

OCCUPATIONS AND PROFESSIONS

CHAPTER 510

SENATE BILL NO. 2282
(Senators Waldera, Lips)
(Representatives Dalrymple, Wald)

ABSTRACTERS

AN ACT to amend and reenact sections 43-01-10 and 43-01-11 of the North Dakota Century Code, relating to abstracters' examination fees and liability policies; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 43-01-10 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-10. Certificate of registration - Application - Examination - Fee. Any person, firm, or corporation desiring to obtain a certificate of authority under ~~the provisions of~~ subsection 2 of section 43-01-09 shall make application therefor to the board and shall pay to the secretary-treasurer thereof an examination fee ~~fixed by the board~~ not exceeding ~~five hundred dollars~~ the actual cost of the applicant's examination by the board. The application shall be upon a form prepared by the board and shall contain such information as may be desired by it. The board shall fix the date and place for the examination of the applicant and shall give him notice thereof by mail. The applicant shall ~~present himself~~ appear at the time and place specified in the notice, and the board shall examine ~~him~~ the applicant under such rules ~~and regulations~~ as it may prescribe. If the application is made by a firm or corporation, one of the members or officers thereof shall take the examination.

1. Registered abstracters, within the meaning of the chapter, shall comprise all persons who shall, upon the passage of this chapter, be in charge, either individually or jointly with other persons, of the abstract office which is the holder of a valid and subsisting certificate of authority as provided by this chapter and who shall obtain a certificate of registration as hereinafter provided, or persons who shall be granted certificates of registration by the board after passage of this chapter.

2. Any person desiring to obtain a certificate of registration under this chapter shall make application to the board and shall pay to the secretary-treasurer of the board an examination fee fixed by the board not exceeding one hundred dollars except as hereinafter provided. Such application shall be upon a form to be prepared by the board and to contain such information as may be desired by it. Thereupon the board shall fix a date and place for the examination of such applicant, of which notice shall be given to applicant by mail, who shall ~~present himself~~ appear at such meeting. Whereupon the board shall proceed to examine such applicant or applicants under such rules ~~and regulations~~ as may be adopted by the board.
3. Any person, who, upon the effective date of this chapter, is in charge, either individually or jointly with other persons, of an abstract office which is the holder of a valid and subsisting certificate of authority provided by subsection 2 of section 43-01-09 and who shall make application to the board prior to the expiration of said certificate of authority shall upon the payment of a fee fixed by the board not exceeding one hundred dollars be issued a certificate of registration, without examination, under such rules as may be provided by said board.
4. The certificate of registration issued by said board under the provisions hereof shall recite, among other things, that the holder thereof has complied with ~~the provisions~~ of this chapter relating to examination or otherwise, and shall entitle the holder of such certificate of registration to take charge of any abstract office in any county in this state holding a certificate of authority, under the provisions of this chapter. Certificates of registration shall be issued upon the payment of a fee fixed by the board not exceeding one hundred dollars and shall be valid for one year from the date thereof but shall be renewed annually by said board upon application within thirty days prior to the expiration thereof upon a payment of a fee fixed by the board not exceeding one hundred dollars to the secretary-treasurer of the board. The board may issue temporary certificates of registration in its discretion.
5. Said board shall keep a register, wherein it shall enter the names of all applications for registration, and for certificates of authority, with their place of business and such other information as may be deemed appropriate, including the action taken by said board thereon, and the dates upon which certificates of registration and certificates of authority are issued.

SECTION 2. AMENDMENT. Section 43-01-11 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-11. Bonds or liability policy - Deductible policy permitted. Before a certificate of authority shall be issued, the applicant therefor shall file with the secretary-treasurer of the board a surety bond in favor of the state, or an abstractor's liability policy to be approved by the board as to form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state, in a penal sum or limit of liability equal to ten thousand dollars for each ten thousand inhabitants, or major fraction thereof, residing in the county in which the applicant's office is maintained, as shown by the last official federal or state census preceding the filing of the bond or abstractor's liability policy. Such bond, or abstractor's liability policy, however, shall not be less than one hundred thousand dollars. The bond or liability policy shall be conditioned for the payment by the abstractor of any liability imposed upon him by law for damages arising from any claim against him that may be sustained by or that shall accrue to any person by reason or on account of any negligent act, error or omission in any abstract or certificate of title, or continuation thereof, made and issued by the abstractor. All surety bonds, liability policies, and evidence of annual renewal of the bonds and policies must be filed with the secretary-treasurer of the board. All abstractors' liability policies shall be endorsed to provide that cancellation cannot be effected by either the abstractor or the insurance company without ten days' written notice to the abstractors' board of examiners. It shall be permissible under this section to file an abstractor's liability policy in the deductible form, provided that the deductible provision shall not exceed ~~one~~ ten thousand dollars.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 511

SENATE BILL NO. 2094
(Senator Peterson)
(Representative Moore)

BARBER LICENSE FROM OTHER STATE

AN ACT to create and enact a new section to chapter 43-04 and a new subsection to section 43-04-42 of the North Dakota Century Code, relating to qualifications of barbers registered in another state to receive a certificate of registration to practice barbering in this state and the fee for such a certificate; and to repeal section 43-04-38 of the North Dakota Century Code, relating to the issuance of a permit to practice as a journeyman barber to persons having practiced barbering in another state.

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

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

Persons having practiced barbering in another state - Qualifications for certificate of registration as registered barber. The board may waive the requirement of a satisfactory examination and issue to an applicant a certificate of registration to practice barbering, if the applicant:

1. Is at least eighteen and one-half years of age.
2. Has completed high school or received a high school equivalency degree.
3. Has been graduated from a school of barbering approved by the board which requires as a requisite to graduation the completion of not less than one thousand five hundred fifty hours of instruction. If the applicant has not completed the requisite number of hours of instruction, each year of the applicant's subsequent barbering experience constitutes the equivalent of two hundred hours of instruction which may be applied toward fulfilling the requisite number of hours.

4. Has a valid license or certificate of registration as a practicing barber from another state that has substantially the same requirements for licensing or registering barbers as required by this chapter.
5. Delivers to the board a certificate from the examining board of another state certifying that the applicant is a licensed or registered barber in good standing and has practiced full time as a barber in that state for a period of at least three years.
6. Has paid the required fee.

SECTION 2. A new subsection to section 43-04-42 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For issuance of a certificate to an applicant who qualifies under section 1 of this Act, one hundred twenty-five dollars.

SECTION 3. REPEAL. Section 43-04-38 of the North Dakota Century Code is hereby repealed.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 512

SENATE BILL NO. 2378
(Senators Nalewaja, Yockim)
(Representative Tollefson)

CONTRACTOR LICENSE INFORMATION

AN ACT to create and enact two new sections to chapter 43-07 of the North Dakota Century Code, relating to display of contractor's license number on certain building permits and a public awareness program of contractors' responsibilities.

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

SECTION 1. A new section to chapter 43-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Duty to supply license number when applying for building permit - Display of number. When applying for a building permit, a contractor shall supply the permit issuing official that contractor's license number. That official shall enter those numbers on the permit. A person performing general contractor's work on that person's own property, even if exempt from the licensing requirements of this chapter, shall, when applying for a building permit, supply the building permit issuing official the license number, as soon as available, of each subcontractor engaged on the project and doing work covered by the permit. That official shall enter each number so supplied before inspection of the work.

SECTION 2. A new section to chapter 43-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

Public awareness program. On request, the registrar shall provide city and county enforcement officials with a list of contractors licensed under this chapter. The registrar shall also provide similar information to persons governed by section 1 of this Act.

Approved April 17, 1987
Filed April 20, 1987

CHAPTER 513

SENATE BILL NO. 2109
(Committee on Industry, Business and Labor)
(At the request of the Electrical Board)

ELECTRICIANS' LICENSES

AN ACT to amend and reenact sections 43-09-13, 43-09-13.1, 43-09-14, and 43-09-15 of the North Dakota Century Code, relating to the licensing of electricians.

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

SECTION 1. AMENDMENT. Section 43-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-13. License fees. The following shall be the examination ~~Examination~~ and annual license fees required to be paid for an electrician's license-

- 1- Master electrician- examination fee, twenty-five dollars, annual license fee, forty dollars-
- 2- Journeyman electrician- examination fee, ten dollars, annual license fee, fifteen dollars-
- 3- Class B electrician- examination fee, ten dollars, annual license fee, twenty dollars must be set by the board.

SECTION 2. AMENDMENT. Section 43-09-13.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-13.1. Apprentice electrician registration. An apprentice electrician shall register with the state electrical board after six months of employment and shall pay an annual registration fee of five dollars in an amount set by the board. ~~He shall~~ An apprentice electrician may not be allowed to work on installations without the personal supervision of a licensed electrician.

SECTION 3. AMENDMENT. Section 43-09-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-14. Master electrician and class B electrician - Undertaking - Fund. Before entering into a contract agreement or undertaking with another for the installation of electrical wiring or installation of electrical parts of other apparatus, a master electrician or a class B electrician shall execute and deposit with the board an undertaking in the sum of three thousand dollars for a master electrician or two thousand dollars for a class B electrician conditioned for the faithful performance of all electrical work undertaken by him and the strict compliance with all the provisions of this chapter and the requirements of the board. In addition, a deposit must be made with the board in the amount of twenty-five dollars by a master electrician and in the amount of fifteen dollars by a class B electrician, in lieu of a surety bond. The deposit so made must be accumulated by the board in a special fund to be used for the completion of installations abandoned by electricians referred to in this section, not to exceed the amount of three thousand dollars for a master electrician and two thousand dollars for a class B electrician. The board shall waive the deposit for a renewal of license by electricians who have made an initial deposit under this section if at the beginning of the renewal year the fund exceeds thirty thousand dollars. Funds in excess of thirty thousand dollars at the end of each year may be committed and used at the direction of the board to inform and educate electricians concerning the requirements of the electrical code. The board may prescribe forms for the undertaking and make ~~such~~ rules as it ~~may deem~~ deems necessary to carry out the intent of this section.

SECTION 4. AMENDMENT. Section 43-09-15 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-15. Renewal of license - Denial, suspension, or revocation of licenses. An electrician's license shall be issued for a term of only one year, but may be renewed without examination upon the payment of the proper fee. If the licensee fails to renew his the license for a period of five three consecutive years or more, he may be the licensee is required to appear for reexamination. The state electrical board may deny, suspend, revoke, or refuse to renew any license issued or applied for under the provisions of this chapter for any of the following reasons:

1. Failure or refusal to maintain or adhere to the minimum standards set forth in the electrical code referred to in section 43-09-21.
2. Any cause for which the issuance of the license could have been refused had it then existed and been known to the board.
3. Commitment of any act of gross negligence, incompetency, or misconduct in the practice of a master or journeyman electrician or the business of an electrical contractor.

4. Material misstatement, misrepresentation, or fraud in obtaining the license.
5. After due notice, failed or refused to correct, within the specified time, any electrical installation not in compliance with the provisions of this chapter.
6. Failure or refusal to make deposit or acquire public liability insurance as required by sections 43-09-14 and 43-09-20.

Any person whose license is denied or whose license is suspended or revoked by the board, or who is refused a license by the board, may appeal to the appropriate court.

Approved April 10, 1987
Filed April 14, 1987

CHAPTER 514

HOUSE BILL NO. 1406
(Rydell)

COSMETOLOGY TRAINING

AN ACT to amend and reenact subsection 3 of section 43-11-19 and subdivision a of subsection 1 of section 43-11-27 of the North Dakota Century Code, relating to educational qualifications of cosmetology students and cosmetology training.

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

SECTION 1. AMENDMENT. Subsection 3 of section 43-11-19 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have educational qualifications equivalent to completion of ~~two~~ four years of high school; and

SECTION 2. AMENDMENT. Subdivision a of subsection 1 of section 43-11-27 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Shall have at least nine hundred sixty hours instructor's training in cosmetology in a school of cosmetology. In no event shall more than ~~one~~ two thousand ~~one hundred~~ sixty hours instructor's training be required for admission to examination. Under this subdivision the practical portion of the examination may be waived if the written examination is supplemented with video tapes of the applicant's teaching procedures; or

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 515

HOUSE BILL NO. 1174
(Committee on Social Services and Veterans Affairs)
(At the request of the Board of Nursing)

NURSING STUDENT LOANS

AN ACT to provide for transfer of funds from the nursing scholarship loan fund to the board of nursing; to amend and reenact sections 43-12-26.1 and 43-12-27 of the North Dakota Century Code, relating to definitions and duties of the board of nursing in granting scholarship loans to nursing students; and to repeal sections 43-12-28, 43-12-29, 43-12-30, 43-12-31, 43-12-32, and 43-12-35 relating to qualifications of candidates, use of scholarship loans, scholarship loan payments, note requirements, collections, note cancellations, and the creation of a permanent nurses' scholarship loan fund.

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

SECTION 1. TRANSFER OF NURSES' SCHOLARSHIP LOAN FUNDS. All funds remaining in the fund known as the nurses' scholarship loan fund must be disbursed to the board of nursing by the state treasurer.

SECTION 2. AMENDMENT. Section 43-12-26.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-26.1. Definitions. In ~~sections~~ section 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 "Board" means the North Dakota board of 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 "Graduate nurse

student" means a registered nurse who is enrolled in a nursing program for advanced study.

- 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. AMENDMENT. Section 43-12-27 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-27. Duties of the state board.

1. The state board may grant scholarship scholarships or loans to students attending a school of program in nursing in accordance with the laws and rules pertaining to registration of the licensing of registered nurses or licensing of practical nurses and to professional graduate nurses graduate nurse students meeting board requirements for advanced study.
2. The state board shall make rules and regulations and establish standards, requirements and procedure in administering sections 43-12-26.1 through 43-12-31 for granting scholarships or loans so as to encourage young men and women to enter the nursing profession.

SECTION 4. REPEAL. Sections 43-12-28, 43-12-29, 43-12-30, 43-12-32, and 43-12-35 of the North Dakota Century Code and section 43-12-31 of the 1985 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 4, 1987
Filed April 6, 1987

CHAPTER 516

HOUSE BILL NO. 1208
(Committee on Human Services and Veterans Affairs)
(At the request of the Board of Nursing)

NURSING LICENSES

AN ACT to create and enact a new subsection to section 43-12.1-02 of the North Dakota Century Code, relating to definition of the word "licensee"; to amend and reenact sections 43-12.1-11, 43-12.1-12, and 43-12.1-14 of the North Dakota Century Code, relating to when a nursing license is issued, the qualifications for obtaining a nursing license by endorsement and the imposition of fines, costs, and disbursements for respondents in disciplinary proceedings before the board of nursing; and to provide a penalty.

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

SECTION 1. A new subsection to section 43-12.1-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Licensee" means one who has met all the legal requirements for licensure and has been issued a license or a temporary permit to practice as a registered nurse or a licensed practical nurse.

SECTION 2. AMENDMENT. Section 43-12.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12.1-11. 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~~ license to practice. 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.

SECTION 3. AMENDMENT. Section 43-12.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12.1-12. **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 the appropriate nursing education program in another country or a the appropriate nursing education program approved by a board of nursing in the United States. For purposes of this subsection, "appropriate nursing education program" means one that meets or exceeds standards for registered or practical nursing programs in North Dakota at the time the applicant qualified for initial licensure outside of North Dakota.
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.

SECTION 4. AMENDMENT. Section 43-12.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12.1-14. **Grounds for discipline - Penalties.** 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 committed 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. All written complaints filed with the board will be investigated according to board rules. If the investigation reveals grounds to support the charges made against the licensee, the executive director of the board will initiate the hearing procedure in accordance with chapter 28-32. If the accused licensee is found guilty to have committed any of the charges in the complaint, the board may reprimand the licensee, place the licensee on probationary status subject to reasonable terms of probation, deny, suspend, or revoke a license. In addition, if the respondent is found by the board to have committed any of the acts set out in this section for which discipline may be imposed, the board may tax costs and disbursements against the respondent as in civil actions, and may further impose a penalty fee if the respondent is found by the board to have committed any of the acts set out in subsections 1 through 4 of section 43-12.1-15. Any fee, costs, and disbursements imposed by the board against the respondent may be paid within a reasonable time and through reasonable periodic payments as specified in the board's order. Any penalty fee imposed may not exceed five dollars for each day or fraction of a day in which the respondent is found by the board to have committed any of the prohibited acts as set out herein, and may not exceed a total of one thousand dollars. 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 provisions 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 licensees who have been revoked or suspended for cause disciplined by the board.

Approved April 4, 1987

Filed April 6, 1987

CHAPTER 517

SENATE BILL NO. 2294
(Senators Peterson, Yockim)
(Representatives Solberg, A. Olson, V. Olson)

OPTOMETRY PRACTICE

AN ACT to create and enact two new sections to chapter 43-13 of the North Dakota Century Code, relating to the practice of optometry, certification and notification requirements, and standard of care for optometrists; to amend and reenact section 43-13-01 of the North Dakota Century Code, relating to definitions; and to repeal section 43-13-13.1 of the North Dakota Century Code, relating to the authority of the board of optometry.

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

SECTION 1. AMENDMENT. Section 43-13-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. Optometry shall be defined as "Board" means the North Dakota state board of optometry.
2. "Optometry" means a primary health care profession whose practitioners are engaged in the refraction evaluation of disorders of the human eye and the examination, diagnosis, and treatment thereof, together with its appendages, without the use of surgery, and by using such objective or subjective techniques as are necessary to enable recognition of disease for medical referral. Included within the definition shall be the application of ocular diagnostic pharmaceutical agents as authorized by this chapter, and the determination and interpretation of any visual, muscular, neurological or anatomical anomaly of the eye, which may be aided, relieved or corrected through visual training procedures or through the use of lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings. Any person so engaged in visual training procedures or who

employs or prescribes lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings, to aid, relieve or correct any visual anomaly, or holds himself out as being able to do so, shall be deemed to be engaged in the practice of optometry and must have a certificate of registration, as herein provided by this chapter.

2. The word "board" shall mean the North Dakota state board of optometry.
3. The term "practicing "Diagnosis and treatment" means the determination, interpretation, and treatment of any visual, muscular, neurological, or anatomical anomaly of the eye which may be aided, relieved, or corrected through visual training procedures or through the use of lenses, prisms, filters, ophthalmic instruments, pharmaceutical agents, or combinations thereof, held either in contact with the eye, or in frames or mountings, as further authorized by this chapter. Laser therapy and the use of invasive surgery are not permitted under this chapter, except superficial foreign bodies may be removed and primary care procedures may be performed. The treatment of glaucoma is not permitted under this chapter.
4. "Pharmaceutical agent" means diagnostic pharmaceutical agents or therapeutic pharmaceutical agents. The term does not include pharmaceutical agents that have no documented use in the treatment of ocular-related disorders or diseases, oral cortico-steroids, and controlled substances, as defined in chapter 19-03.1. As used in this subsection:
 - a. "Diagnostic pharmaceutical agents" means pharmaceutical agents administered for the evaluation and diagnosis of disorders of the human eye including anesthetics, mydriatics, myotics, cycloplegics, diagnostic dyes, diagnostic stains, and pharmaceutical agents to evaluate abnormal pupil responses.
 - b. "Therapeutic pharmaceutical agents" means topically administered and prescribed pharmaceutical agents for treatment of ocular-related disorders or disease, locally administered pharmaceutical agents for primary eye care procedures, oral anti-infective agents, oral antihistaminic agents, and oral analgesics for the treatment of ocular-related disorders or diseases. The dispensing of therapeutic pharmaceutical agents is not permitted under this chapter.
5. "Practicing optometry" shall mean means:
 - a. Displaying a sign or in any way advertising as an optometrist.

- b. Employing any means for the measurement of the powers of vision or the adaptation of lenses for the aid thereof.
- c. Engaging in any manner in the practice of optometry.

SECTION 2. Two new sections to chapter 43-13 of the North Dakota Century Code are hereby created and enacted to read as follows:

Practice of optometry - Certification requirements - Notification.

1. Any person engaged in visual training procedures or who employs or prescribes lenses, prisms, filters, ophthalmic instruments, or combinations thereof, held either in contact with the eye, or in frames or mounting, to aid, relieve, or correct any visual or ocular anomaly, or holds oneself out as being able to do so, is deemed to be engaged in the practice of optometry.
2. Before any optometrist may prescribe and administer pharmaceutical agents in the treatment and management of ocular diseases, the optometrist must first be certified or qualify for certification in the use of diagnostic pharmaceutical agents. For additional certification to prescribe and administer pharmaceutical agents in the treatment and management of ocular disease, the board shall require at least seventy-six hours of didactic instruction and twenty-four hours of clinical application of pharmaceutical agents for the treatment and management of ocular diseases. The course for therapeutic certification must be provided by an institution accredited by a regional or professional accrediting organization that is recognized and approved by the United States department of education or the council on postsecondary accreditation.
3. The board shall notify the board of pharmacy in writing, and on an annual basis or when other optometrists are certified, of the specific optometrists certified by the board in the use of pharmaceutical agents.

Standard of care - When consultation with physician required.

1. An optometrist certified by the board in the use of pharmaceutical agents as provided in this chapter must be held to the same standard of care in the use of such agents as are physicians licensed by the state board of medical examiners.
2. Any optometrist authorized by the board to use pharmaceutical agents must consult with a physician duly licensed to practice medicine when any diseased or pathological conditions of the eye do not respond to treatment. The consultation must be documented in the patient's record.

SECTION 3. REPEAL. Section 43-13-13.1 of the 1985 Supplement to the North Dakota Century Code is hereby repealed.

Approved April 10, 1987
Filed April 14, 1987

CHAPTER 518

SENATE BILL NO. 2176
(Committee on Judiciary)
(At the request of the Board of Pharmacy)

BOARD OF PHARMACY POWERS

AN ACT to amend and reenact subsections 1 and 14 of section 43-15-10 of the North Dakota Century Code, relating to the powers of the board of pharmacy.

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

SECTION 1. AMENDMENT. Subsections 1 and 14 of section 43-15-10 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To place on probation, reprimand, or fine any pharmacy, pharmacist, or registered pharmacist; or refuse to issue or renew, or, may suspend, revoke, or restrict, or cancel, the certificate, of registration, or permit, or license of any pharmacy, pharmacist, or registered pharmacist, upon one or more if any of the following grounds apply and the pharmacy, pharmacist, or registered pharmacist:
 - a. Is addicted to any alcohol or drug habit.
 - b. Uses any advertising statements of a character tending to deceive or mislead the public.
 - c. Is a chronic or persistent inebriate subject to drug or alcohol dependency or abuse.
 - d. Permits or engages in the unauthorized sale of narcotic drugs or controlled substances.
 - e. Permits or engages an unauthorized person to practice pharmacy.
 - f. Is mentally or physically incompetent to handle his pharmaceutical duties.
 - g. Is guilty of fraud, deception, or misrepresentation in passing ~~his~~ the pharmacist examination.

- h. Is found by the board in violation of any of the provisions of the laws regulating drugs, pharmacies, and pharmacists or the rules and regulations established by the board.
- i. Unprofessional Is found to have engaged in unprofessional conduct as that term is defined by the rules and regulations of the board.
- j. Incapacity Is subject to incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public.
- k. Is found guilty by a court of competent jurisdiction of one or more of the following:
- (1) A felony, as defined by the statutes of North Dakota.
 - (2) Any act involving moral turpitude or gross immorality.
 - (3) Violations of the pharmacy or the drug laws of North Dakota or rules and regulations pertaining thereto, or of statutes, rules or regulations of any other state, or of the federal government.
- l. Fraud Commits fraud or intentional misrepresentation by a ~~pharmacist~~ in securing the issuance or renewal of a certificate of registration or pharmacy permit.
- m. Sells, dispenses, or compounds any drug while on duty and while under the influence of alcohol or while under the influence of a controlled substance without a practitioner's prescription.
14. To make, adopt, amend, and repeal rules as may be deemed necessary by the board from time to time for the proper administration and enforcement of this chapter, chapters 19-02 and 19-02.1 as those chapters pertain to drugs, subject to approval of the director of the state laboratories department, and chapter 19-03.1 subject to approval of the controlled substances board.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 519

SENATE BILL NO. 2182
(Committee on Judiciary)
(At the request of the Board of Pharmacy)

BOARD OF PHARMACY FILES

AN ACT to amend and reenact subsection 15 of section 43-15-10 of the North Dakota Century Code, relating to confidentiality of investigative files of the board of pharmacy.

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

SECTION 1. AMENDMENT. Subsection 15 of section 43-15-10 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. The board or its authorized representatives may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-15, ~~chapter chapters 19-02 and 19-02.1~~ that pertain to drugs, ~~chapter chapters 19-03.1, 19-03.2, and 19-04,~~ or of the rules of the board. Board investigative files are confidential and may not be considered public records or open records for purposes of section 44-04-18, until a complaint is filed or a decision made by the board not to file a complaint.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 520

SENATE BILL NO. 2171
(Committee on Industry, Business and Labor)
(At the request of the Board of Pharmacy)

PHARMACY PRESCRIPTION FILING

AN ACT to amend and reenact section 43-15-31, subsection 6 of section 43-15-35, and section 43-15-42 of the North Dakota Century Code, relating to physicians' prescriptions to be filed and preserved, requirements for a permit to operate a pharmacy, and the penalty for violation of law regulating pharmacies.

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

SECTION 1. AMENDMENT. Section 43-15-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-31. Physicians' prescriptions to be filed and preserved. Every registered pharmacist in the state shall file, or cause to be filed, any physician's prescription, or a copy thereof, which has been compounded or dispensed in his pharmacy or drug store. The prescription or a copy of the prescription shall be preserved for at least ~~two~~ five years after it has been filled. The pharmacist may furnish a copy of any prescription to the party presenting it on the request of such party only.

SECTION 2. AMENDMENT. Subsection 6 of section 43-15-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The pharmacy has ~~on file within the pharmacy~~ at all times the latest ~~decennial~~ revision of the United States Pharmacopoeia and the latest edition of the National Formulary, Pharmacopoeia/National Formulary and supplements thereto, or the United States Pharmacopoeia Dispensing Information, Volumes I and II (USPDI). ~~These books must be in evidence at all times to the board and its properly authorized agents.~~

SECTION 3. AMENDMENT. Section 43-15-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-42. Penalty for violation of law rule regulating pharmacies. Any person who violates any rule ~~or regulation~~ legally adopted by the board pursuant to this chapter is guilty of an infraction. ~~Upon any conviction of a permittee hereunder, the permit or renewal of such violator shall be null and void.~~

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 521

SENATE BILL NO. 2173
(Committee on Industry, Business and Labor)
(At the request of the Board of Pharmacy)

OUT-OF-STATE PHARMACIES' PERMITS

AN ACT to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to out-of-state 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:

Out-of-state pharmacies. Any pharmacy operating outside the state which ships, mails, or delivers in any manner a dispensed prescription drug or legend drug into North Dakota shall obtain and hold a pharmacy permit issued by the North Dakota state board of pharmacy and that part of the pharmacy operation dispensing the prescription for a North Dakota resident shall abide by state law and rules of the board.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 522

SENATE BILL NO. 2175
(Committee on Judiciary)
(At the request of the Board of Pharmacy)

PHARMACIST DISCIPLINARY ACTIONS

AN ACT to amend and reenact subsection 1 of section 43-15-42.1 of the North Dakota Century Code, relating to disciplinary action of the board of pharmacy; and to provide a penalty.

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

SECTION 1. AMENDMENT. Subsection 1 of section 43-15-42.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Upon the finding of the existence of grounds for discipline of any person holding, seeking, or renewing a certificate of registration, permit, or license under this chapter, the board may impose one or more of the following penalties:
 - a. Suspension of the offender's certificate of registration, permit, or license for a term to be determined by the board.
 - b. Revocation of the offender's certificate of registration, permit, or license.
 - c. Restriction of the offender's certificate of registration, permit, or license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board.
 - d. Refusal to issue or renew offender's certificate of registration, permit, or license.
 - e. Placement of the offender on probation or the offender's certificate of registration, permit, or license under suspension and supervision by the board for a period to be determined by the board.

- f. Cancellation of the offender's certificate of registration, permit, or license.
- g. Reprimand.
- h. Imposition of a fine not to exceed one thousand dollars for each offense involving diversion of controlled substances or a fine not to exceed five hundred dollars for any other offense, with the sanction that the certificate of registration, permit, or license may be suspended until the fine is paid to the board.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 523

SENATE BILL NO. 2177
(Committee on Judiciary)
(At the request of the Board of Pharmacy)

IMPAIRED PHARMACISTS PROGRAM

AN ACT to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to an impaired pharmacists program.

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:

Impaired pharmacists program.

1. Any pharmaceutical peer review committee may report relevant facts to the board relating to the acts of any pharmacist in this state if they have knowledge relating to the pharmacist which, in the opinion of the peer review committee, might impair competency due to dependency on alcohol or drugs, abuse of alcohol or drugs, or due to physical or mental illness, or which might endanger the public health and safety or provide grounds for disciplinary action under chapter 43-15.
2. Any committee of a professional association comprised primarily of pharmacists, its staff, or any district or local intervenor participating in a program established to aid pharmacists impaired by substance abuse or mental or physical illness may report in writing to the board the name of the impaired pharmacist together with the pertinent information relating to the impairment. The board may report to any committee of such professional association or the association's designated staff information which it may receive with regard to any pharmacist who may be impaired by substance abuse or mental or physical illness.
3. Upon a determination by the board that a report submitted by a peer review committee or professional association committee is without merit, the report must be expunged

from the pharmacist's individual record in the board's office. A pharmacist or a pharmacist's authorized representative may on request examine the pharmacist's peer review or the pharmaceutical association's committee report submitted to the board and place into the record a statement of reasonable length of the pharmacist's view with respect to any information in the report.

4. Notwithstanding the provisions of section 44-04-18, the records and proceedings of the board, compiled in conjunction with an impaired pharmacist peer review committee, are confidential and are not to be considered public records or open records unless the affected pharmacist so requests; provided, however, the board may disclose this confidential information only if any of the following apply:
 - a. In a disciplinary hearing before the board or in a subsequent trial or appeal of a board action or order.
 - b. To the pharmacist licensing or disciplinary authorities of other jurisdictions.
 - c. Under an order of a court of competent jurisdiction.
5.
 - a. No employee or member of the board, peer review committee member, pharmaceutical association committee member, or pharmaceutical association district or local intervenor furnishing in good faith information, data, reports, or records for the purposes of aiding the impaired pharmacist may by reason of furnishing the information be liable for damages to any person.
 - b. No employee or member of the board or the committee, staff, or intervenor program is liable for damages to any person for any action taken or recommendations made in good faith by the board, committee, or staff.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 524

SENATE BILL NO. 2221
(Committee on Industry, Business and Labor)
(At the request of the Board of Pharmacy)

**BOARD OF PHARMACY DISCIPLINARY
PROCEEDINGS**

AN ACT to amend and reenact section 43-15-45 of the North Dakota Century Code, relating to costs of prosecution in disciplinary proceedings of the board of pharmacy.

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

SECTION 1. AMENDMENT. Section 43-15-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-45. Costs of prosecution - Disciplinary proceedings. All costs and expenses collected in prosecutions under this chapter, except court costs, fees of officers, and witness fees, shall be paid to the secretary of the board. In any order or decision issued by the board in resolution of a disciplinary proceeding, the board may direct any certificate, permit, or license holder, or any pharmacy or pharmacist found not in compliance, guilty, or in violation of one or more of the grounds set forth in subsection 1 of section 43-15-10, to pay the board a sum not to exceed the reasonable and actual costs of the investigation and prosecution of the case, with the sanction that the certificate of registration, permit, or license may be suspended until the costs are paid to the board.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 525

HOUSE BILL NO. 1563
(Aas)

PHYSICIAN QUALIFICATIONS AND DISCIPLINE

AN ACT to create and enact section 43-17-30.1 of the North Dakota Century Code, relating to disciplinary action against a licensed physician; to amend and reenact subsection 1 of section 43-17-02, subsection 2 of section 43-17-03, sections 43-17-07, 43-17-11, 43-17-14, 43-17-17, 43-17-18, 43-17-24, 43-17-25, 43-17-30, and 43-17-31 of the North Dakota Century Code, relating to duties of the board of medical examiners and physician qualifications and grounds for discipline; and to repeal sections 43-17-08, 43-17-09, 43-17-10, 43-17-13, 43-17-16, 43-17-20, 43-17-22, 43-17-26, 43-17-27, 43-17-28, 43-17-29, 43-17-32, 43-17-33, 43-17-35, 43-17-36, 43-17-39, and 43-17.1-07 of the North Dakota Century Code, relating to the procedures of the board of medical examiners and the regulation of the practice of medicine.

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

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

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

SECTION 2. AMENDMENT. Subsection 2 of section 43-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be a resident of and duly licensed to practice medicine and surgery in this state provided, however, that the D.O. on the board must be licensed to practice medicine pursuant to this chapter.

SECTION 3. 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~~ three 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 4. AMENDMENT. Section 43-17-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-11. Records of board - Prima facie evidence. The board shall keep a record of all of its proceedings and a register of all applicants applications for license. Application records must be preserved for at least six years beyond the disposition thereof or the last annual registration of the licensee, whichever is longer. ~~Such record and register shall be prima facie evidence of all matters therein recorded. The register shall contain-~~

- 1- The application for license.
- 2- The age of the applicant.
- 3- The time the applicant spent in the study of medicine and in his studies preliminary thereto and the nature of such studies.
- 4- The name and location of all institutions, medical or otherwise, granting the applicant degrees or certificates of attendance on lectures and classes in medicine and surgery and studies preliminary thereto.
- 5- A statement as to whether the applicant was rejected or licensed by the board.

SECTION 5. AMENDMENT. Section 43-17-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-14. Compensation - Expenses of board and the members thereof. A member of the board shall receive for each day during which he actually is engaged in the performance of the duties of his office such per diem as shall be fixed by the board. and, He also shall receive such mileage as is provided in section 54-06-09 and five dollars a day travel expense while absent from home. The secretary

of the board shall receive such salary or other compensation, and such allowance for clerical and other expenses of the board as the board shall determine.

SECTION 6. AMENDMENT. Section 43-17-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-17. Application for license. In order to obtain a license to practice medicine in this state, an application shall be made to the board through the secretary-treasurer. The application shall be upon the form adopted by the board and shall be made in the manner prescribed by it. ~~The applicant shall furnish the board with satisfactory evidence of his good moral character.~~

*** SECTION 7. AMENDMENT.** Section 43-17-18 of the 1985 Supplement to 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 of the following qualifications:

1. The applicant is at least eighteen years of age. Possession of the degree of doctor of medicine or doctor of osteopathy from a medical school located in the United States, its possessions or territories, or Canada, approved by the board or by an accrediting body approved by the board at the time the degree was conferred;
2. The applicant is a graduate of a reputable medical or osteopathic college approved by the board.
- 3- The applicant has satisfactorily completed a one-year residency in a hospital approved by the board; or, at the discretion of the board, has completed other postgraduate training or approved hospital residency training as the board deems equivalent to the residency. If the applicant is the graduate of a reputable medical or osteopathic college in the United States or Canada, successful completion of one year of postgraduate training approved by the board or by an accrediting body approved by the board;
- 4- 3. An If the applicant who is a graduate of a medical or osteopathic school college located outside the United States must have that has not been approved by the board or accredited by an accrediting body approved by the board at the time the degree or its equivalent was conferred, a certificate issued by the educational council for foreign medical graduates, and must pass an examination or examinations given or approved by the board to establish proficiency in writing and speaking English. If the foreign medical or osteopathic school is not approved by the board, and the successful completion of three years of

* NOTE: Section 43-17-18 was also amended by section 1 of Senate Bill No. 2334, chapter 526.

residency training in an postgraduate training in a program approved hospital and a passing grade on the federation of state medical boards of the United States licensing examination are required of the applicant in lieu of approval by the board of the medical or osteopathic college from which the applicant graduated by the board or by an accrediting body approved by the board;

4. Successful completion of a medical licensure examination satisfactory to the board;
5. Physical, mental, and professional capability for the practice of medicine in a manner acceptable by the board; and
6. A history free of any finding by the board, any other state medical licensure board, or any court of competent jurisdiction of the commission of any act which would constitute grounds for disciplinary action under this chapter; the board, in its discretion, may modify this restriction for cause.

SECTION 8. AMENDMENT. Section 43-17-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-24. Physicians register annually with the board. On or before January first of each year the due date established by the board, every person legally licensed to practice medicine and surgery 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 the annual registration fee. No person may engage in the practice of medicine in this state without a current registration certificate issued by the board.

SECTION 9. AMENDMENT. Section 43-17-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-25. Annual registration fee. The annual registration fee for any person licensed to practice medicine in the state shall be fixed by regulation of the board and not to exceed one hundred dollars. All fees shall be paid to and held by the secretary-treasurer of the board and shall be subject to disbursement by the board in performing its duties.

SECTION 10. AMENDMENT. Section 43-17-30 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-30. Payment of delinquent registration fee - Reinstatement. Any practitioner of medicine and surgery who has been licensed to practice in this state by the board, and who has been suspended from practice and whose license has been revoked because of failure to pay the annual registration fee, may, at the discretion of the

board, be reinstated, and have the suspension revoked, and the license renewed by paying to the secretary-treasurer of the board the amount of the registration fee which is then in default.

SECTION 11. Section 43-17-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-17-30.1. Disciplinary action. The board is authorized to take disciplinary action against a licensed physician by any one or more of the following means, as it may find appropriate:

1. Revocation of license.
2. Suspension of license.
3. Probation.
4. Imposition of stipulations, limitations, or conditions relating to the practice of medicine.
5. Reprimand.
6. Letter of censure.
7. Letter of concern.

SECTION 12. AMENDMENT. Section 43-17-31 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-31. Revocation, suspension, or refusal to grant license-- Grounds for disciplinary action --Record. The board may refuse to grant a license to practice medicine in this state or may suspend or revoke such license and cause the licensee's name to be removed from the record in the office of the register of deeds. Disciplinary action may be imposed against a physician upon any of the following grounds:

1. The use of any false, fraudulent, or forged statement or document, or the use of any fraudulent, deceitful, dishonest, or immoral practice, in connection with any of the licensing requirements.
2. The performance of an unlawful abortion or assisting or advising the performance of any unlawful abortion. The making of false or misleading statements about the physician's skill or the efficacy of any medicine, treatment, or remedy.
3. The conviction of an offense any misdemeanor determined by the board to have a direct bearing upon a person's ability to serve the public as a practitioner of medicine and surgery; or the board determines, following conviction of the person of any offense, that he is not sufficiently

rehabilitated. The rehabilitation determination shall be made in accordance with section 12-1-33-02-1 or any felony. A license may not be withheld contrary to the provisions of chapter 12.1-33.

4. Becoming addicted to a drug or intoxicants to such a degree as to render the licensee unsafe or unfit to practice medicine Habitual use of alcohol or drugs.
5. Sustaining any physical or mental disability which renders the further practice of medicine dangerous Physical or mental disability materially affecting the ability to perform the duties of a physician in a competent manner.
6. The performance of any dishonorable, unethical, or unprofessional conduct likely to deceive, defraud, or harm the public.
7. The use of any false or fraudulent statement in any document connected with the practice of medicine Obtaining any fee by fraud, deceit, or misrepresentation.
8. Knowingly performing any act which in any way assists an unlicensed person to practice medicine Aiding or abetting the practice of medicine by an unlicensed, incompetent, or impaired person.
9. Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or terms of a medical practice act The violation of any provision of a medical practice act or the rules and regulations of the board, or any action, stipulation, condition, or agreement imposed by the board.
10. The practice of medicine under a false or assumed name.
11. The advertising for the practice of medicine in an untrue or deceptive manner.
12. Obtaining a fee as personal compensation or gain for an employer or a person on fraudulent representation The representation to a patient that a manifestly incurable condition, sickness, disease, or injury can be permanently cured.
13. The willful or negligent violation of privileged communication the confidentiality between physician and patient, except as required by law.
14. Failure The failure of a doctor of osteopathy to designate his school of practice in the professional use of his name by such terms as "osteopathic physician and surgeon", "doctor of osteopathy", "D.O.", or similar terms.

15. The violation of the restrictions or conditions of a license limiting the practice of medicine to services in the employ of the state hospital Gross negligence in the practice of medicine.
16. Sexual abuse, misconduct, or exploitation related to the licensee's practice of medicine.
17. The prescription, sale, administration, distribution, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes.
18. The payment or receipt, directly or indirectly, of any fee, commission, rebate or other compensation for medical services not actually or personally rendered, or for patient referrals; this prohibition does not affect the lawful distributions of professional partnerships, corporations, or associations.
19. The failure to furnish the board, its investigators or representatives, information legally requested by the board.
20. The failure to transfer medical records, except those relating to psychiatric treatment which shall be governed by board rule, to another physician or to supply copies thereof to the patient or to his or her representative when requested to do so by the patient or his or her designated representative. A reasonable charge for record copies may be assessed.
21. A continued pattern of inappropriate care as a physician, including unnecessary surgery.

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

SECTION 13. REPEAL. Sections 43-17-08, 43-17-09, 43-17-10, 43-17-13, 43-17-16, 43-17-20, 43-17-22, 43-17-26, 43-17-27, 43-17-28, 43-17-29, 43-17-32, 43-17-33, 43-17-35, 43-17-36, 43-17-39, and 43-17.1-07 of the North Dakota Century Code are hereby repealed.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 526

SENATE BILL NO. 2334
(Waldera, Maixner, Streibel)

FOREIGN-TRAINED PHYSICIANS

AN ACT to amend and reenact subsection 4 of section 43-17-18 of the North Dakota Century Code, relating to qualifications of a foreign-trained applicant for a license to practice medicine.

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

* SECTION 1. AMENDMENT. Subsection 4 of section 43-17-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. An applicant who is a graduate of a medical or osteopathic school located outside the United States must have a certificate issued by the educational council for foreign medical graduates and must pass an examination or examinations given or approved by the board to establish proficiency in writing and speaking English. If the foreign medical or osteopathic school is not approved by the board, the successful completion of three years of residency training in an approved hospital and a passing grade on the federation of state medical boards of the United States licensing examination are required of the applicant in lieu of approval by the board of the medical or osteopathic college from which the applicant graduated. The board may license an applicant with one year of residency training in the United States or Canada who has been approved for faculty status in psychiatry by the university of North Dakota and its medical school.

Approved March 20, 1987
Filed March 23, 1987

* NOTE: Section 43-17-18 was also amended by section 7 of House Bill No. 1563, chapter 525.

CHAPTER 527

SENATE BILL NO. 2342
(Senators Lips, Holmberg, W. Meyer)
(Representatives Belter, R. Berg)

PLUMBERS' LICENSE FEES

AN ACT to amend and reenact sections 43-18-13 and 43-18-17 of the North Dakota Century Code, relating to the license fees of plumbers.

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

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

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

determine the reasons for failure and shall have the right to appeal to the board.

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

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

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 528

SENATE BILL NO. 2350
(Senators Lips, Holmberg, W. Meyer)
(Representatives Belter, R. Berg)

SEWER AND WATER INSTALLATION

AN ACT to create and enact chapter 43-18.2 of the North Dakota Century Code, relating to the installation and repair of sewer and water installations; to provide a continuing appropriation; and to provide a penalty.

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

SECTION 1. Chapter 43-18.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-18.2-01. **Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of plumbing.
2. "Sewer and water contractor" means any person who plans and manages the installation and repair of building sewer and water service.
3. "Sewer and water installation" means the installation of building sewer and water service and the repair of existing building sewer and water service.
4. "Sewer and water installer" means any person who installs and repairs building sewer and water service.

43-18.2-02. **Duties of the board.** The board shall:

1. Enforce this chapter.
2. Adopt rules not inconsistent with this chapter for the examination, regulation, and licensing of sewer and water contractors and sewer and water installers.
3. Exempt from the provisions of sections 43-18.2-06, 43-18.2-07, and 43-18.2-08 those North Dakota sewer and water contractors and installers as defined in section

43-18.2-01 who have at least one year work experience prior to July 1, 1987.

43-18.2-03. Sewer and water installer licenses. The board shall issue a special license to any person before that person installs and repairs any sewer and water plumbing installation. This license allows the licensee to do the plumbing necessary for sewer and water installation. A sewer and water installer license is not required of licensed master plumbers and journeyman plumbers.

43-18.2-04. Sewer and water installer apprentice license. All applicants for a building sewer and water installer apprentice license shall complete an application identifying the building sewer and water installer under whose supervision the applicant is working. The license is without charge for two years and must be renewed annually.

43-18.2-05. Out-of-state applicants. An applicant for a sewer and water contractor's license or a sewer and water installer's license from out of state may take the examination upon showing by affidavits that the applicant has experience in the state in which the applicant is licensed. This experience must be the same as is required of applicants from this state. The board shall provide applicants with application forms and affidavit forms necessary to comply with this section. The secretary-treasurer of the board shall investigate the validity of the affidavits. A rejected application shall be treated as a contested case.

43-18.2-06. Experience for testing. An applicant for a sewer and water installer's license shall show evidence of two years' experience as a building sewer and water installer apprentice in this state. Applicants for a sewer and water installation contractor's license must have one year's experience as an installer in this state. All applicants shall show that their work complies with the state plumbing code. Proof of experience must be shown by affidavits which the board may investigate. The board shall provide applicants with application forms. If the application is rejected, the matter must be treated as a contested case.

43-18.2-07. Examination requirements. The examination for applicants for licensure must consist of:

1. Questions pertaining to the application and maintenance of basic principles of sewer and water installation.
2. Questions which require the application of the state plumbing code and the state industrial safety code to building sewer and water installation.

The questions for the sewer and water contractor and the building sewer and water installer need not be the same. The passing grade for the building sewer and water contractor must be eighty percent, and the sewer and water installer's passing grade must be seventy percent.

43-18.2-08. Examination fees. An applicant for a sewer and water contractor's license shall pay an examination fee of one hundred dollars, and an applicant for a building sewer and water installer's license shall pay an examination fee of twenty-five dollars before taking the examination for the first time. The reexamination fee is fifty dollars for a sewer and water contractor's license and ten dollars for a sewer and water installer's license. No additional fee may be charged for the first year of licensure. No applicant may be examined for the same license more often than every three months.

43-18.2-09. License renewal fees. The license renewal fee for a sewer and water installation contractor after the first year of licensure is one hundred dollars per year, and the license renewal fee for a sewer and water installer after the first year of licensure is twenty-five dollars per year. The license renewal fee for a sewer and water installer apprentice after the first two years of licensure is twenty-five dollars.

43-18.2-10. Revocation of licenses. The board may revoke any license issued under this chapter if the licensee has:

1. Committed an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon a holder's ability to serve the public as a sewer and water contractor, sewer and water installer, or a sewer and water installer apprentice, or the board determines, following conviction of any offense, that a holder is not sufficiently rehabilitated under section 12.1-33-02.1;
2. Committed a fraud in obtaining the license;
3. Permitted the use of the license in violation of this chapter; or
4. Performed work or business in an incompetent manner as determined by the board.

43-18.2-11. Administration of funds - Continuing appropriation. All fees and moneys obtained by the board through the administration of this chapter must be used for the regulation of the business of sewer and water installation and repair, and are appropriated to the board for this use. This appropriation is a continuing appropriation of all such funds. The handling and administration of the funds must otherwise be in accordance with section 54-44-12.

43-18.2-12. Violation - Penalty. Any person who willfully violates this chapter is guilty of an infraction.

Approved March 26, 1987
Filed March 30, 1987

CHAPTER 529

HOUSE BILL NO. 1595
(Moore)

ENGINEERS' LIABILITY

AN ACT to create and enact a new section to chapter 43-19.1 of the North Dakota Century Code, relating to liability of engineers.

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

SECTION 1. A new section to chapter 43-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Engineer not liable for contractor's fault unless responsibility assumed - Liability for own negligence. An engineer shall not be liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees, unless he assumes responsibility therefor by contract or by his actual conduct. Nothing herein shall be construed to relieve an engineer from liability for his negligence, whether in his design work or otherwise.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 530

HOUSE BILL NO. 1450
(R. Berg, Oban)

REAL ESTATE LICENSE EXCEPTIONS

AN ACT to amend and reenact section 43-23-07 of the North Dakota Century Code, relating to exceptions to real estate licensure.

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

SECTION 1. AMENDMENT. Section 43-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-07. Real estate brokers, salesmen, or mortgage brokers -
Exceptions. The term "real estate broker", "real estate salesman",
or "mortgage broker" ~~shall not be held to~~ does not include:

1. Any person, partnership, association, or corporation who as is a bona fide owner or lessor ~~shall perform or who accepts or markets leasehold interests in residential or agricultural property and performs~~ any of the aforesaid acts with reference to property owned or leased by them, nor ~~shall~~ does it apply to regular employees thereof, where ~~such the~~ acts are performed in the regular course of or as an incident to the management of ~~such the~~ property and the investment therein.
2. An attorney at law, admitted to practice in ~~North Dakota this state~~, handling sales of real estate in the course of estate or guardianship administration in county court, or trust administration, bankruptcy proceedings, receiverships, or like actions subject to approval by a court of competent jurisdiction, or sales of real estate arising in the usual course of the practice of law.
3. Any person selling real estate as an auctioneer, provided ~~such the~~ sale is advertised as a bona fide public auction.
4. Any bank or trust company or any of its officers or employees in the performance of their duties as an officer or employee of ~~any such the~~ bank or trust company.

5. Any person holding in good faith a duly executed power of attorney from the owner, authorizing a final consummation and execution for the sale, purchase, lease, or exchange of real estate when such acts are not of a recurrent nature and done with the intention of evading this section.
6. Any person while acting as a receiver, trustee, administrator, executor, guardian, or under court order, or while acting under authority of a deed, trust, or will.
7. Public officers while performing their duties as such.

Approved April 21, 1987
Filed April 22, 1987

CHAPTER 531

HOUSE BILL NO. 1093
(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

REAL ESTATE COMMISSION PROCEEDINGS

AN ACT to amend and reenact sections 43-23-11.1 and 43-23-13 of the North Dakota Century Code, relating to investigations, licenses, hearings, appeals, and fees of the North Dakota real estate commission; and to provide a penalty.

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

SECTION 1. AMENDMENT. Section 43-23-11.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-11.1. Investigations, grounds for refusal, suspension or revocation of license - Hearing - Appeal.

1. The commission upon its own motion may, and upon the verified complaint in writing of any person shall, investigate the activities of any licensee or any person who shall assume to act in such capacity within the state, and shall have the power to suspend or revoke a license, impose a monetary fine, or issue a letter of reprimand, or any combination thereof, 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 any court of any felony, or of a misdemeanor involving theft, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other similar offense. A certified copy of the record of conviction shall be conclusive evidence of conviction in such cases.
- 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.
- 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.
 - v. Any other conduct, whether of the same or of a different character than specified in this subsection, which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of his licensed privilege.
 - w. Any conduct which in the determination of the commission does not meet the generally accepted standard of expertise, care, or professional ability expected of real estate brokers or salesmen, provided that any disciplinary measures by the commission under this subdivision must be limited to the issuance of a letter of reprimand to the offending licensee.
2. If the commission declines or fails to approve an application submitted to it, it shall immediately give notice of that fact to the applicant, and upon request from such applicant, filed within twenty days after the receipt of such notice, shall fix a time and place for hearing, of which twenty days' notice shall be given to such applicant and to other persons interested or protesting, to offer evidence relating to the application. In such cases the commission shall fix the time for such hearing on a date within sixty days from receipt of the request for the particular hearing, provided the time of hearing may be continued from time to time with the consent of the applicant. As a result of such hearing, the commission may either approve the application if all other applicable provisions of this chapter have been met, and permit the applicant to take the examination to determine whether he shall be licensed, or it may sustain its prior decision refusing to approve the application.
3. No license shall be revoked or suspended, no monetary fine imposed, nor any letter of reprimand issued except after hearing before the commission with a copy of the charges having been duly served upon the licensee and upon sustaining of the charges for suspension or, revocation, fine, or reprimand. The provisions of chapter 28-32, including but not limited to procedures for service of process, hearing, rules, evidence, findings, and appeals, shall apply to and govern all proceedings for suspension or, revocation, fine, or reprimand of licenses or licensees, except where inconsistent with this chapter.

4. Any monetary fine imposed may not exceed the sum of one thousand dollars. All fines collected must be deposited in the commission's license fee account.

SECTION 2. AMENDMENT. Section 43-23-13 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-13. Fees. Fees for real estate brokers, mortgage brokers, and real estate salesmen are as follows:

1. A fee of forty dollars shall accompany an application for an individual's real estate broker's or mortgage broker's license and for each annual renewal of the license.
2. For each license issued to a partnership, association, corporation, trust, cooperative, or other firm or entity, foreign or domestic, and for each annual renewal of the license, a fee of forty dollars.
3. For an individual's real estate salesman's license and for each annual renewal of the license, a fee of thirty dollars.
4. For each additional office or place of business, an annual fee of ten dollars.
5. For each change of office or place of business, a fee of ten dollars.
6. For each transfer of a real estate salesman's license, a fee of ten dollars.
7. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of ten dollars.
8. For each examination given to an applicant, before a license is issued, a fee ~~of fifteen dollars~~ of twenty dollars.
9. For each change of name, a fee of ten dollars.

Approved March 19, 1987

Filed March 20, 1987

CHAPTER 532

HOUSE BILL NO. 1176
(Committee on Industry, Business and Labor)
(At the request of the Office of Management and Budget)

VARIOUS LICENSE FEES

AN ACT to amend and reenact subsection 2 of section 43-31-14, subsection 2 of section 43-33-08, section 43-33-11, subsection 1 of section 53-06.1-03, section 57-36-02, subsection 1 of section 62.1-01-01, and section 62.1-04-03 of the North Dakota Century Code, relating to the license fees for detection of deception operators, hearing aid dealers and fitters, hearing aid trainees, gaming organizations, definition of dangerous weapon, concealed weapon licenses, and distributors at wholesale and retail of tobacco products.

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

SECTION 1. AMENDMENT. Subsection 2 of section 43-31-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The annual license fee is ~~twenty-five~~ thirty-five dollars, and shall be due and payable on or before October first of each year.

SECTION 2. AMENDMENT. Subsection 2 of section 43-33-08 of 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~~ thirty-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 3. AMENDMENT. Section 43-33-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

* **SECTION 4. AMENDMENT.** Subsection 1 of section 53-06.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as otherwise provided in this subsection, eligible organizations desiring to conduct games of chance shall annually apply for a license from the attorney general before July first on forms provided by the attorney general and shall include with the application a ~~fifty~~ one hundred dollar license fee. An eligible organization may apply for local authorization to conduct raffles or bingo in which the primary prize does not exceed one thousand dollars, and the aggregate does not exceed two thousand dollars, or to conduct sports pools in which the total wagers do not exceed five hundred dollars for each pool. To obtain local authorization, the eligible organization

* **NOTE:** Section 53-06.1-03 was also amended by section 1 of House Bill No. 1281, chapter 611, and by section 1 of Senate Bill No. 2064, chapter 612.

shall apply directly to the governing body of the city in which it conducts its principal activities or, if its principal activities are conducted in a county but outside the limits of a city, it shall apply to the board of county commissioners for a license. Applications for the conduct of games of chance subject to authorization by a city or county must be made on forms provided by the attorney general and must be accompanied by a ten dollar permit fee payable to the city or county governing body.

SECTION 5. AMENDMENT. Section 57-36-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-02. Distributors and dealers to be licensed. Each person engaged in the business of selling cigarettes, cigarette papers, snuff, cigars, or tobacco in this state, including any distributor or dealer, shall secure a license from the attorney general before engaging in such business or continuing to engage therein. A separate application and license shall be required for each distributor at each outlet or place of business within the state, and a separate dealer's license shall be required for each retail outlet when a person shall own or control more than one place of business dealing in cigarettes, cigarette papers, snuff, cigars, or tobacco. No retailer shall be granted a distributor's license except a retailer who also performs, in the usual course of business, a distributor's or wholesaler's function, and has performed such functions for at least one year prior to filing application for said license. Such license shall be issued by the attorney general on applications stating, on a form prescribed by him, the name and address of the applicant, the address and place of business at which it is proposed to engage in such business, the type of business, and such other information as may be required for the proper administration of this chapter. Each application for a wholesale or distributor's outlet license shall be accompanied by a fee of ~~fifteen~~ twenty-five dollars and a surety bond to be approved by the attorney general in the sum of not less than one thousand dollars or more than five thousand dollars. Each application for a dealer's outlet license shall be accompanied by a fee of ~~ten~~ fifteen dollars. Stamps or insignia provided for in this chapter shall be sold to and affixed by licensed distributors only. Licensed dealers may sell or buy or have in their possession only cigarettes upon which such stamps or insignia have been previously affixed. A distributor's license does not authorize the holder thereof to make sales at retail. Each license issued shall be prominently displayed on the premises covered by the license.

SECTION 6. AMENDMENT. Subsection 1 of section 62.1-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Dangerous weapon" includes any switchblade or gravity knife, machete, scimitar, stiletto, sword, ~~or dagger,~~ or knife with a blade of five inches [12.7 centimeters] or more; any throwing star, nunchaku, or other martial arts

weapon; any billy, blackjack, sap, bludgeon, cudgel, metal knuckles, or sand club; any slungshot; any bow and arrow, crossbow, or spear; any stun gun; any weapon that will expel, or is readily capable of expelling, a projectile by the action of a spring, compressed air, or compressed gas including any such weapon, loaded or unloaded, commonly referred to as a BB gun, air rifle, or CO₂ U gun; and any projector of a bomb or any object containing or capable of producing and emitting any noxious liquid, gas, or substance.

SECTION 7. AMENDMENT. Section 62.1-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62.1-04-03. License to carry a firearm or dangerous weapon concealed.

1. The chief of the bureau of criminal investigation shall issue a license to carry a firearm or dangerous weapon concealed upon review of an application submitted to the chief if the following criteria are met:
 - a. The applicant has a valid reason for carrying the firearm or dangerous weapon concealed, including self-protection, protection of others, or work-related needs.
 - b. The applicant is not a person specified in section 62.1-02-01.
 - c. The applicant has the written approval for the issuance of such a license from the sheriff of the applicant's county of residence, and, if the city has one, the chief of police or a designee of the city in which the applicant resides. The approval by the sheriff may not be given until the applicant has successfully completed a background investigation in that county and has attended a testing procedure conducted pursuant to rules adopted by the attorney general. The testing procedure for approval of a concealed weapons license must include an open book test to be given from a manual that sets forth weapon safety rules and the deadly force law of North Dakota, including judicial decisions and attorney general opinions, and a proficiency test consisting of a course of fire to be designated by the criminal justice training and statistics division of the attorney general's office. The purpose of the proficiency test is only to ensure a minimal level of competency in the loading and unloading of the firearm or dangerous weapon, use of safety devices and basic firearm or dangerous weapon functioning, and minimal accuracy. A weapons instructor certified by the attorney general shall conduct the testing procedure.

The attorney general shall develop rules that ensure that this testing will be conducted periodically. The local agency conducting the testing may assess a charge of up to fifty dollars for conducting this testing. The testing procedure is not required for a renewal of a concealed weapons license.

- d. The applicant satisfactorily completes the bureau of criminal investigation application form and has successfully passed a background investigation or criminal records check conducted by that agency.
2. The sheriff is required to process the application within thirty days after the completion of the testing portion unless the application is for renewal of a license and in such case the application must be processed within thirty days after its receipt by the sheriff, the chief of police is required to process the application within ten working days of its receipt by the agency, and the bureau of criminal investigation is required to process the application and make a determination within thirty days of receipt from the forwarding agency.
3. The license fee for a concealed weapons license is ten dollars. The license fee must be paid before the license is issued by the chief of the bureau of criminal investigation.
4. The chief of the bureau of criminal investigation shall prescribe the form of the application and license, which must include the name, address, description, a photograph, and the signature of the individual. The application form must require sufficient information to properly conduct a background investigation and be accompanied by two sets of classifiable fingerprints. The two sets of classifiable fingerprints are not required for a renewal of a concealed weapons license. The license is valid for three years. The license must be prepared in triplicate, and the original must be delivered to the licensee, the duplicate must be sent by mail, within seven days after issuance, to the sheriff of the county in which the applicant resides, and the triplicate must be preserved for six years by the chief. In those cases in which the licensee resides in a city, an additional copy of the license must be made and sent by mail, within seven days after issuance, to the chief of police of the city in which the applicant resides. The individual shall notify the chief of the bureau of criminal investigation of any change of address or any other material fact which would affect the restrictions on or the need for the license.
- 4- 5. The chief of the bureau of criminal investigation may deny an application or revoke or cancel such a license after it has been granted for any material misstatement by an

applicant in an application for the license or any violation of this title.

- ~~5-~~ 6. The applicant may appeal a denial or revocation of this license to the district court of the applicant's county of residence.
- ~~6-~~ 7. The attorney general may adopt rules to carry out this title.

Approved April 14, 1987
Filed April 15, 1987

CHAPTER 533

SENATE BILL NO. 2325
(Todd, Nething, Langley)

NURSING HOME ADMINISTRATORS

AN ACT to amend and reenact sections 43-34-02 and 43-34-05 of the North Dakota Century Code, relating to the composition of the board of examiners for nursing home administrators, and the annual licensing fee for nursing home administrators.

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

SECTION 1. AMENDMENT. Section 43-34-02 of the 1985 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. Two members of the board shall be the state health officer and the executive director of the department of human services.
2. One member of the board shall be a physician appointed to the board for a three-year term by the governor.
3. One member of the board shall be a hospital administrator appointed to the board for a three-year term by the governor.
4. ~~Three~~ Four members of the board shall be licensed nursing home administrators appointed to the board for three-year terms by the governor.
5. ~~One member of the board shall be a licensed nursing home administrator appointed to the board for a three-year term by the governor.~~
- 6- One member of the board shall be a nurse appointed to the board for a three-year term by the governor.

- 7- 6. Any vacancies occurring in the appointments made by the governor shall be filled by the governor.
- 8- 7. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 2. AMENDMENT. Section 43-34-05 of 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~~ may not exceed ~~fifty one~~ hundred dollars per annum. ~~Said~~ The license ~~shall expire~~ expires on the thirty-first day of December in the year of its issuance, and ~~shall be~~ is 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 20, 1987
Filed March 23, 1987

CHAPTER 534

HOUSE BILL NO. 1092

(Committee on Natural Resources)

(At the request of the Board of Water Well Contractors)

MONITORING WELL CONTRACTORS

AN ACT to create and enact three new sections to chapter 43-35 of the North Dakota Century Code, relating to certified monitoring well contractors; and to amend and reenact sections 43-35-12, 43-35-13, 43-35-14, 43-35-21, and 43-35-22 of the North Dakota Century Code, relating to certification of monitoring well contractors.

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

SECTION 1. AMENDMENT. Section 43-35-12 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-12. 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 ~~or~~ water well pump and pitless unit installers, or monitoring well contractors. The board shall give no less than ten days' written notice to each applicant of the time and place of such examination. The board shall develop separate examinations for the certification of water well contractors ~~and for the certification of~~ water well pump and pitless unit installers, and monitoring well contractors.

SECTION 2. AMENDMENT. Section 43-35-13 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-13. Certificate - How obtained - Fee - Bond. Any person desiring to take the examination to become a certified water well contractor shall first have completed a minimum of one year apprenticeship or experience in water well drilling and construction under the direct supervision of a certified water well contractor or have completed a vocational school program of at least one year in water well construction and shall make application to the board. Any person desiring to take the examination to become a certified water well pump and pitless unit installer shall first have

completed a minimum of one-year apprenticeship or experience in water well pump and pitless unit installation under the direct supervision of a certified water well pump and pitless unit installer or have completed a vocational school program of at least one year in water well pump and pitless unit installation. Any person desiring to take the examination to become a certified monitoring well contractor shall first have completed a minimum of one year apprenticeship or experience in monitoring well construction under the direct supervision of a certified water well contractor or a certified monitoring well contractor or have completed a vocational school program of at least one year in water well construction or hold a bachelor's degree in engineering or geology from an approved school and shall make application to the board. A person applying to take a certification examination shall 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 or a water well pump and pitless unit installer, the board shall issue to that person an appropriate certificate upon the applicant's executing and filing with the board a bond as required in this chapter. The board may offer a combined examination for certification of a person as a water well contractor and a water well pump and pitless unit installer and may issue a single certificate for successful completion of the combined examination. Certificates issued under this chapter are not transferable.

SECTION 3. AMENDMENT. Section 43-35-14 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-14. Bond required. Before receiving a certificate under this chapter, a qualified applicant shall execute and deposit with the board a surety bond in the amount of two thousand dollars conditioned for the faithful performance of all water well, monitoring well, or pump and pitless unit installation contracts undertaken by ~~him~~ the applicant and the strict compliance with this chapter.

SECTION 4. AMENDMENT. Section 43-35-21 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-21. Certification to nonresidents - Reciprocity. To the extent ~~that other states which provide~~ providing for the certification of water well contractors ~~or,~~ monitoring well contractors, or water well pump and pitless unit installers provide for similar action, the ~~state board of water well contractors~~ may grant certification to water well contractors, monitoring well contractors, and water well pump and pitless unit installers certified by other states, upon payment by the applicant of the required fee and the furnishing of a bond as provided by section 43-35-14, 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 5. AMENDMENT. Section 43-35-22 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-22. Contracting without certification - Penalty. Any person contracting to drill a water well or monitoring well or install a pump or pitless unit for another without being certified in accordance with this chapter, or otherwise violating this chapter, is guilty of an infraction.

SECTION 6. A new section to chapter 43-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Certification of persons engaged in monitoring well contracting prior to certification requirement. Upon application and sworn affidavit and the payment of a registration fee of not more than fifty dollars, as set by the board, the board shall issue an appropriate certificate, without examination, to any person who has been engaged in the business of monitoring well contracting as an occupation for at least one year prior to the effective date of this Act, if the application is made prior to July 1, 1988. A person certified as a water well contractor under this chapter before the effective date of this Act, is deemed to be properly certified as a monitoring well contractor under this chapter subject to the renewal provisions of section 43-35-17 and is not required to apply for and receive a separate certificate under this section.

SECTION 7. A new section to chapter 43-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Firm engaged in monitoring well work to employ certified monitoring well contractor - Exception. No person may engage in the business of constructing a monitoring well in this state unless at all times a certified monitoring well contractor, who is responsible for the proper construction or alteration thereof, is in charge. This section does not prohibit any person from installing monitoring wells on that person's own premises for that person's own use.

SECTION 8. A new section to chapter 43-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Standards for installation of monitoring wells - Reports required. All monitoring wells constructed must comply with the rules adopted by the state department of health and the board. Each monitoring well contractor shall furnish all reports required by the rules of the state department of health or the board.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 535

SENATE BILL NO. 2459
(Senator Nalewaja)
(Representative Scherber)

ENVIRONMENTAL HEALTH PRACTITIONERS

AN ACT to amend and reenact subsection 1 of section 43-43-01, and sections 43-43-03, 43-43-04, 43-43-05, 43-43-06, and 43-43-07 of the North Dakota Century Code, relating to the advisory board of environmental health practitioners and the duties of the state health officer.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 43-43-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Advisory board" means the following or their appointed agents: ~~secretary of state health officer~~ as chairperson, the director of the state laboratories department, the ~~state health officer~~ commissioner of the North Dakota department of agriculture, and the president of the North Dakota environmental health association. The ~~secretary of state health officer~~ shall appoint ~~one agent of~~ a district or local health unit environmental health practitioner and one consumer.

SECTION 2. AMENDMENT. Section 43-43-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-43-03. Advisory board duties and compensation. The advisory board shall meet at the request of the ~~secretary of state health officer~~ to assist in implementation of duties as defined in section 43-43-04. The advisory board shall be reimbursed for any necessary expenses, but shall serve without further compensation except as may be authorized and fixed by the ~~secretary of state health officer~~ by rule.

SECTION 3. AMENDMENT. Section 43-43-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 43-43-01 was also amended by section 28 of Senate Bill No. 2278, chapter 263.

43-43-04. Powers and duties of secretary of state health officer. The secretary of state health officer shall adopt rules consistent with and necessary for the implementation and enforcement of this chapter, including rules concerning the:

1. Qualifications and requirements for licensure under this chapter.
2. Application for licensure and renewal of license.
3. Licensure.
4. Fees that may not exceed fifty dollars for licensure fees.
5. Scope of practice.
6. Ethical standards of conduct.
7. Continuing competency and education requirements.
8. Grievances and complaints.
9. Reimbursement of advisory board expenses.
10. Emergency exemptions as to requirements for licensure under this chapter.

SECTION 4. AMENDMENT. Section 43-43-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-43-05. Exception from requirements. The secretary of state health officer must license all persons actually engaged in the practice of environmental health in this state upon receipt of proof of a bona fide practice in this state; however, the applicant must file an application and present such proof prior to July 1, 1986, or become subject to licensure requirements of this chapter.

SECTION 5. AMENDMENT. Section 43-43-06 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-43-06. Environmental health practitioner licensure fee administration fund. There shall be maintained in the state treasury a special fund to be known as the environmental health practitioner licensure fee administrative fund. All money deposited or paid into this fund shall be continuously available to the secretary of state health officer for reimbursement to the advisory board, and shall not lapse at any time or be transferred to any other fund. The fund shall consist of any money collected by the secretary of state health officer in accordance with section 43-43-04.

SECTION 6. AMENDMENT. Section 43-43-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-43-07. Denial, suspension, revocation of license. The secretary of state health officer may refuse to issue or renew a license or may suspend or revoke a license when the licensee or applicant for license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
2. Engaging in unprofessional conduct, as defined by the rules adopted by the secretary of state health officer, or violating the code of ethics adopted by the secretary of state health officer.
3. Conviction of an offense, as defined by section 12.1-01-04, determined by the secretary of state health officer to have a direct bearing on the person's ability to serve the public in the capacity of a licensed environmental health practitioner; or the secretary of state health officer determines that such applicant or licensee, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.
4. Violation of any order or rule adopted by the secretary of state health officer.
5. Violation of this chapter.

The person may apply to the secretary of state health officer for reinstatement after one year from the date of revocation of a license. The secretary of state health officer may accept or reject an application for reinstatement, or may require conditions and an examination for reinstatement.

Approved March 20, 1987
Filed March 23, 1987

CHAPTER 536

SENATE BILL NO. 2277
(Committee on Social Services and Veterans Affairs)
(At the request of the Department of Human Services)

ADDICTION COUNSELOR LICENSING

AN ACT to create and enact a new chapter to title 43 of the North Dakota Century Code, relating to licensing of addiction counselors; to amend and reenact section 23-17.1-04, subsections 6, 7, and 9 of section 25-03.1-02, and subsection 3 of section 31-01-06.3 of the North Dakota Century Code, relating to the certification of addiction counselors, to the definitions of expert examiner, independent expert examiner, and mental health professional, and to the definition of counselor; and to provide a penalty.

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

SECTION 1. AMENDMENT. Section 23-17.1-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.1-04. Issuance, suspension, and revocation of ~~certificate or~~ license.

1. The department of human services is hereby authorized to ~~certify addiction counselors and to~~ issue licenses to operate addiction hospitals and other addiction treatment programs, for a period of ~~one year~~ two years, which, after examination or inspection, are found to comply with the provisions of this chapter, and any ~~regulations~~ rules adopted by the department.
2. The department may suspend or revoke a ~~certificate or~~ license issued hereunder on any of the following grounds:
 - a. Violation of any of the provisions of this chapter or the rules ~~and regulations~~ issued pursuant thereto.
 - b. Permitting, aiding or abetting the commission of any illegal act in such institution.

- c. Conduct or practices detrimental to the welfare or health of any patient of such institution.
3. Before any ~~certificate or~~ license issued hereunder is suspended or revoked, thirty days' written notice shall be given the holder thereof of the date set for the hearing of the complaint. The holder of such ~~certificate or~~ license shall be furnished with a copy of the complaint and be entitled to be represented by legal counsel at such hearing. Such notice shall be given by the department by registered or certified mail. If a ~~certificate or~~ license is revoked as herein provided, a new application for a ~~certificate or~~ license may be considered by the department when, and after, the conditions upon which revocation was based have been corrected and evidence of this fact has been satisfactorily furnished. A new ~~certificate or~~ license may then be granted after proper inspection has been made on all provisions of this chapter and ~~the any rules and regulations adopted~~ hereunder have been complied with.

SECTION 2. AMENDMENT. Subsections 6, 7, and 9 of section 25-03.1-02 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Expert examiner" means a licensed physician, psychiatrist, clinical psychologist, or ~~master licensed~~ addiction counselor appointed by the court to examine the respondent. An evaluation of a respondent's physical condition shall be made only by a licensed physician or psychiatrist, an evaluation of a respondent's mental status shall be made only by a licensed psychiatrist or clinical psychologist, and an examination by a ~~master licensed~~ addiction counselor shall be limited to whether the respondent is an alcoholic or drug addict.
7. "Independent expert examiner" means a licensed physician, psychiatrist, clinical psychologist, or ~~master licensed~~ addiction counselor, chosen at the request of the respondent to provide an independent evaluation of whether the respondent meets the criteria of a person requiring treatment. An examination by a ~~master licensed~~ addiction counselor shall be limited to whether the respondent is an alcoholic or drug addict, and whether the respondent is a person requiring treatment.
9. "Mental health professional" means:
- a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners.
 - b. A social worker with a master's degree in social work from an accredited program.

- c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program.
- d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a registered nurse as defined by subdivision c, or an expert examiner as defined by subsection 6.
- e. An A licensed addiction counselor certified by the department of human services.

SECTION 3. AMENDMENT. Subsection 3 of section 31-01-06.3 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Counselor" means an addiction counselor who has been certified by the professional standards and certification committee appointed by the executive director of the department of human services in accordance with qualifications established by that committee licensed under section 4 of this Act or who is reasonably believed by the client so to be, while engaged in the diagnosis or treatment of a physical, mental, or emotional condition, including alcohol or any addiction.

SECTION 4. A new chapter to title 43 of the North Dakota Century Code is hereby created and enacted to read as follows:

Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Addiction counseling" means the provision of counseling or assessment of persons regarding their use or abuse of alcohol or a controlled substance.
2. "Board" means the board of addiction counseling examiners.
3. "Internship" means a minimum of a twelve-month, full-time professional experience under the supervision of a clinical supervisor in a licensed addiction treatment facility.
4. "Practicum" means a minimum of nine months clinical training including inpatient and outpatient treatment work.

Board of addiction counseling examiners - Composition. The governor shall appoint a seven-member board of addiction counseling examiners. The members shall include:

1. Four members who are licensed addiction counselors actively engaged in the practice of addiction counseling.

2. Two members who are lay persons.
3. One member who is a director or coordinator of an addiction counselor training program.

Board member terms. The governor, prior to September 1, 1987, shall appoint two board members for a term of one year, two board members for a term of two years, and three board members for a term of three years. Appointments made thereafter must be for three-year terms, but no person may be appointed to serve for more than two consecutive terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section.

Board power, duties, and authority. The board shall administer and enforce the provisions of this chapter, evaluate the qualifications of applicants, and issue licenses under this chapter. The board shall also approve addiction counselor training programs. The board may:

1. Adopt rules under chapter 28-32, relating to licensure of addiction counselors, the establishment of ethical standards of practice for persons holding a license to practice addiction counseling in this state, the establishment of continuing education requirements, and the requirements for approved addiction counselor training programs.
2. Issue subpoenas, examine witnesses, and administer oaths, and may investigate allegations of practices violating the provisions of this chapter.
3. Approve and administer examinations for licensing addiction counselors.
4. Collect a fee set by the board on the filing of each application for a license to practice addiction counseling.
5. Appoint or employ persons to assist the board in carrying out its duties under this chapter.

Board meetings.

1. The board shall meet on at least a quarterly basis. A majority of the members constitute a quorum.
2. Each board member shall serve without compensation but shall receive expenses as provided in section 54-06-09.

Licenses.

1. No person may represent to the public that the person is an addiction counselor or engage in the practice of addiction counseling in this state unless that person is a licensed addiction counselor. Nothing in this chapter may be construed to prevent any person from doing work within the standards and ethics of that person's profession and calling, provided that the person does not represent to the public, by title, that the person is engaging in addiction counseling. Trainees and interns in programs approved by the board to provide addiction counselor training may engage in activities required by the training program without obtaining a license to practice addiction counseling.
2. The board shall issue an initial one-year license as an addiction counselor to an applicant who:
 - a. Has successfully completed course work, approved by the board, at an accredited college or university;
 - b. Has successfully completed an examination approved by the board for this purpose; and
 - c. Has successfully completed an addiction counselor training program, approved by the board, a practicum, and an internship.
3. Upon application prior to January 1, 1988, the board shall issue an initial one-year license as an addiction counselor to any person holding a department of human services certification as an addiction counselor or a master addiction counselor.
4. The board may grant reciprocity, on such terms and conditions as it may determine necessary, to an applicant for licensure who is in good standing as a licensed, approved, or certified addiction counselor under the laws of another state, territory of the United States, or province of Canada that imposes substantially the same requirements that are imposed under this chapter.
5. An applicant who is denied licensure must be notified in writing of the reasons for denial and of the right to a hearing before the board, under chapter 28-32, if a hearing is requested within thirty days.

Renewal of license - Revocation of license.

1. The board shall annually renew the initial license of a person licensed under this chapter upon application and showing that:
 - a. The holder of the license is in compliance with the provisions of this chapter and the rules adopted under

this chapter, except that the requirements of subsection 2 of the preceding section do not apply to those addiction counselors licensed pursuant to subsection 3 of the preceding section.

- b. The holder of the license has successfully completed the continuing education requirements set by the board.
2. After notice to the license holder and, if demanded within thirty days, after a hearing before the board under chapter 28-32, the board may revoke the license of an addiction counselor upon a showing that the holder of the license has engaged in unprofessional conduct. Unprofessional conduct includes:
 - a. Obtaining an initial license or renewal by means of fraud, misrepresentation, or concealment of material facts.
 - b. Violating rules set by the board.
 - c. Violating a provision of this chapter.
3. One year from the date of the revocation, the license holder may make application for initial licensure.

Penalty. Any person who violates this chapter is guilty of a class B misdemeanor.

Approved April 4, 1987
Filed April 6, 1987