

OCCUPATIONS AND PROFESSIONS

CHAPTER 397

HOUSE BILL NO. 1410
(Martinson)

PODIATRIST'S USE OF ANESTHESIA

AN ACT to amend and reenact subsection 1 of section 43-05-01 of the North Dakota Century Code, relating to the definition of podiatrist.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 43-05-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Podiatrist" shall mean one who examines, diagnoses, and treats ailments of the human foot by medical, surgical, and other means, except amputation of the foot, which can be done with or without a local anesthetic. When general anesthesia is utilized, it must be under the direction of a licensed anesthesiologist.

Approved March 31, 1977

CHAPTER 398

HOUSE BILL NO. 1592
(Mund)

DISPOSAL OF INACTIVE CONTRACTOR
LICENSES

AN ACT to amend and reenact section 43-07-13 of the North Dakota Century Code, relating to contractor registrar disposing of inactive licenses.

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

SECTION 1. AMENDMENT.) Section 43-07-13 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-13. RECORDS AND CERTIFIED COPIES THEREOF.) The registrar shall maintain in his office, open to public inspection during office hours, a complete indexed record of all applications and all licenses issued and all certificates of renewal and of cancellations or suspensions. The registrar may dispose of an inactive contractor license, cancellation or suspension, after six years if no attempts have been made to apply for a new license or renew the license. Disposal of the license will proceed according to the provisions of section 54-46. Before disposal and upon request, he shall furnish a certified copy of any license issued, of any renewal certificate, or of the cancellation or suspension thereof, upon receipt of the sum of five dollars. Such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein.

Approved March 31, 1977

CHAPTER 399

HOUSE BILL NO. 1472
(Lokken)

MEMBERSHIP OF STATE ELECTRICAL BOARD

AN ACT to amend and reenact section 43-09-04 of the North Dakota Century Code, relating to the compensation of members of the state electrical board.

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

SECTION 1. AMENDMENT.) Section 43-09-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 12, 1977

CHAPTER 400

HOUSE BILL NO. 1299
(Wagner, Mund)

NURSE PRACTICES ACT

AN ACT to create and enact a new chapter to title 43, a new section to chapter 43-12, and a new subsection to section 43-12-31 of the North Dakota Century Code, relating to the regulation of nursing, the provision for a state board of nursing, and the definition of powers and duties of the board, including licensure of practitioners of nursing, establishment of standards for educational programs preparing for nursing practice, and definitions and collection procedures for nursing scholarship loans; and to repeal sections 43-12-01 through 43-12-26 and chapter 43-21 of the North Dakota Century Code, relating to professional nurses and practical nurses; and to provide a penalty.

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

SECTION 1.) A new chapter to title 43 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT OF POLICY.) The legislative assembly finds that the practice of nursing is directly related to the public welfare of the citizens of the state of North Dakota and is subject to regulation and control in the public interest to assure that competent practitioners and high quality standards are available. It is essential to govern qualifications for licensure with requirements for the maintenance of high standards and to state sanctions by which an illicit, unqualified, dishonest person or one that is otherwise against the public interest can be disciplined. This Act shall be liberally construed in order to carry out its purposes and objectives.

TITLE OF CHAPTER.) This chapter shall be known and cited as the "Nurse Practices Act".

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

1. "Board" means the North Dakota board of nursing.
2. "Licensed practical nurse" means one who has met all

legal requirements for licensure and holds a current license to practice in this state as a licensed practical nurse.

3. The "practice of nursing as a licensed practical nurse" is defined as the performance of those services, requiring the basic knowledge of biological science and technical skills, commonly performed by a licensed practical nurse under the direction of a registered nurse, licensed physician, or dentist for the purpose of:
 - a. The maintenance of health and prevention of illness.
 - b. The observation and nursing care of persons experiencing changes in their health processes.
 - c. Administering prescribed medications and treatments.
 - d. Teaching and evaluating health practices of patients.
 - e. Providing specialized nursing care when such service is authorized by the board through its rules and regulations and delegated by a registered nurse, physician, or dentist, to a licensed practical nurse who has had additional preparation or experience.
4. "Registered nurse" means one who has met all legal requirements for licensure and holds a current license to practice in this state as a registered nurse.
5. The "practice of nursing as a registered nurse" is defined as the performance of acts requiring the specialized knowledge, judgment, and skill based on principles of the biological, physical, behavioral, and social sciences in:
 - a. The maintenance of health and prevention of illness.
 - b. Diagnosing human responses to actual or potential health problems.
 - c. Providing supportive and restorative care, health counseling and teaching, case finding and referral of persons who are ill, injured, or experiencing changes in the normal health processes.
 - d. Administration, teaching, supervision, delegation, and evaluation of health and nursing practices.
 - e. Collaboration in the implementation of the total health care regimen and execution of a medical regimen as prescribed or authorized by a licensed physician or dentist and the performance of such additional acts which are recognized by the nursing profession, in connection with the medical profession, as proper to

be performed by registered nurses who have had additional specialized preparation and are authorized by the board through its rules and regulations to perform such acts.

LICENSE REQUIRED - TITLE - ABBREVIATION.) All persons who practice as a registered nurse or a practical nurse for direct or indirect compensation in this state must hold a current valid license from this state. A person who holds a current valid license to practice as a registered nurse in this state may use the title "registered nurse" and the abbreviation "R.N.". A person who holds a current valid license to practice as a practical nurse in this state may use the title "licensed practical nurse" and the abbreviation "L.P.N.". No other person shall assume or claim any such title or abbreviations.

PERSONS EXEMPT FROM PROVISIONS OF CHAPTER.) This chapter shall not apply to:

1. Persons who give nursing assistance in cases of emergency or disaster.
2. Students practicing nursing as a part of a board approved nursing education program.
3. Legally licensed nurses of another state who are employed in this state by the United States government or a bureau, division, or agency thereof.
4. Legally licensed nurses of another state or Canada, whose employment requires them to accompany and care for a patient who is in transit for medical treatment.

BOARD OF NURSING - COMPOSITION - TERM OF OFFICE.) There shall be a state board of nursing whose members shall be appointed by the governor which shall consist of five registered nurses, three licensed practical nurses, and one public member. Sixty days prior to the expiration of the term of any registered nurse member, the North Dakota state nurses association and any other duly organized professional nursing organization recognized by the state board of nursing shall submit to the governor a list of registered nurses qualified to serve; such list to contain in number at least three names for each vacancy to be filled. Sixty days prior to the expiration of the term of any licensed practical nurse member, the North Dakota licensed practical nurses association shall submit to the governor a list of licensed practical nurses qualified to serve; the list shall contain in number at least three names for each vacancy to be filled. The governor shall appoint to the board a public member. Each board member shall be appointed for a term of three years. No appointee shall be appointed for more than two consecutive terms. An appointment for an unexpired term of more than eighteen months will constitute a full term. The members of the North Dakota board of nursing holding office on the effective date of this Act shall serve as members of the board until the expiration of their respective terms or until their successors have been appointed.

QUALIFICATIONS OF BOARD MEMBERS.)

1. Each registered nurse board member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota.
 - b. A current holder of a valid North Dakota license to practice as a registered nurse.
 - c. Experienced for at least five years in nursing and currently engaged in the practice of nursing in North Dakota.
2. Each licensed practical nurse board member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota.
 - b. A current holder of a valid North Dakota license to practice as a licensed practical nurse.
 - c. Experienced for at least five years as a licensed practical nurse and currently engaged in the practice of practical nursing in North Dakota.
3. Each public member must be:
 - a. A citizen of the United States, a resident of North Dakota for two years, and currently residing in North Dakota except any person or his or her spouse who:
 - (1) Is a licensee of any health occupation board.
 - (2) Is an employee of any health care facility, agency, or corporation authorized to underwrite health care insurance.
 - (3) Has financial interests in or is engaged in the governance and administration of a health care facility, agency, or corporation.
 - (4) Is a salaried employee of state or federal agencies providing health care delivery.

COMPENSATION OF BOARD MEMBERS.) In addition to the expenses incurred while engaged in the performance of the duties of his office, each board member shall receive a per diem fee set by the board not to exceed fifty dollars.

POWERS AND DUTIES OF THE BOARD.) The board shall:

1. Maintain an office to conduct business.
2. Employ an executive director and such other professional and secretarial staff as may be required.
3. Establish fees and receive all moneys collected under this chapter.
4. Authorize all expenditures necessary for conducting the business of the board. Any balance of such fees after payment of expenditures is to be used in administering the provision of this chapter.
5. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor.
6. Establish standards for all nursing education programs or acknowledge programs accredited by national nursing accrediting agencies.
7. Conduct surveys as necessary of nursing education programs required to meet board standards.
8. Approve such nursing education programs which meet board standards.
9. Conduct a licensing examination at least once a year for entry into practice as a registered nurse or licensed practical nurse.
10. License candidates who qualify by examination as registered nurses or licensed practical nurses.
11. Maintain a permanent register of the names of all persons to whom licenses to practice as a registered nurse or a licensed practical nurse are issued. Such register shall be open to public inspection.
12. Renew licenses periodically.
13. Promulgate rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, for renewal of licenses after an absence of five years from the active practice of nursing.
14. Discipline licensees as necessary.
15. Establish standards for quality of practice for registered nurses and licensed practical nurses after consultation with the North Dakota state nurses association, the North Dakota licensed practical nurses association, and other professional nursing groups.

16. Establish standards for quality of practice for registered nurses and licensed practical nurses functioning in specialized roles after consultation with the North Dakota state nurses association, the North Dakota licensed practical nurses association, and other recognized nursing speciality groups.
17. Execute any legitimate project pertaining to nursing education or practice.
18. Promulgate and adopt such rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, as are necessary to carry out the provisions of this chapter. Involve active participation of all appropriate state education agencies and representatives of public and proprietary institutions, which are involved in, and responsible for, funding and/or operation of such programs, in the establishment of such standards and approval of programs.
19. Conduct public hearings before adopting any rules and regulations or standards.

REMOVAL FROM BOARD.) The governor may remove any member of the board of nursing for cause upon recommendation of two-thirds of the members of the board.

LICENSE BY EXAMINATION.) Any person who desires to practice as a registered nurse or licensed practical nurse in this state shall be required to write and pass the licensing examination given by the board. Such persons shall file a certified written application for license by examination at least thirty days before the examination accompanied by the prescribed fee and submit satisfactory proof of having the following qualifications:

1. Satisfactory completion of the appropriate nursing education program in another country or the appropriate nursing education program approved by a board of nursing in the United States.
2. Recommended to the board by the nursing faculty of the completed nursing education program.

A temporary permit to engage in the practice of nursing in the state of North Dakota may be issued by the North Dakota board of nursing to an applicant from the United States or Canada who gives evidence of intention to engage in the practice of nursing in North Dakota between the dates of graduation and notification of the results of the first licensing examination for which the applicant is eligible within the state of North Dakota. The temporary permit for the graduate shall expire upon notification of the results of the first licensing examination.

LICENSE.- WHEN ISSUED.) Upon satisfactory completion of the

licensing examination for registered nurses or licensed practical nurses, the board shall issue a certificate of registration. A current license to practice will be issued upon proof that the applicant is a resident of North Dakota or upon verification of employment in North Dakota or a federal agency.

LICENSE BY ENDORSEMENT.) The board may issue a license to practice as a registered nurse or licensed practical nurse to an applicant from another state by endorsement if the applicant:

1. Has satisfactorily completed a nursing education program in another country or a nursing education program approved by a board of nursing in the United States.
2. Has been duly licensed in another state or country on the basis of passing a licensing examination acceptable to the board.
3. Is a resident of North Dakota or has accepted employment in North Dakota. Upon receipt of the completed application for license by endorsement, payment of fee as set by the board and evidence that an applicant will meet all the requirements for licensure in North Dakota, the board may issue a temporary permit to practice as a registered nurse or licensed practical nurse in this state until the license is issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

RENEWAL OF LICENSE.) The board shall renew nursing licenses periodically and may promulgate rules and regulations, pursuant to chapter 28-32 of the North Dakota Century Code, after consultation with duly organized professional nursing organizations recognized by the state board of nursing and with employers of nurses, to determine eligibility for renewal of license before reissuing such licenses. Upon meeting board requirements for renewal of license and paying the renewal fee as set by the board, a current license will be issued. Any person holding a license to practice nursing as a registered nurse or a licensed practical nurse issued by the board which is valid on July 1, 1977, shall thereafter be deemed to be licensed as a registered nurse or licensed practical nurse under the provisions of this Act. If a registered nurse or a licensed practical nurse fails to renew his license by January first of the appointed year, the license may be reinstated if the licensee meets the requirements set by the board. Any nurse who voluntarily placed his name on the roster of inactive nurses between the years 1957 to July 1, 1977, may be relicensed by meeting board requirements for renewal of license.

GROUND FOR DISCIPLINE.) The board shall have the power to discipline licensees as necessary by reprimanding the licensee, placing the licensee on probationary status, denying, suspending, or revoking a license or permit to practice nursing issued in accordance with this chapter, if the person is found:

1. To be guilty of fraud or deceit in procuring or attempting to procure a license or permit to practice nursing.
2. To have had a license to practice nursing suspended or revoked in another jurisdiction which has not been reinstated.
3. To have been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a nurse, or when the board determines, following conviction of any offense, that a person is not sufficiently rehabilitated under section 12.1-33-02.1.
4. To be guilty of unprofessional conduct likely to deceive, defraud, or harm the public.
5. To be practicing nursing incompetently by reason of negligent acts.
6. To be mentally or physically unsafe for nursing practice.
7. To be guilty of willfully and repeatedly violating the provisions of this chapter.

Any person may file a written sworn complaint with the executive director of the board, charging a licensee with having been guilty of any of the actions specified as grounds for discipline. The board shall fix a time and place for a hearing. A copy of the complaint, specifying the charges against the licensee with reasonable clarity, together with a notice of the time and place fixed for the hearing shall be served on the accused personally or by registered mail at least twenty days before the hearing. The notice shall inform the party proceeded against that unless an answer to the complaint is received by the board at least three days before the hearing, the board shall proceed with the hearing. 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. The accused shall have the right to appear personally or be represented by counsel, or both, to produce witnesses or evidence in his own behalf, to cross examine witnesses, and to have subpoenas issued by the board. The board shall keep a verbatim transcript record of all proceedings at any hearing which is conducted for disciplinary purposes. If the accused is found guilty of the charges, the board may reprimand the licensee, place the licensee on probationary status, deny, suspend, or revoke a license. A suspended license may be reinstated at any time by the board. A revoked license may be reissued after one year at the board's discretion. An appeal from the final decision of the board, which suspends or revokes a license to practice nursing in this state may be taken to the district court of Burleigh County in accordance with the provision of chapter 28-32. The board shall furnish to the boards of nursing of other states, and to health agencies of this state, a list of the names and addresses of persons whose licenses have been revoked or suspended for cause.

VIOLATION - PENALTIES.) No person or persons shall:

1. Buy or sell, fraudulently obtain, or furnish any questions and answers used in the licensing examination for nurses, or assist others in the performance of these acts.
2. Buy or sell, fraudulently obtain, or furnish any record which might enable a person to obtain a license in this state or assist others in the performance of these acts.
3. Practice as a registered nurse or a licensed practical nurse as defined in this chapter under cover or a transcript from a school of nursing, diploma, certificate of registration, license, or record which was fraudulently obtained.
4. Practice as a registered nurse or a licensed practical nurse as defined by this chapter unless duly licensed to do so.
5. Conduct a nursing education program for the preparation of registered nurses or licensed practical nurses unless the program has been approved by the board.

Any violation of this section shall be a class B misdemeanor.

SECTION 2.) A new section to chapter 43-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEFINITIONS.) In sections 43-12-27 through 43-12-31, unless the context or subject matter otherwise requires:

1. "Practical nurse student" means one who has met all the requirements for enrollment in an approved course for practical nursing.
2. "Professional graduate nurse" means a person who has met all legal requirements for licensure in this state and has been registered by the state board, who practices or holds a position by virtue of the person's professional knowledge and legal status, and who holds a license from the state board for the current year.
3. "State board" means the North Dakota board of nursing.
4. "Student of nursing" means one who has met all the requirements for enrollment in an approved school of nursing.

SECTION 3.) A new subsection to section 43-12-31 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6. After demand for payment of a scholarship loan has been

made by the state board and payment is not made by collection or cancellation, the state board may contract with collection agencies located in the state for the collection of amounts due the state for scholarship loans granted.

* SECTION 4. REPEAL.) Sections 43-12-01 through 43-12-26 of the 1975 Supplement to the North Dakota Century Code and chapter 43-21 of the North Dakota Century Code are hereby repealed.

*NOTE: Subsection 2 of section 43-12-22 was amended by section 27 of Senate Bill No. 2058, chapter 130. A new section to chapter 43-21 was created by section 38 of Senate Bill No. 2058, chapter 130.

Approved April 6, 1977

CHAPTER 401

HOUSE BILL NO. 1205
(Committee on Social Welfare)
(At the request of the Board of Pharmacy)

PATIENT PROFILE RECORD SYSTEM

AN ACT to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to requiring maintenance of a patient profile record system by pharmacies.

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

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

PATIENT PROFILE RECORD SYSTEM.) A patient profile record system must be maintained in all pharmacies for persons for whom prescriptions are dispensed. The patient profile record system shall be devised so as to enable the immediate retrieval of information necessary to enable the dispensing pharmacist to identify previously dispensed medication at the time a prescription is presented for dispensing. One profile card may be maintained for all members of a family living at the same address and possessing the same family name.

The following information shall be recorded:

1. The family name and the first name of the person for whom the medication is intended, which is the patient;
2. The address of the patient;
3. An indication of the patient's age group (e.g. infant, child, adult);
4. The original date the medication is dispensed pursuant to the receipt of a physician's prescription;
5. The number or designation identifying the prescription;
6. The prescriber's name;
7. The name, strength, and quantity of the drug dispensed;

8. The initials of the dispensing pharmacist, and the date of dispensing medication as a renewal (refill) if said initials and such date are not recorded on the back of the original prescription.

The pharmacist shall attempt to ascertain and shall record any allergies and idiosyncrasies of the patient and any chronic conditions which may relate to drug utilization as communicated to the pharmacy by the patient.

Upon receipt of a prescription a pharmacist must examine the patient's profile record before dispensing the medication to determine the possibility of a harmful drug interaction or reaction. Upon recognizing a potential harmful reaction or interaction, the pharmacist shall take appropriate action to avoid or minimize the problem which shall, if necessary, include consultation with the physician.

A patient profile record must be maintained for a period of not less than five years from the date of the last entry in the profile record.

Approved March 31, 1977

CHAPTER 402

SENATE BILL NO. 2207
(Committee on Social Welfare and Veterans' Affairs)
(At the request of the Board of Pharmacy)

PRESCRIPTION DRUG USE INFORMATION

AN ACT to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to dispensing prescription drugs.

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

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

PRESCRIPTION DRUG INFORMATION REQUIRED.) With each new prescription dispensed, the registered pharmacist or the registered intern pharmacist, in addition to labeling the prescription in accordance with law, must explain to the patient or the patient's agent the directions for use and a warning of the potential harmful effect of combining any form of alcoholic beverage with the medication and any additional information, in writing if necessary, to assure the proper utilization of the medication or device prescribed. For those prescriptions delivered outside the confines of the pharmacy, the explanation shall be by telephone or in writing, provided that this shall not apply to those prescriptions for patients in hospitals or institutions where the medication is to be administered by a nurse or other individual licensed to administer medications, or to those prescriptions for patients who are to be discharged from a hospital or institution.

Approved March 17, 1977

CHAPTER 403

HOUSE BILL NO. 1531
(Olson)

REPORTS OF CRIMINALLY INFLICTED INJURIES

AN ACT to require reports to law enforcement officers by physicians and others of injuries caused by a knife, gun, or pistol or other criminal conduct, and providing a penalty.

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

SECTION 1. DUTY OF PHYSICIANS AND OTHERS TO REPORT INJURY -
PENALTY.)

1. Any physician or other medical or mental health professional, who has under his charge or care or performs any professional services for any person suffering from any wound, injury, or other physical trauma inflicted by his own act or by the act of another by means of a knife, gun, or pistol, or which he has reasonable cause to suspect was inflicted in violation of any criminal law of this state, shall as soon as practicable report the same to the sheriff or state's attorney of the county in which such care was rendered. The report shall state the name of the injured person, if known, his whereabouts, and the character and extent of his injuries.
2. The reports mandated by this Act shall be made as soon as practicable and may be either oral or in writing. Oral reports shall be followed by written reports within forty-eight hours if so requested by the sheriff or state's attorney to whom the oral report is originally made.
3. Any person required to report as provided by this Act who willfully fails to do so is guilty of an infraction.
4. Any person making a report in good faith pursuant to this Act shall be immune from liability for making said report.

Approved April 21, 1977

CHAPTER 404

SENATE BILL NO. 2367
(Reiten, Barth)

ENGINEERS AND LAND SURVEYORS

AN ACT to amend and reenact sections 43-19.1-05, 43-19.1-18, 43-19.1-19, and subsection 4 of section 43-19.1-27 of the North Dakota Century Code, relating to the compensation and expenses of members of the board of registration for professional engineers and land surveyors, registration fees, examinations, and the right of partnerships and corporations to practice engineering and land surveying.

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

SECTION 1. AMENDMENT.) Section 43-19.1-05 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-05. BOARD - COMPENSATION AND EXPENSES.) Each member of the board shall receive the sum of twenty-five dollars per diem when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

SECTION 2. AMENDMENT.) Section 43-19.1-18 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-18. REGISTRATION FEES.) Registration fees shall be established by the board for professional engineers, engineers-in-training, and land surveyors in such amount as the board determines necessary to accomplish the purposes of the board as provided in this chapter, but not to exceed the amount of fifty dollars. Should the board deny the issuance of a certificate to an applicant the fee paid may be retained as an application fee.

SECTION 3. AMENDMENT.) Section 43-19.1-19 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-19. EXAMINATIONS.) Written examinations shall be held at such times and places as the board shall determine. Examinations required on fundamental engineering or land surveying

subjects may be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of engineering or land surveying experience as provided in this chapter. The passing grade on any examination shall not be less than seventy percent. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board in an amount not in excess of the regularly established registration fee. Any candidate for registration having an average grade of less than fifty percent may not apply for reexamination for one year from the date of such examination.

SECTION 4. AMENDMENT.) Subsection 4 of section 43-19.1-27 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. A partnership or corporation desiring a certificate of authorization or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners of such partnership or officers and directors of such corporation, and the names and addresses of all employees who are duly registered to practice professional engineering or land surveying in this state, and who are or will be in responsible charge of any engineering or land surveying in this state by such partnership or corporation, together with other information the board may require. Upon the receipt of an application, and of a fee in an amount established by the board for the initial certificate or annual renewal thereof, but not to exceed the amount of one hundred dollars, the board shall issue to such partnership or corporation a certificate of authorization or a renewal thereof, which certificate of authorization shall not be transferable. Should the board find an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. Should a change occur in any of the information submitted on the application of any partnership or corporation within the term of authorization, such partnership or corporation shall file with the board a written report with respect thereto within thirty days after such change occurs. The provisions with respect to issuance, expiration, renewal, and reissuance of the certificates of registration of individuals contained in this chapter shall also apply to certificates of authorization issued to partnerships and corporations under this subsection. Partnerships or corporations shall be subject to disciplinary proceedings and penalties, and certificates of authorization shall be subject to suspension or revocation for cause in the same manner and to the same extent as is provided

with respect to individual persons and their certificates of registration in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31. "Registrant" and "certificate of registration" in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31, and the provisions of such sections, shall for the purpose of such sections be deemed to include and apply respectively to any partnership or corporation holding a certificate of authorization issued under this chapter, and to such certificate of authorization.

Approved April 6, 1977

CHAPTER 405

HOUSE BILL NO. 1203
(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

REAL ESTATE COMMISSION DEFINITIONS

AN ACT to create and enact section 43-23-06.1 of the North Dakota Century Code and to repeal section 43-23-06 of the North Dakota Century Code, all relating to the definition of real estate brokers, mortgage brokers, and salesman.

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

SECTION 1.) Section 43-23-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-23-06.1. DEFINITIONS.) When used in this chapter, the following definitions shall have the following meanings except where the context clearly indicates that another meaning is intended:

1. "Real estate", "real property", "realty", or words of like import, shall mean any interest or estate in land, including leaseholds, whether such interest or estate is corporeal, incorporeal, freehold or non-freehold, and whether situated in this state or elsewhere; provided, however, that the meaning as used in this chapter shall not include oil, gas, or mineral leases, nor shall it include any other mineral leasehold, mineral estate, or mineral interest of any nature whatsoever.
2. The term "person" shall mean and include individuals, corporations, partnerships, trusts, associations, cooperatives, or other firms or entities, foreign or domestic.
3. The terms "real estate broker", or "broker", shall mean any person who, for another, for a fee, commission, salary, or other consideration or with the intention or expectation of receiving or collecting such compensation from another, engages in or offers or attempts to engage in, either directly or indirectly by a continuing course of conduct or by a single act or transaction, any of the following acts:
 - a. Lists, offers, attempts or agrees to list real

- estate, or any interest therein, or any improvements affixed thereon for sale, exchange, or lease;
- b. Sells, exchanges, purchases or leases real estate or any interest therein, or any improvements affixed thereon;
 - c. Offers to sell, exchange, purchase or lease real estate or any interest therein, or any improvements affixed thereon;
 - d. Negotiates, or offers, attempts or agrees to negotiate the sale, exchange, purchase or leasing of real estate, or any interest therein, or any improvements affixed thereon;
 - e. Buys, sells, offers to buy or sell or otherwise deals in options on real estate or any interest therein, or any improvements thereon;
 - f. Who is a licensee under this chapter and performs any of the acts set out in this subsection while acting in his own behalf;
 - g. Advertises or holds himself out as being engaged in the business of buying, selling, exchanging, or leasing of real estate or any interest therein, or any improvements thereon;
 - h. Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, or leasing of real estate or any interest therein, or any improvements thereon.
4. "Mortgage broker" shall mean any person, firm, partnership, trust, copartnership, association, cooperative, corporation, or other firm or entity, foreign or domestic, other than a licensed real estate broker, bank or trust company, savings and loan association, insurance company, federal land bank, or state or federal agency and their employees; who for a fee, commission, salary or other consideration, sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of mortgages upon real estate for others, as a whole or partial vocation. The term "mortgages" as used in this chapter shall exclude any leasehold interests. "Mortgage broker" does not include persons loaning their own funds.
5. "Real estate salesman" means any person who for a fee, compensation, salary or other consideration, or in the expectation or upon the promise thereof, is employed or engaged by a licensed real estate broker to do any act or deal in any transaction as provided in subsection 3

of this section for or on behalf of such licensed real estate broker.

6. "Commission" shall mean the North Dakota real estate commission.

SECTION 2. REPEAL.) Section 43-23-06 of the 1975 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 12, 1977

CHAPTER 406

HOUSE BILL NO. 1165
(Committee on State and Federal Government)
(At the request of the Real Estate Commission)

REAL ESTATE LICENSE STANDARDS

AN ACT to amend and reenact section 43-23-08 of the North Dakota Century Code, relating to license standards under the real estate commission.

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

SECTION 1. AMENDMENT.) Section 43-23-08 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-08. LICENSE STANDARDS.)

1. Licenses and the renewals thereof shall be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker, a real estate salesman, or mortgage broker in such manner as to safeguard the interest of the public, and whose real estate license or mortgage broker license has not been revoked in this or any other state within two years prior to date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.
2. In addition to the requirements established by subsection one of this section, an applicant for a broker's or salesman's license must be at least eighteen years of age and shall be a citizen of the United States.
3. Every applicant for a license as a real estate broker shall have either:
 - a. Been actively engaged as a licensed real estate salesman for a period of at least one year preceding the date of application, which, beginning July 1, 1979, shall be increased to two years; or

- b. Shall have had experience as determined by the commission to be substantially equal to that which a licensed real estate salesman would ordinarily receive during a period of one year, which, beginning July 1, 1979, shall be increased to two years.
4. Beginning July 1, 1977, each applicant for a broker's license shall be required to have successfully completed at least sixty classroom hours in a course of study approved by the commission, and beginning July 1, 1979, each applicant shall be required to have successfully completed at least ninety classroom hours in a course of study approved by the commission. As used throughout this section, the term "classroom hours" shall mean the actual time during such course of study that the class is actually in session.
5. After July 1, 1977, each salesman licensee, as a condition precedent to obtaining a license renewal, shall have successfully completed prior to the first license renewal period which occurs after twelve months from the date that the initial license has been granted, at least thirty classroom hours in a course of study approved by the commission.
6. If the commission shall find that an applicant could not acquire employment as a licensed real estate salesman because of conditions existing in the area where he resides, then the experience requirements established in subdivisions a and b of subsection 3 of this section may be waived by the commission. The educational requirements of subsection 4 may not be waived by the commission, but guidelines may be established whereby applicants who have engaged in certain educational courses of study which are closely related to the real estate profession may be deemed to have satisfied this requirement.
7. The commission may adopt reasonable rules and regulations pursuant to the provisions of chapter 28-32 of the North Dakota Century Code relative to procedures for licensing, approval of coursework, and for the type of certification or proof of coursework completion that must be submitted.

Approved March 31, 1977

CHAPTER 407

SENATE BILL NO. 2159
(Committee on State and Federal Government)
(At the request of the Real Estate Commission)

REAL ESTATE LICENSE SUSPENSION

AN ACT to amend and reenact subsection 1 of section 43-23-11.1 of the North Dakota Century Code, relating to grounds for revocation or suspension of real estate agent licenses.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 43-23-11.1 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commission upon its own motion may, and upon the verified complaint in writing of any person shall, investigate the activities of any licensee or any person who shall assume to act in such capacity within the state, and shall have the power to suspend or revoke a license when the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:
 - a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
 - b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to any party.
 - c. Making any false promise of a character such as to influence, persuade, or induce a party to a real estate transaction to his injury or damage.
 - d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom he acts.
 - e. Failure to account for or to remit, within a reasonable time, any moneys coming into his possession belonging to others; commingling funds of others with his own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized

depository in this state, or keeping records relative to the deposit, which shall contain such information as may be prescribed by the rules and regulations of the commission relative thereto.

- * f. Been convicted or pleaded guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as a real estate broker or salesman, or the commission determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
- g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to his principal or employer the full amount of such licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
- h. Failing or refusing upon demand to produce any document, book, or record in his possession or under his control, concerning any real estate transaction under investigation by the commission.
- i. Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on any terms other than those authorized by the owner or his authorized agent.
- j. Refusing, because of race, color, national origin or ethnic group, to show, sell, lease or rent any real estate to prospective renters, lessees, or purchasers.
- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed thereto.
- l. Paying compensation or commission in connection with any real estate sale, lease, or other transaction to any person who is not licensed as a real estate broker or real estate salesman under this chapter.
- m. Failing to disclose to an owner his intention or true position if he directly or indirectly through a third party, purchases for himself or acquires or intends to acquire any interest in or any option to purchase property which has been listed with his office for sale or lease.

*NOTE: Subdivision f of subsection 1 of section 43-23-11.1 was also amended by section 41 of Senate Bill No. 2058, chapter 130.

- n. Failure to include a fixed date of expiration in any written listing agreement and failure to leave a copy of such agreement with the principal.
- o. Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement, showing all of the receipts and disbursements handled by such broker for the seller; also failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed, and to retain true copies of such statements in his files.
- p. Violating any provisions of this chapter or rule or regulation promulgated by the commission.
- q. Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.
- r. Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this chapter, or by rule or regulation of the commission, from any person except the licensed real estate broker under whom he is licensed as a salesman.
- s. If the licensee is a broker, allowing any unlicensed salesman to do any act or engage in any activity regulated by this chapter or under rule or regulation of the commission, which is carried on in the name of or under the authority of the broker.
- t. Failure of a salesman to place with his employing broker for deposit in the brokerage trust account all real estate trust moneys received by him within twenty-four hours of the time of receipt; or failure of the employing broker to place such moneys for deposit within twenty-four hours of the time of receipt from his salesman. Provided that if trust money is received on a day prior to a holiday or on another day prior to which the depository is closed where the trust fund is maintained, the moneys shall then be deposited during the next business day of the depository.
- u. Failure of the licensee to reduce an offer to writing where a proposed purchaser requests that such offer be submitted to the seller, or failure of the licensee to submit all offers to a seller when such offers are received prior to the seller accepting an offer in writing and until the broker has knowledge of such acceptance.

CHAPTER 408

SENATE BILL NO. 2447
(Sandness)

WATCHMAKERS

AN ACT to amend and reenact section 43-27-01, subsection 2 of section 43-27-04, and subsection 4 of section 43-27-07 of the North Dakota Century Code, relating to inclusion of electronic mechanisms in the definition of watchmaking, to raise the per diem and mileage expenses of the board of examiners in watchmaking, and to raise the fee for certificates of watchmaking registration.

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

SECTION 1. AMENDMENT.) Section 43-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-27-01. DEFINITION OF WATCHMAKING.) The term "watchmaking" includes and means the repairing, replacing, rebuilding, readjusting, or regulating of the mechanical parts of watches and clocks, and the repairs thereof and the manufacturing and fitting of parts designed for use or used in watches. Such statements shall not include or mean the manufacturing or repairing of watch or clock cases, but shall include the repairing of all winding and electronic mechanisms whether they are parts of such cases or not.

SECTION 2. AMENDMENT.) Subsection 2 of section 43-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The board shall choose annually one of its members as president and one as secretary, who shall severally have power to administer oaths and take affidavits certifying thereto under the seal of the board. The board shall meet at such times and places as the officers may direct. A majority of the board shall constitute a quorum. The secretary shall give such bond as the board shall determine to be proper. The secretary shall keep a full record of its proceedings, which shall be open to inspection at all reasonable times. The members and officers of the board shall be paid per diem of twenty-five dollars for time spent in the performance of his duties but not to exceed in one

year the total sum of two hundred twenty-five dollars; also they shall be paid mileage of fifteen cents per mile, and actual and necessary expenses for lodging and meals. The secretary, in addition to such per diem and expenses, may be paid an annual salary not to exceed fifteen hundred dollars. All expenses connected with the operation of the board shall be defrayed from the revenue derived from the licenses, renewals, and examination fees.

SECTION 3. AMENDMENT.) Subsection 4 of section 43-27-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Certificates of registration shall expire on the first day of January each year and must be renewed within thirty days for one year upon payment of a fee of twelve dollars and fifty cents or less at the discretion of the board. If such certificate of registration is not renewed on or before June first of the year in which issued, such registrant may be required to pay a penalty of one dollar and fifty cents in addition to the renewal fee. Application may be made for renewal after the fifteenth day of December of each year.

Approved March 17, 1977

CHAPTER 409

HOUSE BILL NO. 1218
(Langley, Larson)

DENTAL EXTERNS

AN ACT to amend and reenact subsection 2 of section 43-28-02 of the North Dakota Century Code, relating to persons exempt for the licensing provisions for dentists.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-28-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To students enrolled in and regularly attending any dental college recognized as such by the board, if their acts are done in dental college and under the direct supervision of their instructor; or to students who are in training in dental colleges recognized as such by the board and who are continuing their training and performing the duties of an extern under the supervision of a licensed and registered dentist who has received approval to supervise such externships by the appropriate accrediting committee, including the North Dakota board of dental examiners.

Approved March 17, 1977

CHAPTER 410

SENATE BILL NO. 2103
(Wenstrom)

STATE BOARD OF DENTAL EXAMINERS

AN ACT to amend and reenact sections 43-28-03 and 43-28-04 of the North Dakota Century Code, relating to the term of office of members of the state board of dental examiners, and the qualifications and appointment of members of the board.

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

SECTION 1. AMENDMENT.) Section 43-28-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-03. STATE BOARD OF DENTAL EXAMINERS - MEMBERS - APPOINTMENT - TERMS OF OFFICE - OATH - VACANCIES.) The state board of dental examiners shall consist of five members to be appointed by the governor. Appointment to the board shall be for a term of five years, with terms of office arranged so that one term expires on March sixteenth of each year. Each member of the board shall hold office until a successor is appointed and qualified. Persons appointed to the board shall qualify by taking the oath required of civil officers. No member shall serve more than one entire five-year term of office, and any member who has not served an entire five-year term may be reappointed to the board. If a member of the board is absent from two consecutive regular meetings, the board may declare a vacancy to exist. All vacancies on the board shall be filled by the governor by appointment.

SECTION 2. AMENDMENT.) Section 43-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-04. QUALIFICATIONS AND APPOINTMENT OF MEMBERS OF THE BOARD.) No person shall be appointed as a member of the board unless that person:

1. Is a duly licensed and registered dentist.
2. Is actively engaged in the practice of dentistry and has been so engaged in this state for at least five years immediately preceding his appointment.

3. Is recommended for such appointment by the North Dakota dental association.
4. Never has served as a member of the board for an entire five-year term. At least ninety days before the expiration of a term of any member of the board, the North Dakota dental association shall make its recommendation to the governor. Not less than three candidates shall be recommended for each appointment. If the recommendations are not made in the required time, the governor shall make the appointment from the last recommendations of the association.

Approved March 4, 1977

CHAPTER 411

HOUSE BILL NO. 1333
(Stenehjem)

DETECTIVE LICENSE RENEWAL DATE

AN ACT to amend and reenact section 43-30-11 of the North Dakota Century Code, relating to the renewal date and grace period for private detective and detective agency licenses; and providing for expiration date of existing licenses.

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

SECTION 1. AMENDMENT.) Section 43-30-11 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-11. RENEWAL OF LICENSES.) Every holder of a license as a private detective or of a license to conduct a detective agency who continues in active practice shall annually on or before the first day of October of each year renew his license and pay the required renewal fee. Every holder of a license as a private detective or a license to conduct a detective agency whose license has expired may have the same restored immediately upon payment of all lapsed renewal fees and of the required restoration fee, provided, however, that not more than one year has elapsed since the date of expiration, provided, however, that nothing herein contained shall relieve any person from criminal prosecution for engaging in practice without a license as required in this chapter.

SECTION 2. EXPIRATION DATE OF EXISTING LICENSES.) Every license as a private detective and every license to conduct a private detective agency issued prior to the effective date of this Act shall expire on September 30, 1977, regardless of the expiration date stated on such licenses.

Approved April 21, 1977

CHAPTER 412

HOUSE BILL NO. 1331
(Stenehjem)

DETECTION OF DECEPTION EXAMINERS

AN ACT to amend and reenact section 43-31-14 of the North Dakota Century Code, relating to examination and license fees for detection of deception examiners.

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

SECTION 1. AMENDMENT.) Section 43-31-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-14. EXAMINATION AND LICENSE FEES.)

1. The fee to be paid by an applicant for examination to determine his fitness to receive an examiner's license is fifty dollars.
2. The annual license fee is twenty-five dollars, and shall be due and payable on or before October first of each year.
3. The fee to be paid for the issuance of a duplicate license is five dollars.
4. The fee to be paid for the reinstatement of an examiner's license within five years of the lapse thereof shall be five dollars and all of the lapsed annual license fees.

Approved March 31, 1977

CHAPTER 413

HOUSE BILL NO. 1332
(Stenehjem)

HEARING AID DEALER'S LICENSE
EXAMINATION FEE

AN ACT to create and enact subsection 4 to section 43-33-07 of the North Dakota Century Code, commonly relating to establishing a fee for examination to determine qualifications for license as a hearing aid dealer and fitter.

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

SECTION 1.) Subsection 4 to section 43-33-07 of the 1975 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. In addition to all other fees, the fee for an examination to determine qualifications for license is thirty dollars.

Approved March 12, 1977

CHAPTER 414

HOUSE BILL NO. 1295
(Winkjer)

NURSING HOME ADMINISTRATOR'S LICENSE FEE

AN ACT to amend and reenact section 43-34-05 of the North Dakota Century Code, relating to license fees for nursing home administrators.

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

SECTION 1. AMENDMENT.) Section 43-34-05 of the 1975 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 fifty dollars per annum. Said license shall expire on the thirty-first day of December in the year of its issuance, and shall be renewable annually, on a calendar-year basis, upon payment of the license fee. Any licensee, or applicant for license, may take a special examination for the purpose of being eligible for reciprocity with other states, upon the payment of an additional fee to be established by the board for that purpose.

Approved March 31, 1977