43-21-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-11. APPROVED EDUCATIONAL COURSES FOR PRACTICAL NURSES.) Any institution, under rules and regulations to be adopted by the board, which shall be qualified to conduct a course for educating practical nurses, shall apply to the board and submit an application giving evidence that it is prepared to give a course of not less than nine months nor more than twelve months for preparing practical nurses, and that such institution further is able to meet standards prescribed by statute and the board for the education of practical nurses. A fee set by the board shall accompany such application. Upon receipt of such application and fee, the board shall make a survey of the institution. If, in the opinion of the members of the board, the requirements for an approved course for educating practical nurses are met by such institution, it shall approve the institution as qualified to give an accredited course for education of practical nurses. It shall further be the duty of the board to survey all schools for the education of practical nurses annually. Written reports of such survey shall be prepared. If the board shall determine, as a result of such survey, that any institution heretofore approved as a school for education of practical nurses, is not maintaining the standards required by law and by the rules and regulations of the board, notice thereof shall immediately be given to such school. If requirements of the board are not complied with within a reasonable time set by the board in such notice, such school shall be removed from the list of approved schools authorized to offer courses for the education of practical nurses within this state.

SECTION 9. AMENDMENT.) Section 43-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 43-21-12. VIOLATIONS - PENALTY.) Any person violating

any of the provisions of this chapter or willfully making false representations to the board in applying for a license shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten or more than fifty dollars for the first offense, and by a fine of fifty dollars for each subsequent offense.

Approved March 30, 1971

## CHAPTER 442

HOUSE BILL NO. 1250  
(Hentges, Hilleboe)

## SUBDIVIDED LANDS DISPOSITION ACT

AN ACT for the registration of subdivided lands situated outside North Dakota which are offered or disposed of in North Dakota and providing requirements for such registration; defining certain terms; naming the state real estate commission to administer this Act; providing for certain exemptions from the registration requirements; providing for full disclosure of material facts concerning subdivided lands offered or disposed of; providing for a public offering statement; providing for an inquiry and examination; providing for the payment of registration and renewal fees; providing for annual reports by registered subdividers; providing general powers and duties in the administration of this Act; defining fraudulent practices; providing for investigations and proceedings; providing for cease and desist orders for certain violations of this Act; providing grounds for the revocation of registration; providing for judicial review of administrative decisions; providing for the licensure of real estate brokers, salesmen, and mortgage brokers in connection with the offer or disposition of subdivided lands; providing a civil remedy for dispositions made in violation of this Act; providing for jurisdiction of causes of action arising under this Act; providing for extradition; providing for service of process; providing for certain evidentiary matters; and providing penalties for violations of this Act.

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

SECTION 1. TITLE.) This Act shall be known and may be cited as the "Subdivided Lands Disposition Act".

SECTION 2. DEFINITIONS.) When used in this Act, unless the context otherwise requires:

1. "Commission" means the state real estate commission;
2. "Disposition" includes sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision, if undertaken for gain or profit;
3. "Offer" includes any inducement, solicitation, or attempt to encourage a person to acquire an interest in land, if undertaken for gain or profit;



4. "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;
5. "Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;
6. "Subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of an inactive owner; and
7. "Subdivision" and "subdivided lands" means any land situated outside the state of North Dakota which is divided or is proposed to be divided for the purpose of disposition into five or more lots, parcels, units, or interests and also includes any land, whether contiguous or not, if five or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

SECTION 3. ADMINISTRATION OF ACT.) This Act shall be administered by the state real estate commission.

SECTION 4. PROHIBITIONS ON DISPOSITIONS OF INTERESTS IN SUBDIVISIONS.) Unless the subdivided lands or the transaction is exempt under section 5, it shall be unlawful for any person in this state

1. To offer or to dispose of any interest in subdivided lands located without this state prior to the time that the subdivided lands are registered in accordance with this Act;
2. To dispose of any interest in subdivided lands unless a current public offering statement is delivered to the purchaser and the purchaser is afforded a reasonable opportunity to examine the public offering statement prior to the disposition.

SECTION 5. EXEMPTIONS.)

1. Unless the method of disposition is adopted for the purpose of evasion of this Act, the registration provisions of this Act do not apply to offers or dispositions of an interest in land
  - a. By a purchaser of subdivided lands for his own account in a single or isolated transaction;
  - b. If fewer than five separate lots, parcels, units, or interests in subdivided lands are offered by a person in a period of twelve months;

- c. To persons who are engaged in the business of construction of buildings for resale or to persons who acquire an interest in subdivided lands for the purpose of engaging, and do engage, in the business of construction of buildings for resale;
  - d. Pursuant to court order;
  - e. By any government or government agency; or
  - f. As cemetery lots or interests.
2. Unless the method of disposition is adopted for the purpose of evasion of this Act, the registration provisions of this Act do not apply to
- a. Offers and dispositions of securities currently registered with the North Dakota commissioner of securities;
  - b. A subdivision as to which the plan of disposition is to dispose to ten or fewer persons; or
  - c. A subdivision as to which the commission has granted an exemption as provided in section 11.

SECTION 6. APPLICATION FOR REGISTRATION.)

1. The application for registration of subdivided lands shall be filed as prescribed by the commission and shall contain the following documents and information:
  - a. An irrevocable appointment of the commission to receive service of any lawful process in any non-criminal proceeding arising under this Act against the applicant or his personal representative;
  - b. A legal description of the subdivided lands offered for registration, together with a map showing the division proposed or made, the dimensions of the lots, parcels, units, or interests, and the relation of the subdivided lands to existing streets, roads, waterways, schools, churches, shopping centers, public transportation facilities, and other off-site improvements;
  - c. The states or jurisdictions in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivided lands by the regulatory authorities in each jurisdiction or by any court;

- d. The applicant's name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this state;
- e. The name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status or performing similar functions; the extent and nature of his interest in the applicant or the subdivided lands as of a specified date within thirty days of the filing of the application;
- f. A statement, in a form acceptable to the commission, of the condition of the title to the subdivided lands including encumbrances as of a specified date within thirty days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer, or director of the applicant or owner, or by other evidence of title acceptable to the commission;
- g. Copies of the instruments which will be delivered to a purchaser to evidence his interest in the subdivided lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;
- h. Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;
- i. If there is a lien or encumbrance affecting more than one lot, parcel, unit, or interest, a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;
- j. Copies of instruments creating easements, restrictions, or other encumbrances affecting the subdivided lands;
- k. A statement of the zoning and other governmental regulations affecting the use of the subdivided lands and also of any existing tax and existing or proposed special taxes or assessments which affect the subdivided lands;
- l. A statement of the existing provisions for legal

and physical access or, if none exists, a statement to that effect; a statement of the existing or proposed provisions for sewage disposal; water, and other public utilities in the subdivision; a statement of the improvements to be installed, the schedule for their completion, and a statement as to the provisions for improvement maintenance;

- m. A narrative description of the promotional plan for the disposition of the subdivided lands, including the range of selling prices or rents at which it is proposed to dispose of the lots in the subdivision, together with copies of all advertising material which has been prepared for public distribution by any means of communication.
  - n. A copy of its articles of incorporation, with all amendments thereto, if the subdivider is a corporation; copies of all instruments by which the trust is created or declared, if the subdivider is a trust; copies of its articles of partnership or association and all other papers pertaining to its organization, if the subdivider is a partnership, unincorporated association, or any other legal or commercial entity; and if the purported holder of legal title is a person other than the subdivider, copies of the above documents for such person;
  - o. The proposed public offering statement;
  - p. Such current financial statements, certified or otherwise, as the commission may require; and
  - q. Such other information and such other documents and certifications as the commission may require as being reasonably necessary or appropriate for the protection of purchasers.
- 2. If the subdivider registers additional subdivided lands to be offered for disposition, he may consolidate the subsequent registration with any earlier registration offering subdivided lands for disposition under the same promotional plan.
  - 3. The subdivider shall immediately report any material changes in the information contained in an application for registration.

#### SECTION 7. PUBLIC OFFERING STATEMENT.)

- 1. A public offering statement shall disclose fully and accurately the physical characteristics of the

subdivided lands offered and shall make known to prospective purchasers all unusual and material circumstances or features affecting the subdivided lands. The proposed public offering statement submitted to the commission shall be in a form prescribed by it and shall include the following:

- a. The name and principal address of the subdivider;
  - b. A general description of the subdivided lands stating the total number of lots, parcels, units, or interests in the offering;
  - c. The significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations, affecting the subdivided lands and each unit or lot, and a statement of all existing taxes and existing or proposed special taxes or assessments which affect the subdivided lands;
  - d. A statement of the use for which the property is offered;
  - e. Information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated cost, date of completion, and responsibility for construction and maintenance of existing and proposed improvements which are referred to in connection with the offering or disposition of any interest in subdivided lands; and
  - f. Such of the information contained in the application for registration, and any amendments thereto, and such other information as the commission may require as being necessary or appropriate in the public interest or for the protection of purchasers.
2. The public offering statement shall not be used for any promotional purposes before registration of the subdivided lands and afterwards only if it is used in its entirety. No person may advertise or represent that the commission approves or recommends the subdivided lands or disposition thereof. No portion of the public offering statement may be underscored, italicized, or printed in larger or heavier or different color type than the remainder of the statement unless the commission requires it.
  3. The commission may require the subdivider to alter

or amend the proposed public offering statement in order to assure full and fair disclosure to prospective purchasers, and no change in the substance of the promotional plan or plan of disposition or development of the subdivision may be made after registration without notifying the commission and without making appropriate amendment of the public offering statement. A public offering statement is not current unless all amendments are incorporated.

SECTION 8. INQUIRY AND EXAMINATION.) Upon receipt of an application for registration in proper form, the commission shall forthwith initiate an examination to determine that

1. The subdivider can convey or cause to be conveyed the interest in subdivided lands offered for disposition if the purchaser complies with the terms of the offer, and, when appropriate, that release clauses, conveyances in trust, escrow and impoundage provisions, and other safeguards have been provided;
2. There is reasonable assurance that all proposed improvements will be completed as represented;
3. The advertising material and the general promotional plan are not false or misleading and comply with the standards prescribed by the commission in its rules and regulations and afford full and fair disclosures;
4. The subdivider has not, or if a corporation, its officers, directors, and principals have not been convicted of a crime involving land dispositions or any aspect of the land sales business in this state, the United States, or any other state or foreign country within the past ten years and has not been subject to any injunction or administrative order within the past ten years restraining a false or misleading promotional plan involving land dispositions;
5. There is no evidence which would reasonably lead the commission to believe that the subdivider, or if a corporation, its officers, directors, or principals are contemplating a fraudulent or misleading sales promotion; and
6. The public offering statement requirements of this Act have been satisfied.

SECTION 9. NOTICE OF FILING; REGISTRATION; FEES.)

1. Upon receipt of the application for registration in proper form and of a registration fee of one hundred dollars, the commission shall issue a notice of filing to the applicant. Within ninety days from the date of the notice of filing, the commission shall enter

an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within ninety days from the date of notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

2. If the commission affirmatively determines, upon inquiry and examination, that the requirements of section 8 have been met, it shall enter an order registering the subdivided lands and shall designate the form of the public offering statement.
3. If the commission determines, upon inquiry and examination, that any of the requirements of section 8 has not been met, the commission shall notify the applicant that the application for registration must be corrected in the particulars specified within ten days. If the requirements are not met within the time allowed, the commission shall enter an order rejecting the registration which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for twenty days during which time the applicant may petition for reconsideration and shall be entitled to a hearing.
4. Registration under this Act shall be effective for a period of one year and may be renewed for additional periods of one year by filing, not later than fifteen days prior to the expiration of a registration, a renewal application in such form and containing such information as the commission shall prescribe, together with the payment of a renewal fee of one hundred dollars. The initial registration and any renewal fees shall not be returned or refunded for any reason.

SECTION 10. ANNUAL REPORT.)

1. Within thirty days after each annual anniversary date of an order registering subdivided lands, the subdivider shall file a report in the form prescribed by the commission. The report shall reflect any material changes in information contained in the original application for registration.
2. The commission, at its option, may permit the filing of annual reports within thirty days after the anniversary date of the consolidated registration in lieu of the anniversary date of the original registration.

SECTION 11. GENERAL POWERS AND DUTIES.)

1. The commission shall have the authority to promulgate,

to amend, and to repeal reasonable rules and regulations for the administration and enforcement of this Act. Such rules and regulations shall include, but not be limited to, provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land for which they contracted; provisions for operating procedures; and such other rules and regulations as are necessary or proper to accomplish the purposes of this Act.

2. All advertising material of any nature whatsoever prepared for use in connection with the offer and disposition of any interests in subdivided lands registered under this Act shall be submitted to and approved by the commission prior to its use.
3. As a condition precedent to the registration of any subdivided lands, the commission shall require that the subdivider file an indemnity bond running to the state of North Dakota for the use, benefit, and protection of any person and conditioned for the faithful compliance by the subdivider, his agents, and his employees with all of the provisions of this Act, as amended, and with all rules, regulations, and orders made pursuant thereto and for the faithful performance and payment of all obligations of the subdivider, his agents, and his employees in connection with the registration. The indemnity bond shall be of such type and in such form as shall be prescribed by the commission and shall be in such amount as the commission shall deem necessary to protect purchasers when the volume of business of the subdivider and other relevant factors are taken into consideration, but in no event less than twenty-five thousand dollars. Any such bond shall have as surety thereon a surety company authorized to do business in this state.
4. Whenever it appears that a person has engaged or is about to engage in acts or practices which constitute or will constitute a violation of the provisions of this Act or of a rule or regulation or order hereunder, the commission, with or without prior administrative proceedings, may bring an action in any district court to enjoin the acts or practices and to enforce compliance with this Act or any rule or regulation or order hereunder. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.
5. The commission may intervene in a suit involving subdivided lands. In any suit by or against a



subdivider involving subdivided lands, the subdivider promptly shall furnish the commission notice of the suit and copies of all pleadings.

6. The commission may
  - a. Accept registrations filed in other states or with the federal government;
  - b. Contract with similar agencies in this state or other jurisdictions to perform investigative functions; and
  - c. Accept grants-in-aid from any source.
7. The commission shall cooperate with similar agencies in other jurisdictions to establish uniform filing procedures and forms, uniform public offering statements, advertising standards, rules and regulations, and common administrative practices.
8. The commission may exempt a subdivision of ten or fewer lots, parcels, units, or interests from the provisions of this Act if it determines that the plan of promotion and disposition is primarily directed to persons in the local community in which the subdivision is located.

SECTION 12. FRAUDULENT PRACTICES.) It shall be a fraudulent practice, and it shall be unlawful

1. For any person knowingly to subscribe to or make or cause to be made any material false statement or representation in any application, financial statement, or other document or statement required to be filed under any provision of this Act, or to omit to state any material statement or fact in any such document or statement which is necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading;
2. For any person, in connection with the offer, disposition, or purchase of subdivided lands, directly or indirectly, to employ any device, scheme, or artifice to defraud;
3. For any person, in connection with the offer, disposition, or purchase of subdivided lands, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
4. For any person, in connection with the offer,

disposition, or purchase of subdivided lands, directly or indirectly, to engage in any act, practice, or course of business which operates or would operate as a fraud or deception upon purchasers or the public.

SECTION 13. INVESTIGATIONS AND PROCEEDINGS.)

1. The commission shall investigate any subdivision offered for disposition in this state and may
  - a. Rely upon any relevant information concerning a subdivision obtained from the Federal Housing Administration, the United States Veterans Administration, or any other federal agency having comparable duties in relation to subdivisions;
  - b. Require the applicant to submit reports prepared by competent engineers as to any hazard to which any subdivision offered for disposition is subject or any factor which affects the utility of interests within the subdivisions, and require evidence of compliance in removing or minimizing all hazards reflected in engineering reports;
  - c. Require an on-site inspection of the subdivision by a person or persons designated by it. All expenses incurred in connection with an on-site inspection shall be defrayed by the applicant, and the commission shall require a deposit sufficient to defray such expenses in advance;
  - d. Make public or private investigations within or outside this state to determine whether any person has violated or is about to violate this Act or any rule, regulation, or order hereunder, or to aid in the enforcement of this Act or in prescribing rules and regulations and forms hereunder; and
  - e. Require or permit any person to file a statement in writing, under oath or otherwise as the commission determines, as to all the facts and circumstances concerning the matter to be investigated.
2. For the purpose of any investigation or proceeding under this Act, the commission or any person designated by it may administer oaths or affirmations, and upon its own motion or upon the request of any party shall subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or

other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence.

3. Upon failure to obey a subpoena or to answer questions propounded by the investigator and upon reasonable notice to all persons affected thereby, the agency may apply to the district court for an order compelling compliance.
4. The commission may permit a person registered with the commission whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against said person.
5. Except as otherwise provided in this Act, all proceedings under this Act shall be in accordance with chapter 28-32.

SECTION 14. CEASE AND DESIST ORDERS.)

1. If the commission determines after notice and hearing that a person has
  - a. Violated any provision of this Act;
  - b. Directly or through an agent or employee knowingly engaged in any false, deceptive, or misleading advertising, promotional, or sales methods to offer or dispose of an interest in subdivided lands;
  - c. Made any substantial change in the plan of disposition and development of the subdivided lands subsequent to the order of registration without obtaining prior written approval from the commission;
  - d. Disposed of any subdivided lands which have not been registered with the commission; or
  - e. Violated any lawful order or rule or regulation of the commission; it may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the commission will carry out the purposes of this Act.
2. If the commission makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary

cease and desist order. Prior to issuing the temporary cease and desist order, the commission, whenever possible, by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

SECTION 15. REVOCATION.)

1. A registration may be revoked after notice and hearing upon a written finding of fact that the subdivider has
  - a. Failed to comply with the terms of a cease and desist order;
  - b. Been convicted or found liable in any court subsequent to the filing of the application for registration of a crime or tort involving fraud, deception, false pretenses, misrepresentation, false advertising, or dishonest dealing in real estate transactions;
  - c. Disposed of, concealed, or diverted any funds or assets of any person so as to defeat the rights of subdivision purchasers;
  - d. Failed faithfully to perform any stipulation or agreement made with the commission as an inducement to grant any registration, to reinstate any registration, or to approve any promotional plan or public offering statement; or
  - e. Made intentional misrepresentations or concealed material facts in an application for registration. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
2. If the commission finds after notice and hearing that the subdivider has been guilty of a violation for which revocation could be ordered, it may issue a cease and desist order instead.

SECTION 16. JUDICIAL REVIEW.) A person who has exhausted all administrative remedies available within the commission and who is aggrieved by an order pertaining to registration, a cease and desist order, an order of revocation, or any other final decision of the commission is entitled to judicial review in accordance with chapter 28-32.

SECTION 17. REAL ESTATE LICENSE REQUIRED.) No real estate broker, salesman, or mortgage broker shall offer or dispose of

subdivided lands within or from this state, except in dispositions and transactions exempt under section 5, unless said real estate broker, salesman, or mortgage broker is licensed pursuant to chapter 43-23.

SECTION 18. CIVIL REMEDY.)

1. Every disposition made in violation of any of the provisions of this Act, or of any order issued by the commission under any of the provisions of this Act, shall be voidable at the election of the purchaser. The person making such disposition, and every director, officer, salesman, or agent of or for such person who shall have participated or aided in any way in making such disposition, shall be jointly and severally liable to such purchaser in any action at law in any court of competent jurisdiction for the consideration paid for the lot, parcel, unit, or interest, together with interest at the rate of six percent per year from the date of payment, property taxes and assessments paid, court costs, and reasonable attorney's fees, less the amount of any income received from the subdivided lands, upon tender of appropriate instruments of reconveyance made at any time before the entry of judgment. If the purchaser no longer owns the lot, parcel, unit, or interest in subdivided lands, he may recover the amount that would be recoverable upon a tender of a reconveyance less the value of the land when disposed of and less interest at the rate of six percent per year on that amount from the date of disposition.
2. No action shall be brought under this section for the recovery of the consideration paid after five years from the date of such disposition nor more than three years after the purchaser has received information as to matter or matters upon which the proposed recovery is based, whichever occurs first.
3. Any stipulation or provision purporting to bind any person acquiring subdivided lands to waive compliance with this Act or any rule or regulation or order under it is void.
4. The rights and remedies provided by this Act shall be in addition to any and all other rights and remedies that may exist at law or in equity.

SECTION 19. JURISDICTION.) Dispositions of subdivided lands are subject to this Act, and the district courts of this state have jurisdiction in claims or causes of action arising under this Act if

1. The subdivider's principal office is located in this state; or

2. Any offer or disposition of subdivided lands is made in this state, whether or not the offeror or offeree is then present in this state, if the offer originates within this state or is directed by the offeror to a person or place in this state and received by the person or at the place to which it is directed.

SECTION 20. EXTRADITION.) In proceedings for extradition of a person charged with a crime under this Act, it need not be shown that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding or other state.

SECTION 21. SERVICE OF PROCESS.)

1. In addition to the methods of service provided for in the North Dakota Rules of Civil Procedure and statutes, service may be made by delivering a copy of the process to the office of the commission, but it is not effective unless the plaintiff (which may be the commission in a proceeding instituted by it)
  - a. Forthwith sends a copy of the process and of the pleading by certified or registered mail to the defendant or respondent at his last known address, and
  - b. The plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.
2. If any person, including any nonresident of this state, engages in conduct prohibited by this Act or any rule or regulation or order hereunder, and has not filed a consent to service of process and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct authorizes the commission to receive service of process in any noncriminal proceeding against him or his successor which grows out of that conduct and which is brought under this Act or any rule or regulation or order hereunder, with the same force and validity as if served on him personally. Notice shall be given as provided in subsection 1.

SECTION 22. EVIDENTIARY MATTERS.)

1. In any action, civil or criminal, where a defense is based upon any exemption provided for in this Act, the burden of proving the existence of such exemption shall be upon the party raising such defense.
2. In any action, civil or criminal, a certificate signed and sealed by the commission stating compliance or noncompliance with the provisions of this Act shall be

admissible in any such action.

SECTION 23. PENALTIES.) Any person who shall willfully violate any provision of this Act or who willfully violates any rule or regulation or order of the commission made pursuant to the provisions of this Act, or who shall engage in any act, practice, or transaction declared by any provision of this Act to be unlawful shall upon conviction thereof be sentenced to pay a fine of not more than five thousand dollars or to imprisonment in the penitentiary for not more than five years or to both such fine and imprisonment.

Approved March 15, 1971

## CHAPTER 443

HOUSE BILL NO. 1121  
(Wagner)

## LICENSING OF DENTISTS

AN ACT to create and enact sections 43-28-12.1 and 43-28-12.2 of the North Dakota Century Code, relating to licensing qualifications of dentists; and to amend and reenact subsection 1 of section 43-28-01, sections 43-28-05, 43-28-07, 43-28-11, 43-28-12, 43-28-13, 43-28-15, 43-28-16, and 43-28-24 of the North Dakota Century Code, relating to the definition of the practice of dentistry, the board of dental examiners, examinations, licensing, licenses, and fees for the practice of dentistry.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 43-28-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the purposes of this Act, the term "practice of dentistry" shall mean and include examination, diagnosis, treatment, repair, administration of local or general anesthetics, prescriptions, or surgery of or for any disease, disorder, deficiency, deformity, condition, lesion, injury, or pain of the human oral cavity, teeth, gingivae and soft tissues, and the diagnosis, the surgical and adjunctive treatment of the diseases, injuries, and defects of the human jaw and associated structures.

SECTION 2. AMENDMENT.) Section 43-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-05. MEETING OF BOARD - OFFICERS - BOND - COMPENSATION OF MEMBERS - QUORUM.) The board shall hold a regular annual meeting, at such place as is designated by it and such special meetings as are necessary. At the regular meeting of the board, the members shall elect from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer shall furnish a bond in the amount fixed by the board. Each member of the board shall receive as compensation the sum of fifty dollars for each day actually engaged in the duties of his office, ten cents per mile for



the distance necessarily traveled in going to and returning from meetings of the board, and not to exceed ten dollars a day for meals and lodging while attending meetings of the board. The secretary-treasurer shall be paid an annual salary equal to fifteen percent of all funds received by the board during the year. Three members of the board shall constitute a quorum but a smaller number may adjourn from time to time.

SECTION 3. AMENDMENT.) Section 43-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-07. EXPENSES OF BOARD - HOW PAID - FUNDS HELD BY SECRETARY-TREASURER.) All moneys collected for the board under the provisions of this chapter shall be kept in a separate account by the secretary-treasurer and shall be used for the payment of the compensation and necessary expenses of the officers and members of the board, and disbursed only on warrants signed by the secretary-treasurer. At the end of his term, the secretary-treasurer shall render a full and true account to his successor for any moneys remaining in his hands.

SECTION 4. AMENDMENT.) Section 43-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-11. EXAMINATION REQUIRED - APPLICATION - QUALIFICATIONS - FEES.) Any person who desires to obtain a license to practice dentistry in this state shall make application to the secretary-treasurer of the board on such forms as it may provide and shall submit to an examination by the board. The application shall be verified under oath to the effect that all of the statements contained therein are true of applicant's own knowledge. Applicant shall enclose with his application a recent autographed picture of himself and the sum of seventy-five dollars. Additional costs of simultaneous examination as set out in 43-28-12.1 and chargeable under 43-28-05 as board member compensation may be assessed against the applicant or applicants. The applicant must show 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 declaration of his intention to become a citizen of the United States and that his application for naturalization has been approved by the proper authorities.
3. Is a person of good moral character.

SECTION 5. AMENDMENT.) Section 43-28-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-12. EXAMINATION - SUBJECTS COVERED.) At the next regular meeting of the board held after an application for a license and a certificate of registration to practice dentistry in this state is made the applicant shall present himself to the board, which shall give him an examination to test his fitness for the practice of dentistry. The board may require the applicant to supply the board with the results of his national board examination which may at the discretion of the board be considered determinative of the applicant's theoretical knowledge and scholastic fitness for the practice of dentistry. The examination may include the following subjects:

1. Anatomy.
2. Physiology.
3. Oral Surgery.
4. Chemistry.
5. Materia medica.
6. Therapeutics.
7. Metallurgy.
8. Histology.
9. Pathology.
10. Bacteriology.
11. Orthodontics.
12. Prosthetic dentistry.
13. Crown and bridge, X-ray, operative, surgical and mechanical dentistry.
14. Such other subjects which the board, at the time the examination is given, may deem necessary.

SECTION 6.) Section 43-28-12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-28-12.1. SIMULTANEOUS EXAMINATION.) The results of an examination given in another state by that state's equivalent to the North Dakota dental board may be considered by this state's board as an example of the applicant's fitness to practice dentistry in this state. The other state examination must be observed by a member of this state's board.

SECTION 7.) Section 43-28-12.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-28-12.2. CONTINUING EDUCATIONAL REQUIREMENT FOR DENTISTS.) Five years from July 1, 1971, or upon the fifth anniversary of the issuance of his license, whichever occurs last, and each five years thereafter, each person licensed to practice dentistry in this state shall provide the state board of dentistry evidence, of a nature suitable to the board, that such licensed person has attended, or participated in such amount of continuing education in dentistry as shall be required by the board. The minimum requirement shall be not less than twenty hours during the preceding five years of licensure. The board may accept for compliance with this requirement any of the following which, in the opinion of the board, contributes directly to the dental education of the licensee:

1. Attendance at lectures, study clubs, college postgraduate courses, or scientific sessions of conventions.
2. Research, graduate study, teaching, or service as a clinician.
3. Any other such evidence of continuing education the board may approve.

Any licensed dentist who shall fail to comply with this requirement shall, at the discretion of the board, be re-examined to determine his competency to continue licensure. If, in the opinion of the board, such licensed dentist does not qualify for further licensed practice, the board shall suspend such license until such time as the dentist shall provide acceptable evidence to the board of his competency to practice.

SECTION 8. AMENDMENT.) Section 43-28-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-13. LICENSE - WHEN CERTIFICATE ISSUED - WHEN RE-EXAMINATION REQUIRED.) If an applicant has the necessary qualifications and successfully passes the examination for a license to practice dentistry in this state, or an equivalent examination in another state as set out in section 43-28-12.1, the board may:

1. Issue to the applicant a license to practice dentistry in this state, which shall be entered upon the records of the board.
2. Issue said licensed dentist a certificate of registration in the form prescribed by the board. Any dentist so licensed and registered, who does not undertake the actual practice of dentistry in this state within five years from

the date of his license and registration, shall, before engaging in the practice of dentistry in this state, notify the board of his intention in writing so to do, whereupon the board, after a full investigation, may re-examine said dentist as to his qualifications to practice dentistry in this state should the board deem such re-examination necessary and notify such dentist thereof. The failure of such dentist to give the written notice to the board required herein before he engages in the practice of dentistry in this state shall operate as a forfeiture of his license to practice dentistry.

SECTION 9. AMENDMENT.) Section 43-28-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-15. LICENSE AND CERTIFICATE - WHEN ISSUED TO PRACTITIONERS OF ANOTHER STATE.) The board may issue a license and certificate of registration to practice dentistry in this state to any person who wishes to move to this state from another state upon a practical examination only, if such person:

1. Has been licensed to practice dentistry in another state where the requirements are equivalent to those of this state, and where like provisions are accorded to holders of certificates of registration issued in this state.
2. Is a reputable dentist of good moral character.
3. Pays to the board a fee of seventy-five dollars.
4. Delivers to the board a certificate from the examining board of the state in which he is practicing, certifying that he is a licensed and registered dentist in that state, and is of good moral character.
5. Demonstrates his ability to the satisfaction of the board.

However, if there is complete reciprocity between the applicant's state and this state, the requirement of a practical examination may be waived by the board if the applicant meets the other requirements of this section.

SECTION 10. AMENDMENT.) Section 43-28-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-16. 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 not exceed fifty dollars. The holder of a license and certificate of registration shall display the same conspicuously in his place of business. The certificate of registration 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 chapter may be collected by the board in a civil action.

SECTION 11. AMENDMENT.) Section 43-28-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-24. DUPLICATE LICENSE AND CERTIFICATE - WHEN ISSUED - FEE.) If a license or certificate of registration to practice dentistry in this state is lost or destroyed, the board shall issue and deliver a duplicate license or certificate upon satisfactory proof by applicant of the loss or destruction thereof. The fee for such duplicate license shall be ten dollars and the fee for issuing a duplicate certificate of registration shall be five dollars.

Approved March 24, 1971

## CHAPTER 444

SENATE BILL NO. 2412  
(Lips)

## HEARING AID DEALERS AND FITTERS

AN ACT to create and enact a new subdivision of subsection 1 of section 43-33-09, a new subsection of section 43-33-10, two new subdivisions of subsection 4 of section 43-33-12, and a new subsection of section 43-33-12 of the North Dakota Century Code, relating to the scope of the hearing aid dealers examination, duties of the licensing department, and grounds for suspension of licenses; and to amend and reenact subsection 6 of section 43-33-01, section 43-33-04, section 43-33-07, subsection 2 of section 43-33-08, subdivision e of subsection 4 of section 43-33-12, and subsection 2 of section 43-33-15 of the North Dakota Century Code, relating to definitions, persons and practices not affected, educational qualifications of applicants, frequency of examinations, temporary trainee supervision, and qualifications of members of the board of hearing aid dealers and fitters.

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

SECTION 1. AMENDMENT.) Subsection 6 of section 43-33-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Practice of fitting and dealing in hearing aids" shall mean the measurement of human hearing by means of an audiometer or by any means solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dealer, at the request of a physician or member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing.

SECTION 2. AMENDMENT.) Section 43-33-04 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-04. PERSONS AND PRACTICES NOT AFFECTED.)

1. This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids

provided this person or organization employing such person does not sell hearing aids or accessories thereto.

2. This chapter does not apply to a person who is a licensed physician and surgeon or osteopath.

SECTION 3. AMENDMENT.) Section 43-33-07 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-07. LICENSE BY EXAMINATION.)

1. Applicants who do not meet the experience qualification on the effective date of this chapter may obtain a license by successfully passing a qualifying examination, provided the applicant:
  - a. Be at least twenty-one years of age.
  - b. Be of good moral character.
  - c. Has a high school diploma.
  - d. Is free of contagious or infectious disease.
2. The applicant for a license by examination shall appear at a time, place and before such persons as the department may designate, to be examined by means of written and practical tests in order to demonstrate that he is qualified to practice the fitting and sale of hearing aids. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such a manner that college training be required in order to pass the examination. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected of physicians.
3. The department shall give examinations once a year at a time and place to be designated by the board, and may give more frequent examinations if deemed necessary by the board.

SECTION 4. AMENDMENT.) Subsection 2 of section 43-33-08 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon receiving an application as provided under this section and accompanied by a fee of twenty-five dollars, the department shall issue a trainee permit which shall enable the applicant to engage in the training of fitting and sale of hearing aids

for a period of one year under the direct supervision of a person holding a valid hearing aid dealers and fitters license. The trainee shall train in the same place of business as that of the supervisor and shall be required to have fulfilled at least thirty hours of book and visual aid training during office hours and at least ten hours of training with an audiometer, as well as a minimum of one week with the supervisor before his first public contact alone. A trainee shall not be permitted to deal with the public outside the supervisor's office or place of business until these requirements have been fulfilled. After this initial period of training the trainee must spend one week in the office or place of business within any period of sixty days, and one week with the supervisor within any period of sixty days. The trainee shall not make any sale of a hearing aid without first consulting with his supervisor and obtaining the supervisor's approval for such sale.

SECTION 5.) A new subdivision of subsection 1 of section 43-33-09 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Elementary audiology.

SECTION 6.) A new subsection of section 43-33-10 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The department shall keep a record of the trainees, their place of training and their supervisors.

SECTION 7. AMENDMENT.) Subdivision e of subsection 4 of section 43-33-12 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- e. Representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing aids when that is not true, or using the word "doctor", "clinic", "audiologist" or similar words, abbreviations or symbols which tend to connote the medical or audiological profession when such is not accurate, except that the designation of "Certified Hearing Aid Audiologist" may be used when certification thereof has been conferred by and is in good standing with the National Hearing Aid Society.

SECTION 8.) Two new subdivisions of subsection 4 of



section 43-33-12 of the 1969 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Sale of a hearing aid to a person without adequate and proper audiometric testing.

Sale of a hearing aid to a person where the need for a hearing aid has not been established after adequate and proper audiometric testing.

SECTION 9.) A new subsection of section 43-33-12 of the 1969 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The fitting and sale of a hearing aid to any person fourteen years of age or younger unless within ninety days prior to the fitting the person to be fitted has been examined by a physician to determine whether or not there exist any physical deficiencies that would prohibit the effective use of a hearing aid.

SECTION 10. AMENDMENT.) Subsection 2 of section 43-33-15 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Members of the board shall be residents of the state. The board shall consist of four hearing aid dealers and fitters, two otolaryngologists and two audiologists. Each hearing aid dealer and fitter on the board shall be primarily engaged as a hearing aid dealer and fitter, shall have had no less than five years of experience in this state and shall hold a valid license as a hearing aid dealer, as provided under this chapter. Exception shall be the hearing aid dealers and fitters of the first board appointed who shall have had no less than five years experience and shall have fulfilled all qualifications for "license by experience" as provided by this chapter.

Approved March 17, 1971

## CHAPTER 445

HOUSE BILL NO. 1061  
(Eagles, Lundene, Wagner, Wilkie)  
(From Legislative Council Study)

## NURSING HOME ADMINISTRATORS

AN ACT to provide for new appointments to the board of examiners for nursing home administrators, and to amend and reenact subsection 2 of section 43-34-01, and sections 43-34-02 and 43-34-11 of the North Dakota Century Code, relating to the board of examiners for nursing home administrators, and to amend and reenact section 43-34-05 of the North Dakota Century Code, relating to license fees of nursing home administrators.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-34-01 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The term "nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a North Dakota nursing home whether such individual has an ownership interest in such home and whether his functions and duties are shared with one or more individuals; and

SECTION 2. AMENDMENT.) Section 43-34-02 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-02. COMPOSITION OF THE BOARD.) There is hereby created the state board of examiners for nursing home administrators which shall consist of nine members.

1. Three members of the board shall be the state health officer, state welfare director, and the commissioner of higher education.
2. One member of the board shall be a physician appointed to the board for a three-year term by the governor from a list of three names submitted to him by the state medical association.
3. One member of the board shall be a hospital administrator appointed to the board for a three-year term

by the governor from a list of three names submitted to him by the North Dakota hospital association.

4. Three members of the board shall be licensed nursing home administrators appointed to the board for three-year terms by the governor from a list of names submitted to him by the North Dakota hospital association. The association shall submit three names for each appointive position.
5. One member of the board shall be a nurse appointed to the board for a three-year term by the governor from a list of three names submitted to him by the North Dakota state nurses' association.
6. Any vacancies occurring in the appointments made by the governor shall be filled in the same manner as was used in naming the prior appointee.
7. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 3. AMENDMENT.) Section 43-34-11 of the 1969 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-34-11. EMERGENCY LICENSES.) In the event of the death or other unexpected removal of a licensed nursing home administrator from his position, the owner, the governing body, or other appropriate authority of the nursing home may designate an acting administrator to whom the board may issue an emergency license. This emergency license shall be in force for a period not to exceed ninety days but may be renewed for an additional ninety days by the board upon good cause shown.

SECTION 4. APPOINTMENTS SHALL BE MADE AT END OF TERMS OF PRESENT BOARD MEMBERS.) The board members provided for in subsections 3 and 5 of section 43-34-02 shall be appointed to succeed the two members of the board appointed when chapter 43-34 was first enacted whose terms expire on July 1, 1971. Two of the three board members provided for in subsection 4 of section 43-34-02 shall be appointed to succeed the two members of the board appointed when chapter 43-34 was first enacted whose terms expire on July 1, 1972. The third board member provided for in subsection 4 of section 43-34-02 shall be appointed to succeed the nursing home administrator appointed when chapter 43-34 was first enacted whose term expires on July 1, 1973. The physician board member provided for in subsection 2 of section 43-34-02 shall be appointed to succeed the present representative of the state medical association appointed when chapter 43-34 was first enacted whose term expires on July 1, 1973.

SECTION 5. AMENDMENT.) Section 43-34-05 of the 1969

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

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

Approved March 15, 1971

## CHAPTER 446

HOUSE BILL NO. 1336  
(Henry, Walsh, Hentges, Rice)

## WATER WELL CONTRACTORS

AN ACT for the preservation of public health through the regulation of the business of water well drilling, to create a state board of water well contractors, to provide for the certification of water well contractors, to provide for bonds, and to provide a penalty.

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

SECTION 1. DECLARATION OF POLICY.) The business or activity of constructing water wells is declared to be an industry affecting the public welfare, health, and safety of all the people of North Dakota and requires the exercise of the sovereign powers of the state for a public purpose, and it hereby is declared necessary that a state board of water well contractors be established, which in the exercise of its powers shall be deemed to be an administrative agency within the purview of chapter 28-32.

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

1. "Board" shall mean the North Dakota board of water well contractors.
2. "Water well contractor" shall mean any person who is certified to conduct the business of well drilling under the provisions of this Act.
3. "Drilling" shall mean making any opening in the earth's surface by drilling, boring, or otherwise, and shall include inserting any object into any part of the earth's surface for the purpose of obtaining an underground water supply except drainage tiles or similar devices designed primarily to improve land by removing excess water.
4. "Constructing" a well includes boring, digging, drilling, or excavating and installing casings, well screens, and other appurtenances.
5. "Well" shall mean any artificial opening or artificially altered natural opening, however

made, by which ground water is sought or through which ground water flows under natural pressure or is artificially withdrawn, provided that this definition shall not include a natural spring, stock ponds, or holes drilled for the purpose of exploration for production of oil, gas, gravel, or other minerals.

SECTION 3. STATE BOARD OF WATER WELL CONTRACTORS - MEMBERS' APPOINTMENT - QUALIFICATION.) The state board of water well contractors shall consist of the state engineer and the state health officer, or their duly authorized designees, and two water well contractors appointed by the governor from a list of five names submitted by the North Dakota well drillers association, and one member appointed at large by the governor.

SECTION 4. APPOINTIVE MEMBERS TO QUALIFY - TERMS OF OFFICE - FILLING VACANCY.) Each appointive member to the board shall qualify by taking the oath of office required of civil officers and shall hold office for a term of four years or until a successor is appointed and qualified, except that the initial appointments shall be for terms of two and four years, respectively, and shall expire on June thirtieth of the respective years. A vacancy on the board shall be filled for the unexpired term in the same manner as was the member whose office is vacant.

SECTION 5. OFFICERS - OFFICE.) The members of the board shall meet annually on the second Monday in July at a time and place designated by the president, except that the first meeting shall be held in the office of the state engineer at ten o'clock a.m., to select from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer need not be a member of the board. Additional board meetings may be provided for in the bylaws or rules and regulations adopted by the board.

SECTION 6. SECRETARY-TREASURER BOND.) Promptly upon assuming the office, the secretary-treasurer shall furnish a bond satisfactory to the board for the faithful performance and discharge of his duties, as civil officers generally are bonded, in such amount as may be prescribed by the board, the premium therefor to be paid from board funds.

SECTION 7. COMPENSATION AND REIMBURSEMENT OF EXPENSES.) Each appointive member of the board shall receive fifteen 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 expenses allowed shall not exceed the amount provided for in section 54-06-09.

SECTION 8. OFFICE, ADMINISTRATIVE, AND TECHNICAL PER-

SONNEL - COMPENSATION.) The board may employ such office, administrative, and technical personnel as it deems necessary and shall fix their compensation and prescribe their duties. It may retain legal counsel and incur such other expenses as and when deemed necessary to carry out the provisions of this Act.

SECTION 9. DEPOSIT OF FEES - USE AND APPROPRIATION OF FUNDS.) All fees received by the treasurer under this Act shall be deposited to the credit of the board in the Bank of North Dakota and disbursed only on order of the president and secretary-treasurer. Funds collected for certifying and inspections may be expended in such manner as the board deems necessary to best carry out the provisions of this Act. All funds accruing to the credit of the state board of water well contractors are hereby permanently appropriated to the board for the purpose of this Act.

SECTION 10. POWERS AND DUTIES OF BOARD.) The board shall have the power and it shall be its duty:

1. To effectively administer and carry out the provisions of this Act.
2. To adopt bylaws, rules, and regulations for the conduct of the business affairs of the board and administration of its functions.

SECTION 11. CERTIFICATE REQUIRED.) After the first day of January 1972 no person, partnership, firm, or corporation shall engage in the business of water well contracting unless certified to do so by the board of water well contractors.

SECTION 12. EXAMINATION - WHEN HELD - NOTICE.) The board shall hold meetings at such times and such places as it shall designate for the purpose of administering an examination to those persons desiring to become certified as water well contractors. The board shall give no less than ten days' written notice to each applicant of the time and place of such examination.

SECTION 13. CERTIFICATE - HOW OBTAINED - FEE - BOND.) Any person desiring to take the examination to become a certified water well contractor shall make application to the board and pay to the board treasurer a nonrefundable examination fee in the amount of ten dollars. If upon examination the applicant is found to be qualified as a water well contractor, the board shall issue to him a certificate upon the applicant's executing and filing with the board a bond as required in this Act. Such certificate shall not be transferable.

SECTION 14. BOND REQUIRED.) Before receiving a certificate as a water well contractor, a qualified applicant shall execute and deposit with the board a surety bond in

the amount of one thousand dollars conditioned for the faithful performance of all water well contracts undertaken by him and the strict compliance with the provisions of this Act.

SECTION 15. CERTIFICATION OF PERSONS ENGAGED IN CONTRACTING AT EFFECTIVE DATE OF ACT.) Upon application and sworn affidavit and the payment of a registration fee in the amount of twenty dollars, the board shall issue a certificate, without an examination, to any person who has been engaged in the business of a water well contractor as an occupation for at least one year prior to the effective date of this Act.

SECTION 16. DISPLAY OF CERTIFICATION.) The board shall furnish each certified contractor a decal for each drill rig the contractor owns or leases. Such decal shall be displayed in a conspicuous place on the drill rig.

SECTION 17. RENEWAL OF CERTIFICATE.) A certificate issued under the provisions of this Act shall be valid for one year and shall expire on the thirty-first day of December in the year it was issued. The certificate may be renewed by the board upon application accompanied by a fee in the amount of twenty dollars and the furnishing of a bond as provided in section 14 of this Act.

SECTION 18. FIRM ENGAGED IN WATER WELL WORK TO EMPLOY CERTIFIED WATER WELL CONTRACTOR - EXCEPTION.) No person, partnership, association, or corporation shall engage in the business of constructing a water well in this state unless at all times a certified water well contractor, who is responsible for the proper construction or alteration thereof, is in charge; provided, however, that nothing in this Act shall be construed so as to prohibit any person, partnership, association, or corporation from constructing any water well on his or its own premises for his or its own use.

SECTION 19. STANDARDS FOR WELL DRILLING - REPORTS REQUIRED.) All construction of water wells shall comply with the rules and regulations promulgated by the state health department. Each water well contractor shall furnish to the board on forms provided by the board within thirty days after the completion of each well, such information as the health department shall require, including a log of formations penetrated, well depth, and casing size and weight. A copy of each report shall also be furnished to the customer. All information submitted shall remain the property of the board.

SECTION 20. REVOCATION OR SUSPENSION OF CERTIFICATE - GROUNDS FOR - HOW REINSTATED.) The board may suspend or revoke any certificate issued under the provisions of this Act if the holder is found guilty by the board of any violation of the rules and regulations established and promulgated by the health department after a hearing duly held substantially in conformance with the provisions of chapter 28-32. Six months after



any certificate has been revoked, an application may be made for another certificate in the same manner as a new certificate is obtained.

SECTION 21. CERTIFICATION TO NONRESIDENTS - RECIPROCITY.) To the extent that other states which provide for the certification of water well contractors provide for similar action, the state board of water well contractors may grant certification to water well contractors certified by other states, upon payment by the applicant of the required fee and the furnishing of a bond as provided by section 14 of this Act, after being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of such certificates in this state.

SECTION 22. CONTRACTING FOR WELL CONSTRUCTION WITHOUT CERTIFICATION - PENALTY.) Any person contracting for water well drilling without being certified in accordance with the provisions of this Act or otherwise willfully violating the provisions thereof shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 18, 1971