

money or assets or any part thereof, without the written consent of such surety or sureties, or an order of court, or a judge thereof made on such notice to such surety or sureties as such court or judge may direct. Such agreement shall not in any manner release from or change the liability of the principal or sureties as established by the terms of the said bond.

Approved March 20, 1947.

HEALTH AND SAFETY

CHAPTER 198

S. B. No. 167—(Day by request)

DUTY OF COUNTIES TO BURY DECEASED PERSONS

AN ACT

To amend and reenact Subsection 5 of Section 23-0603 of the North Dakota Revised Code of 1943, relating to the duty of counties to bury deceased persons.

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

§ 1. AMENDMENT.] That Subsection 5 of Section 23-0603 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

5. If the deceased left no husband, wife, or kindred answering the foregoing description and did not leave means sufficiently to defray his funeral expenses, including the cost of a casket, upon the county welfare board of the county in which the death occurs, and such board shall employ some person to arrange for and superintend the burial. The necessary and reasonable expense thereof, not exceeding one hundred dollars, shall be borne by the county.

Approved March 20, 1947.

CHAPTER 199

H. B. No. 142

(Haugland, Smart, Brickner, and Ellingson)

**SUPERVISED PUBLIC DISPLAY OF FIREWORKS—
PROHIBITING SALE OF FIREWORKS; PENALTY****AN ACT**

To prohibit the sale, offering or exposing for sale of fireworks, and to regulate the manner of their use; providing for issuance of permits; providing for certain exceptions; duties of state fire marshal to establish rules and regulations providing for the seizure of unlawful stocks; providing penalties for the violation of the provisions of this Act and declaring an emergency.

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

§ 1. FIREWORKS DEFINED.] As used in this Act, the term "fireworks" means any substance or combination of substances or articles prepared for the purpose of producing a visible or an audible effect by explosion, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, sky rockets, roman candles, daygo bombs, or other fireworks of like construction, and any fireworks containing any explosive or compound, or any tablets or other device containing any explosive substance and commonly used as fireworks. The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing twenty-five hundredths grains or less of explosive compound are used and toy pistol caps which contain less than twenty hundredths grains of explosive mixture, or chinese made firecrackers of not more than 1½ inches in length and ¼ inch in outside diameter.

§ 2. SALE OF FIREWORKS PROHIBITED.] Except as otherwise provided in this Act, no person shall offer for sale, expose for sale, sell at retail, bring into this state or cause to be brought into this state or use or explode any fireworks.

§ 3. PUBLIC DISPLAY OF FIREWORKS PERMITTED BY MUNICIPALITY OR FAIR ASSOCIATION WITHIN ITS LIMITS; SUPERVISED DISPLAY ALLOWED; PERMIT REQUIRED; DUTY OF FIRE MARSHAL TO ESTABLISH REGULATIONS.] This Act shall not prohibit supervised public displays of fireworks by cities, villages, fair associations, amusement parks, and other organizations. Except when such display is given by a municipality or fair association within its own limits, no display shall be given unless a permit therefor has first been secured. Every application for such a permit shall be made in writing to the city auditor or the village clerk at least fifteen days in ad-

vance of the date of the display. The application promptly shall be referred to the governing body of the village or city which shall make an investigation to determine whether the operator of the display is competent and whether the display is of such character and is to be so located, discharged or fired that it will not be hazardous to property or endanger any person. Such governing body shall report the results of this investigation to the city auditor or the village clerk, as the case may be, and if he reports that in his opinion the operator is competent and that the display as planned will conform to safety requirements, including the rules and regulations of the state fire marshal hereinafter provided for, such auditor or clerk shall issue a permit for the display when the applicant pays a permit fee of two dollars. When the supervised public display for which a permit is sought is to be held outside the limits of an incorporated municipality the application shall be made to the county auditor and the duties imposed by this Act upon the city auditor or village clerk shall be performed in such case by the county auditor. The duties imposed on the governing body of the city or village by this Act shall be performed in such case by the board of county commissioners. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. No permit granted hereunder shall be transferable. The state fire marshal shall adopt reasonable rules and regulations not inconsistent with the provisions of this Act to insure that fireworks displays are given safely.

§ 4. EXCEPTIONS.] Nothing in this Act shall be construed to prohibit the following:

1. Any resident wholesaler, dealer, or jobber from selling at wholesale such fireworks as are not herein prohibited;
2. The sales of any kind of fireworks for shipment directly out of the state;
3. The use of fireworks by airplanes, railroads, or other transportation agencies for signal purposes or illumination;
4. The sale or use of blank cartridges for a show or theatre, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations.

§ 5. STATE FIRE MARSHAL OR SHERIFF TO SEIZE ALL FIREWORKS OR COMBUSTIBLES.] The state fire marshal or any sheriff, police officer, constable, or local fire marshal shall seize, take, remove or cause to be removed at the ex-

pense of the owner all fireworks or combustibles offered or exposed for sale, stored or held for use in violation of this Act.

§ 6. VIOLATION A MISDEMEANOR.] Any person violating the provisions of this Act shall be guilty of a misdemeanor.

§ 7. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1947.

CHAPTER 200

H. B. No. 52

(Langley and Legislative Research Committee at request of State Health Planning Committee)

STATE DEPARTMENT OF HEALTH AND HEALTH COUNCIL AN ACT

To amend and reenact Sections 23-0101, 23-0102, 23-0103, 23-0104, 23-0105, 23-0106, 23-0107, 23-0108, and 23-0111 of the North Dakota Revised Code of 1943, establishing a state department of health and health council, providing for its membership, officers and employees, fixing their terms and compensation and prescribing their duties and powers; authorizing such department to accept funds from the federal government and other sources, and to qualify for benefits provided for in any federal laws enacted for the construction, equipping and maintenance of medical hospitals and related institutions; providing for the licensure of medical hospitals and related institutions, prescribing the qualifications and procedure therefor and the inspection and regulation thereof; providing for the denial, suspension, revocation and reinstatement of such licenses, and the procedure therefor, providing for an appeal from certain orders; providing for an appropriation therefor; providing penalties for the violation of the provisions of this Act and of the regulations promulgated thereunder; repealing Chapter 50-13 and Subsection 1 of Section 54-2113 of the North Dakota Revised Code of 1943, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 23-0101 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0101. STATE DEPARTMENT OF HEALTH; OFFICERS.] The state department of health shall consist of a health council, a state health officer, directors of divisions and other employees of the department.

§ 2. AMENDMENT.] That Section 23-0102 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0102. HEALTH COUNCIL; MEMBERS; TERMS OF OFFICE; VACANCIES; COMPENSATION; OFFICERS; MEETINGS.] The health council shall consist of nine members appointed by the governor in the following manner: Two persons shall be appointed from a list of four submitted by the state hospital association, two persons shall be appointed from a list of four submitted by the state medical association, one shall be appointed from a list of two submitted by the state dental association, one shall be appointed from a list of two submitted by the state nurses association, one shall be appointed from a list of two submitted by the State Pharmaceutical Association and there shall be appointed two lay persons with broad civic interests representing varied segments of the populations. The members of the first health council shall be appointed within thirty days after this Act becomes effective to serve for the following terms: three members for one year, three members for two years, and three members for three years, from the date of their appointment or until their successors are duly appointed. On the expiration of the term of any member, the governor, in the manner hereinbefore provided, shall appoint for a term of three years, persons to take the place of members whose terms on said council are about to expire. The officers of said council shall be elected annually. The following persons shall serve in an advisory capacity to the health council: the state health officer, the attorney general, the state superintendent of public instruction, the chairman of the board of administration, the state fire marshal, the executive secretary of the state board of nurse examiners, the executive director of the state board of public welfare, and such other persons as the governor may designate. The council shall meet in January and June of each year and at such other times as the council or its chairman may direct. The council shall have as standing committees, a health committee and a hospital committee and such other committees as said council may find necessary. The health committee shall consist of one of the representatives of the state medical association, one of the representatives of the state hospital association, the representative of the state dental association, the representative of the state nurses association and two of the representatives of civic interests. The hospital committee shall consist of two representatives of the hospital association, one of the representatives of the state medical association, the representative of the state nurses association and one of the representatives of civic interests. The members of these committees shall be selected by the chairman of the health council from its own membership. The chairman shall have the responsibility of assigning to the special committees, problems relating to the respective fields. The members of the council shall re-

ceive only their actual and necessary traveling expense when engaged in the discharge of their official duties.

§ 3. AMENDMENT.] That section 23-0103 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0103. POWERS AND DUTIES OF THE HEALTH COUNCIL.] The health council shall:

1. Fix, subject to the provisions of Section 23-0102, the time and place of the meetings of the council;
2. Make rules and regulations for the government of the council and its officers and meetings;
3. Establish standards, rules and regulations which are found necessary for the maintenance of public health, including sanitation and disease control;
4. Provide for the development, establishment and enforcement of basic standards for hospitals and related medical institutions which render medical and nursing care, and for the construction and maintenance of such institutions, such standards to cover matters pertaining to sanitation, building construction, fire protection measures, nursing procedures and preservation of medical records; provided no regulation shall be made as to building construction of existing medical hospitals save in relation to safety factors; and
5. Hold hearings on all matters brought before it by applicants and licensees of medical hospitals with reference to the denial, suspension, or revocation of licenses and make appropriate determination as specified herein.

The council may direct the state health officer to do or cause to be done, any or all of the things which may be required in the proper performance of the various duties placed upon the state department of health.

§ 4. AMENDMENT.] That section 23-0104 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0104. EFFECT OF RULES AND REGULATIONS.] All rules and regulations promulgated by the health council under the powers granted by any provisions of this Act shall be binding upon all county and municipal health officers, and upon all county, municipal and private medical hospitals and upon related institutions, and shall have the force and effect of law.

§ 5. AMENDMENT.] That section 23-0105 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0105. HEALTH OFFICER; QUALIFICATION; SALARY; TERM; DUTIES.] The state health officer shall be appointed by the governor. He or she shall be a physician who has graduated from a regular school of medicine of Class A standing, who shall have had special training and/or experience in public health administration and who shall be duly licensed or eligible for license to practice his profession in North Dakota. In the latter instance he shall obtain a license at the next examination of the state board of medical examiners or disqualify. He shall receive a salary commensurate with his training and/or experience in public health administration, such salary to be fixed by the health council within the limits of legislative appropriations to the department. He also shall receive all necessary traveling expenses incurred in the performance of official business. He shall not engage in any other occupation or business and shall hold office for four years beginning July 1, 1947. The state health officer shall be the administrative officer of the state department of health. The duties of the state health officer shall be as follows:

1. Enforce all rules and regulations as promulgated by the health council;
2. Hold the several boards of health responsible for the enforcement of state regulations, serve in an advisory capacity to the several boards of health in the counties, cities, villages and townships of this state and provide for coordination of health activities;
3. Establish and enforce minimum standards of performance of the work of the local department of health;
4. Study health problems and plan for their solution as may be necessary;
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole;
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council;
7. Collect and distribute health education material;

8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes;
9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions; and
10. Comply with the state merit system policies of personnel administration.

§ 6. AMENDMENT.] That section 23-0106 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0106. REPORT OF STATE HEALTH OFFICER; CONTENTS.] The state health officer, on the first day of December of each even numbered year, shall make a report to the governor covering the preceding two-year period on the following subjects:

1. The activities of the various divisions, the work accomplished during the two years covered by the report, and an analysis of the program of each of the divisions;
2. The expenditures of the state department of health;
3. The expenditures in each county board of health or the district board of health; and
4. Any reports relating to the hospital program as required by the health council.

§ 7. AMENDMENT.] That section 23-0107 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0107. WORKING DIVISIONS OF DEPARTMENT.] The state department of health may establish the following divisions of health:

1. Division of vital statistics;
2. Division of preventable disease;
3. Division of sanitary engineering;
4. Division of public health laboratories with such labo-

ratories and branches thereof at such places as the health council may deem necessary;

5. Division of maternal and child hygiene;
6. Division of public health nursing;
7. Division of administration;
8. Division of health education;
9. Division of oral health; and
10. Such other divisions as may be deemed necessary from time to time by the council.

§ 8. AMENDMENT.] That section 23-0108 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0108. DIRECTORS OF DIVISIONS; APPOINTMENT; SALARY; DUTIES.] The state health officer shall appoint directors of the various divisions of the department and shall determine the salary within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director shall be those prescribed by the state health officer.

§ 9. AMENDMENT.] That section 23-0111 of the North Dakota Revised Code of 1943 be amended and reenacted to read as follows:

23-0111. ACCEPTANCE OF FUNDS AND RIGHT TO QUALIFY FOR BENEFITS UNDER FEDERAL LAWS AUTHORIZED.] The state department of health may:

1. Accept funds from cities, counties, the federal government, private organizations, and individuals for infancy and maternal hygiene, for other public health work and for the purpose of conducting a survey of existing medical hospitals and related institutions, planning of needed hospital construction and for construction and maintenance of such medical hospitals and related institutions. When approved by the governor of this state, the state department of health may match the same from any unexpended portion of its appropriation in accordance with specifications agreed to or required by congressional act. All infancy and maternal hygiene and public health work shall be done under the supervision of the state department of health; and
2. Do any and all things that may be necessary in order to enable the state of North Dakota to receive the full benefit of any Federal laws now in force for the con-

struction, equipping and maintenance of medical hospitals and related institutions.

§ 10. LICENSURE OF MEDICAL HOSPITALS.] After July 1, 1947, no person, partnership, association, corporation, county or municipal corporation, or agency thereof, which maintains and operates organized facilities for the diagnosis, treatment and/or care of two or more non-related persons suffering from illness, injury, or deformity, or where obstetrical or other care is rendered over a period exceeding twenty-four hours shall be established, conducted, or maintained in the state of North Dakota without obtaining annually a license therefor in the manner hereinafter provided in Sections 11 and 12. Hospitals maintained and operated by the state or federal government or homes supervised and licensed by the state board of public welfare such as those for the aged and infirm and those for unmarried mothers and chiropractic hospitals and sanatoriums are not required to obtain a license under this Act. In the case of hospitals maintained and operated by the state or in the case of homes licensed by the state board of public welfare, the state department of health shall have the responsibility of inspecting, rendering consultation service, and making recommendations on phases of hospital administration covered in the standards promulgated by the health council.

§ 11. EXISTING MEDICAL HOSPITALS.] Institutions subject to this Act which are already in operation at the time of enactment of this Act shall be given a reasonable time, not to exceed one year from the date of enactment of this law, within which to comply with the rules, regulations, and minimum standards provided for herein.

§ 12. APPLICATION FOR LICENSE.] Applicants for license shall file applications under oath with the state department of health upon forms prescribed. Applications shall be signed by the owner, or in the case of a corporation by two of its officers, or in the case of a county or municipal unit by the head of such governmental department having jurisdiction over it. Applications shall set forth the full name and address of the owner of the institution for which license is sought, the names of the persons in control thereof and such additional information as the state department of health may require, including affirmative evidence of ability to comply with such minimum standards, rules and regulations as may be lawfully prescribed hereunder.

§ 13. LICENSES.] Licenses issued hereunder shall expire one year after date of issuance or upon such uniform dates annually, as the health council may prescribe by regulation. Licenses shall be issued only for the premises and

persons named in the application, and shall not be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

§ 14. INSPECTIONS AND CONSULTATIONS.] The state department of health shall make or cause to be made such inspections as may be prescribed by regulation. The health council may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the state department of health for preliminary inspection and recommendation.

§ 15. AUTHORITY TO ISSUE, DENY, SUSPEND OR REVOKE LICENSES.] The state department of health shall issue licenses for the operation of institutions subject to this Act which are found to comply with the provisions of this Act and such regulations as are lawfully promulgated by the health council. The state health officer with the approval of the health council may, after a hearing, suspend or revoke licenses issued hereunder on any of the following grounds:

1. Violation of any of the provisions of this Act or the rules and regulations promulgated pursuant thereto;
2. Permitting, aiding or abetting the commission of any unlawful act; or
3. Conduct or practices detrimental to the health or safety of patients and employees of said institutions; provided that this provision shall not be construed to have any reference to practices authorized by law; and provided further that no license shall be suspended or revoked for any trivial violation.

No application for a license shall be denied, or any licenses suspended or revoked, except after a hearing before the health council held pursuant to written notice to the applicant or licensee, served by registered mail, which notice shall concisely state the grounds for such denial or for such proposed suspension or revocation and shall fix the time and place of hearing which shall be not less than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order, either denying the application for license or granting the same, or suspending or revoking such license, or dismissing the proceedings to suspend or revoke as the merits of the case warrants. The council shall send a copy of its order to the applicant or licensee by registered mail, which shall contain its findings and conclusions,

and such order, except an order of dismissal, shall become final thirty days after the date of mailing unless the applicant or licensee appeals therefrom in the manner provided by Section 19 hereof.

§ 16. NOT APPLICABLE TO CERTAIN LAWS.] This Act shall not be construed in any way to restrict or modify any act pertaining to the placement and adoption of children or the care of unmarried mothers.

§ 17. OFFERING OR ADVERTISING TO DISPOSE OF INFANTS PROHIBITED.] No hospital providing maternity care shall in any way offer to dispose of any child or advertise that it will give children for adoption or hold itself out, directly or indirectly, as being able to dispose of children. However, such hospitals may inform an unmarried mother of child placing agencies licensed by the division of child welfare of the state board of public welfare.

§ 18. INFORMATION CONFIDENTIAL.] Information other than reports relating to vital statistics received by the state department of health through inspection or otherwise, authorized under this Act shall be confidential and shall not be disclosed publicly except in a proceeding involving the question of license. In the case of hospitals and related institutions providing maternity care, no agent of the state department of health or of any board of health, nor the licensee under the provisions of this Act shall disclose the contents of case records of such institution except:

1. In a judicial proceeding;
2. To legally constituted health or social agencies specifically interested in the patients; and
3. To persons having direct interest in the well-being of the patient, or her infant, and who are in a position to serve their interests should that be necessary.

§ 19. APPEAL.] An appeal may be taken to the district court from any order of the state health officer or health council, denying an application for a license to operate a medical hospital or related institution, or suspending or revoking a license, or from any order denying an application for a construction project. Any such appeal shall be taken in the manner provided in Chapter 28-32 of the title, "Judicial Procedure, Civil" of the North Dakota Revised Code of 1943.

§ 20. SAVINGS CLAUSE.] Should any provision or section of this Act be held to be invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section of this Act, it being the

legislative intent that this Act shall stand, notwithstanding the invalidity of any such provision or section.

§ 21. PENALTIES.] Any person, partnership, association, or corporation establishing, conducting, managing, or operating any institution within the meaning of this Act, without first obtaining a license therefor as herein provided, or who shall violate any of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not more than one hundred dollars for the first offense and not more than five hundred dollars for each subsequent offense, and each day such medical hospital shall operate after a first conviction shall be considered a subsequent offense.

§ 22. INJUNCTION.] The department of health, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, or corporation, for establishing, conducting, managing or operating any hospital within the meaning of the Act without first having a license therefor as herein provided.

§ 23. APPROPRIATION.] There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$20,400.00, or so much thereof as may be necessary to carry out the provisions of this Act.

§ 24. REPEAL.] Chapter 50-13 and subsection 1 of section 54-2113 of the North Dakota Revised Code of 1943 are hereby repealed.

§ 25. EMERGENCY.] This Act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 22, 1947.