

OCCUPATIONS AND PROFESSIONS

CHAPTER 346

S. B. No. 73
(Longmire, Lowe)

APPRENTICE BARBERS

AN ACT

To amend and reenact sections 43-04-23, 43-04-28, 43-04-32, and 43-04-38 of the North Dakota Century Code, relating to ages of apprentice barbers and requiring a high school education.

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

§ 1. **Amendment.)** Section 43-04-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-23. Qualifications for Certificate of Registration as Registered Apprentice.) A person is qualified to receive a certificate of registration as a registered apprentice barber if he:

1. Is at least seventeen years of age;
2. Is of good moral character and temperate habits;
3. Has graduated from a school of barbering approved by the board; and
4. Has passed a satisfactory examination conducted by the board to determine his fitness to practice as a registered apprentice.

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

43-04-28. Apprentice—Permit to Practice.) A person shall receive a permit to work as an apprentice barber in this state if he has paid the required fee and has the following qualifications:

1. Is at least seventeen years of age;
2. Is of good moral character and temperate habits;
3. Has a high school or an equivalent education as determined by an examination conducted by the board,

provided, however, that two years armed services should be termed equivalent education; and

4. Has a certificate of registration as an apprentice in a state or country which has substantially the requirements for registration as an apprentice prescribed by this chapter.

Such permit shall be valid until the holder thereof is called by the board to determine his fitness to receive a certificate of registration as an apprentice. If he passes the required examination, he shall receive a certificate of registration as a registered apprentice.

§ 3. Amendment.) Section 43-04-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-32. Barber and Apprentice—Application for Examination.) Any person, who desires to take the examination for a certificate of registration to practice as a registered barber or for a certificate of registration to practice as a registered apprentice, shall make application to the board on blanks prepared and furnished by it and shall enclose with his application the following:

1. Proof, under oath, of his qualifications;
2. A five-inch by three-inch signed photograph of himself. He also shall present such a photograph to the board when he appears for examination;
3. The required fee;
4. A certificate showing graduation from a public or recognized private high school or an equivalent education as determined by an examination conducted by the board, provided, however, that two years armed service should be termed equivalent education.

§ 4. Amendment.) Section 43-04-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-38. Persons Having Practiced Barbering in Another State—Permit to Practice as Journeyman Barber.) A person shall receive a permit to practice as a journeyman barber if he:

1. Is at least nineteen years of age;
2. Is of good moral character and temperate habits;
3. Has paid the required fee; and
4. Either:

- a. Has a license or certificate of registration as a practicing barber from another state which has substantially the requirements for the licensing or registering of barbers prescribed by this chapter; or
- b. Can prove by affidavits that he has practiced as a barber in another state for at least five years immediately prior to making application in this state.

Such permit shall be valid until the holder thereof is called by the board for examination to determine his fitness to receive a certificate of registration to practice barbering. If such person fails to pass the required examination, he shall be allowed to practice as a journeyman barber until he is called by the board for the next examination, and if he fails in such examination, he shall cease to practice barbering in this state.

Approved March 4, 1967.

CHAPTER 347

S. B. No. 121

(Kautzmann, Lowe, Meschke, Butler)

STATE ELECTRICAL BOARD

AN ACT

To create and enact section 43-09-13.1, relating to apprentice electricians, and to amend and reenact sections 43-09-01, 43-09-02, 43-09-04, 43-09-06, 43-09-11, 43-09-13, and 43-09-15 of the North Dakota Century Code, relating to state electrical board members, compensation, meeting place and notice, license fees, and revocation of licenses of electricians.

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

§ 1. **Amendment.**) Section 43-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Master electrician" shall mean a person having the necessary qualifications, training, experience, and technical knowledge to plan, lay out, and supervise the installation and repair of electrical wiring apparatus, and equipment for electric light, heat, and power in accordance with the standard rules and regulations governing such work;

2. "Journeyman electrician" shall mean a person having the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work;
3. "Class B electrician" shall mean a person having the necessary qualifications, training, and technical knowledge to wire, install, and repair electrical apparatus and equipment in accordance with the standard rules and regulations governing such work, and shall have eighteen months experience in farmstead or residential wiring, and shall have passed an examination before the state electrical board based upon the national electrical code as it applies to farmstead or residential wiring;
4. "Apprentice electrician" shall mean a person learning the trade under the personal supervision of a state-licensed electrician;
5. "Board" shall mean the state electrical board.

§ 2. **Amendment.)** Section 43-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-02. State Electrical Board — Members — Terms of Office — Vacancies.) The state electrical board shall consist of five members appointed by the governor for a term of five years with their terms of office so arranged that one term and only one term shall expire on June thirtieth of each year. One member of the board shall represent the public and shall not be directly associated with the electrical industry. One member of the board shall be selected from three names submitted by each of the following groups: consumer members of rural electric cooperatives, master licensed electricians, licensed journeyman electricians, and investor-owned electric utilities. A member of the board shall qualify by taking the oath of office required of civil officers and shall hold his office until his successor is appointed and qualified. The governor shall fill any vacancy by appointment for the unexpired term of office.

§ 3. **Amendment.)** Section 43-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-04. Officers of Board — Compensation of Members.) The members of the board shall select from their members a president and a treasurer and the commissioner of insurance shall be secretary of the board. Each appointive member of the board shall receive such amount as may be set by the board but not more than twenty dollars per day for the actual ser-

VICES rendered and in addition thereto, each member shall receive the necessary and actual expenses incurred by him in the discharge of his duties. The mileage and travel expense allowed shall not exceed the amount provided for in section 54-06-09.

§ 4. Amendment.) Section 43-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-06. Meetings of Board.) The board shall hold a meeting in the month of January of each year in the city of Bismarck, and may hold such other meetings as shall be necessary to conduct examinations and perform the other duties coming before it. Special meetings shall be held at the time and place determined by the president, and upon ten days' written notice given by him to each member of the board.

§ 5. Amendment.) Section 43-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-11. Qualifications as to Experience.) An applicant for an electrician's license shall have the following experience:

1. Master electrician, one year's experience as a licensed journeyman electrician;
2. Journeyman electrician, four years' experience in installing and repairing electrical wiring, apparatus and equipment;
3. Class B electrician, eighteen months' experience in farmstead or residential wiring.

§ 6. 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 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.

§ 7.) Section 43-09-13.1 of the North Dakota Century Code is hereby created and enacted 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. He shall not be allowed to work on installations without the personal supervision of a licensed electrician.

§ 8. Amendment.) Section 43-09-15 of 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 license for a period of five consecutive years or more, he may be required to appear for re-examination. 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.

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 March 8, 1967.

CHAPTER 348

S. B. No. 181
(Longmire)

PRE-NEED FUNERAL SERVICES

AN ACT

Relating to the regulation of pre-need funeral service contracts, providing penalties, and to amend and reenact section 23-06-03.1 of the North Dakota Century Code, relating to deposit, safekeeping, and withdrawal of payments upon pre-need funeral service contracts.

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

§ 1. Definitions.) As used in this Act:

1. "Person" means any natural person, firm, association, corporation, or agents or employees thereof.
2. "Pre-need funeral service contract" means any contract, other than a contract of insurance, under which for a specified consideration paid in advance in a lump sum or by installments, a person promises, upon the death of a beneficiary named or implied in the contract, to furnish funeral services or burial supplies and equipment.
3. "Funeral services or burial supplies and equipment" means all services, supplies, and equipment normally performed or furnished by a licensed embalmer and a licensed funeral establishment but shall not include services normally performed by a cemetery including the sale by the cemetery of lands or interests therein, services incidental thereto, markers, memorials, monuments, equipment, crypts, or vaults constructed or to be constructed in a mausoleum or columbarium or affixed to real property.
4. "Licensed funeral establishment" means a funeral establishment as defined and licensed in accordance with sections 43-10-21 and 43-10-22 of the North Century Code.

§ 2. Pre-Need Funeral Service Contracts.) No person shall engage in the sale or execution of a pre-need funeral service contract unless such person shall be the operator or manager of a licensed funeral establishment or an agent or employee of such operator, manager, or establishment.

§ 3. Annual Report Filed with Secretary of State.) On or before January thirty-first of each year, the owner or manager of each licensed funeral establishment shall file a report cover-

ing the period of the preceding calendar year with the secretary of state, which report shall include:

1. The name and address of the licensed funeral establishment and the name and address of the manager or operator thereof.
2. The name of the purchaser and beneficiary of each pre-need funeral service contract executed on behalf of the licensed funeral establishment during the preceding calendar year and the date such contract was executed.
3. The lump sum consideration paid upon such pre-need funeral service contract or if paid in installments the total amount in dollars of such installment payments during the calendar year.
4. The name and address of the bank or trust company in which such consideration was deposited in accordance with section 23-06-03.1.
5. The total in dollars of all sums received as consideration upon pre-need funeral service contracts executed by the licensed funeral establishment or in its behalf during all periods after the effective date of this Act which are undrawn or unexpended and on deposit in a bank or trust company or in the hands of the licensed funeral establishment.
6. Such other information as may reasonably be required by the secretary of state for the purpose of the proper administration of this Act.

Such report shall be accompanied by a filing fee of five dollars and shall be a public record.

§ 4. Bond Required in Certain Cases.) In the event the total sum received as consideration upon pre-need funeral service contracts as reported in accordance with subsection 5 of section 3 of this Act shall exceed the sum of five thousand dollars, the owner or operator of the licensed funeral establishment shall, at the time of filing the annual report required in section 3 of this Act, file with the secretary of state a corporate or personal surety bond approved by the secretary of state in the amount of ten thousand dollars. Such bond shall be conditioned upon the faithful performance of all provisions of the pre-need funeral service contract and shall be payable to the secretary of state for the use and benefit of the purchasers or persons making payments upon pre-need funeral service contracts or their estates, or the beneficiary of the pre-need funeral service contract or his estate for damages suffered by them because of the failure to comply with all provisions of the pre-need funeral service contract.

§ 5. Verification by Secretary of State.) Within ninety days after the filing of a report as required by section 3 of this Act, the secretary of state shall verify such report by mailing to five percent of the purchasers or persons making payments upon such pre-need funeral service contracts and to the banks or trust companies where the report indicates the consideration filed has been deposited, a questionnaire which the purchaser or person making payment and the bank or trust company is requested to complete and return, verifying the facts stated in the report in regard to the contract or the deposit of funds. He shall verify the facts on additional contracts reported if he shall have reason to believe additional verification to be necessary, but shall always verify at least one contract listed in every report.

§ 6. Special Audits—Violations of Law.) In the event any licensed funeral establishment or its operator or manager shall fail or refuse to file the reports as required by this Act, or in the event the secretary of state may have reason to believe as a result of discrepancies discovered through verification procedures as provided in section 5 of this Act which have not been satisfactorily explained or corrected, or based upon other reliable information that any licensed funeral establishment or its operator or manager may have violated any of the provisions of this Act, he may in his discretion, after consultation with the board of embalmers, employ a special auditor selected by him for the purpose of auditing the books and records of the licensed funeral establishment or its operator or manager for the purpose of determining compliance with this Act and such auditor shall have the right to enter upon the premises and examine such books and records as may be necessary to complete the audit. The costs of such special audits, but not exceeding a total of one thousand dollars in any calendar year, shall be paid by the state board of embalmers from funds available to the board. If such audit was caused by refusal or failure to file reports as required by this Act or if such audit shall disclose a violation of this Act, such board shall immediately forward a claim for the costs of each special audit to the licensed funeral establishment which was audited or to its operator or manager if such persons were audited, and such establishment, or its operator or manager if such persons were audited, shall immediately reimburse the state board of embalmers for the audit costs. In the event that such claim shall not be paid within a reasonable time after its presentation, it shall be forwarded to the attorney general who shall bring such action in the name of the state board of embalmers and the state of North Dakota as may be required for its collection.

§ 7. **Prosecution for Violations of Law.)** If, as a result of verification procedures or special audits as provided in sections 5 and 6 of this Act or based upon other reliable information the secretary of state, after consultation with the attorney general, shall believe that grounds for criminal prosecution of the operator or manager of any licensed funeral establishment or any other person exists for violation of this Act or any other law of this state, he shall forward such information and evidence as is available or known to him to the state's attorney of the county having jurisdiction over such violation for such criminal prosecution of such operator, manager or other person as the information and evidence requires.

§ 8. **Amendment.)** Section 23-06-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-06-03.1. Payments on Pre-Need Funeral Contracts To Be Deposited in a Bank or Trust Company — Bank Shall Keep Record of Deposit.) Whenever payments are made to any person upon pre-need funeral service contracts, all payments made under the contract shall be deposited within thirty days in a bank or trust company carrying federal deposit insurance and located within the state of North Dakota. Such funds may be released by the bank or trust company to the depositor upon the death of the person for whose benefit the funds were paid. A certified copy of the certificate of death shall be furnished to the bank or trust company as prima facie evidence of death. Such funds may be released by the bank or trust company to the person making such payment, prior to the death of the person for whose benefit the funds are paid, upon a five day written notice by registered or certified mail made by the bank or trust company to the depositor at the request of the person making such payment.

Any bank or trust company receiving such a deposit shall keep a complete record thereof, showing the name of the depositor, name of the person making payment, name of the person for whose benefit payment is made, and any other pertinent information.

§ 9. **Penalties for Violation of Act.)** Any person who shall refuse, fail or neglect to file any report and provide any information as required by section 3 of this Act after written notification by the secretary of state that he is required to do so, or who shall wilfully file any false or fraudulent reports, or who shall otherwise violate any provisions of this Act shall be guilty of a misdemeanor and punished by a fine of not over five hundred dollars or thirty days in jail or both such fine and imprisonment.

Approved February 25, 1967.

CHAPTER 349

S. B. No. 79

(Kelly, Longmire, Becker)

ADMINISTRATION BY OPTOMETRIC BOARD

AN ACT

To amend and reenact sections 43-13-07, 43-13-08, 43-13-17, 43-13-19, 43-13-20, of the North Dakota Century Code, relating to compensation for services and reimbursements of expenses of members of the optometric board, and collection, custody and disbursements of funds of the board, and reimbursement of clerical expenses and other services by the secretary of the board of optometry, and an examination for a certificate of registration to practice optometry, the contents thereof and the fees for such examination, and certificate of registration and fees paid therefor, and provisions for failure to pass examination and reexamination and fees therefor, and certificates of registration to practice optometry, and renewal, revocation, and reinstatement thereof and annual license fees therefor.

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

§ 1. **Amendment.)** Section 43-13-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-07. Compensation and Expenses of Board Members.)

Each member of the board shall receive \$25.00 as compensation for each day he actually is engaged in performing the duties of his office, and such mileage and travel expenses as are provided for in section 54-06-09 and additional allowance for other necessary expenses incurred in attending said meeting not to exceed \$5.00 per day. Moneys collected for the board under the provisions of this chapter shall be kept by the secretary and disbursed only on warrants signed by the president and secretary. At the end of his term, the secretary shall account to his successor for any money remaining in his hands.

§ 2. **Amendment.)** Section 43-13-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-08. Secretary of Board—Compensation.) The secretary of the board shall receive for clerical expenses and services such compensation and allowance as the board may deem just and proper, not to exceed five dollars for each certificate or license issued or renewed.

§ 3. **Amendment.)** Section 43-13-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-17. Application for Examination—Contents—Educational Requirements—Fee for Examination.) Any person desiring to take the examination for a certificate of registration to practice optometry in this state shall file with the secretary of the board, at least five days before the date of the examination, a written application for examination. The application shall be accompanied by the affidavits of two freeholders of this state to the effect that the applicant is of good moral character. The applicant also shall furnish satisfactory proof that he:

1. Is at least twenty-one years of age;
2. Has attended high school for four years or has the equivalent of such an education;
3. Is a graduate of a class "A" optometry school or college.

Before beginning the examination, the applicant shall pay to the secretary of the board the sum of forty dollars.

§ 4. Amendment.) Section 43-13-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-19. Certificate—When Issued—Fee—Failure to Pass Examination—Reexamination.) Every applicant for a certificate of registration to practice optometry in this state who successfully passes the examination given by the board shall receive a certificate of registration and shall be registered upon the payment to the secretary of the board of the sum of twenty-five dollars. If the applicant fails to pass the first examination, within fourteen months thereafter, he may have another examination upon the payment of the sum of five dollars. The examination shall be given at such time and place as may be designated by the board.

§ 5. Amendment.) Section 43-13-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-20. Term of Certificate—Renewal—Annual License Fee.) A certificate of registration to practice optometry in the state shall be issued for one year only but may be renewed by paying to the secretary of the board, during the month of January of each year, the license fee for the succeeding year. The license fee for each year shall be determined annually by the North Dakota state board of optometry and shall not exceed one hundred dollars. Failure by any person to pay the annual license fee shall constitute a revocation of his certificate of registration, effective from and after February first of the year in which the annual license fee becomes due and payable. The

certificate of registration may be reinstated by the board upon the payment by the person in default of an additional sum of twenty-five dollars and upon the performance of such other reasonable conditions as the board may impose.

Approved March 6, 1967.

CHAPTER 350

S. B. No. 239
(Ringsak, Kelly(15))

NONDISCRIMINATION TOWARDS OCULAR PRACTITIONER

AN ACT

To create and enact section 43-13-30 of the North Dakota Century Code, relating to reports and testimony accepted, nondiscrimination and freedom of choice of ocular practitioner.

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

§ 1.) Section 43-13-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-13-30. Reports and Testimony Accepted—Nondiscrimination and Freedom of Choice of Ocular Practitioner.) The testimony and reports of an optometrist licensed to practice in this state shall be received by any state, county, municipality, school district or other public board, body, agency, institution or official and by any private educational or other institution receiving public funds as qualified evidence with respect to any matter within the scope of the practice of optometry as defined in section 43-13-01; and no such board, body, agency, official or institution shall, in retaining and utilizing the professional services of ocular practitioners, discriminate between licensed practitioners of optometry and physicians or interfere with any individual's right to free choice of ocular practitioner, when such professional services are within the scope of section 43-13-01 of the North Dakota Century Code. Nothing herein shall in any manner restrict the authority of any such board, body, agency, official, or institution from utilizing the services of physician for examinations of the eyes or treatment of diseases of the eyes.

Section 43-13-13 of the North Dakota Century Code shall apply in actions to correct any violations of this section.

Approved March 4, 1967.

CHAPTER 351

H. B. No. 692
(Wagner)

QUALIFICATIONS OF ASSISTANT REGISTERED PHARMACIST

AN ACT

To amend and reenact section 43-15-17 of the North Dakota Century Code, relating to qualifications of assistant registered pharmacist.

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

§ 1. **Amendment.)** Section 43-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-17. Qualifications for Assistant Registered Pharmacist.) An applicant for examination and registration as an assistant pharmacist in this state shall have the following qualifications:

1. Be over eighteen years of age;
2. Be a person of good moral character;
3. Be a graduate of an approved school or college of pharmacy.

The applicant, as a condition precedent to the right to be examined, shall present and file with the board satisfactory evidence of such qualifications.

Approved February 24, 1967.

CHAPTER 352

S. B. No. 214
(Kautzmann, Butler)

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

AN ACT

To regulate the practice of engineering and land surveying; provide for the registration of qualified persons as engineers and land surveyors, and the certification of engineers-in-training; define the terms "engineer", "professional engineer", "engineer-in-training", "land surveyor" and "practice of engineering"; create a state board of registration for professional engineers and land surveyors and provide for the appointment and compensation of its members; fix the term of members of the board and define its powers and duties; set forth the minimum qualifications and other requirements for registration as a professional engineer, land surveyor and certification as an engineer-in-training; establish registration fees with expiration and renewal requirements; impose certain duties upon the state and political subdivision thereof in connection with public work, and provide for the enforcement of this Act and penalties for its violation; and to repeal chapter 43-19 and chapter 43-24 of the North Dakota Century Code.

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

§ 1. General Provisions.) In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and land surveying in this state is hereby declared to be subject to regulation in the public interest, and it hereby is declared necessary that a state board of registration for professional engineers and land surveyors be established, which in the exercise of its powers shall be deemed to be an administrative agency within the purview of chapter 28-32 of the North Dakota Century Code. It shall be unlawful for any person to practice, or to offer to practice, professional engineering or land surveying in this state, as defined in the provisions of this Act, or to use in connection with his name or otherwise assume, or advertise any title or description tending to convey the impression that he is an engineer or land surveyor, unless such person has been duly registered or exempted under the provisions of this Act. The right to engage in the practice of engineering or land surveying shall be deemed a personal right, based on the qualifications of the individual as evidenced by his certificate of registration, which shall not be transferable.

§ 2. Definitions.) In this Act unless the context or subject matter otherwise requires:

1. "Engineer" shall mean a professional engineer, as defined in subsection 2 of this section.

2. "Professional engineer" shall mean a person who, by reason of his special knowledge or use of the mathematical, physical and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, and who has been duly registered and licensed by the state board of registration for professional engineers and land surveyors.
3. "Engineer-in-training" shall mean a person who complies with the requirements for education, experience and character, and has passed an examination in the fundamental engineering subjects, as provided in sections 12 and 15 of this Act.
4. "Practice of engineering and practice of professional engineering" shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person shall be construed to practice or offer to practice engineering, within the meaning and intent of this Act, who practices any branch of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be an engineer, or through the use of some other title implies that he is an engineer or that he is registered under this Act; or who holds himself out as able to perform, or who does perform any engineering service or work or any other service which is recognized as engineering, for a valuable consideration for others including the public at large, but shall not mean or include the practice of engineering by persons exempt under the provisions of section 29 of this Act, nor the work ordinarily performed by persons who operate or maintain machinery or equipment. Notwithstanding the foregoing provisions, a person shall not be

construed to practice engineering unless he offers engineering services to, or performs such engineering for, the public.

5. "Board" shall mean the state board of registration for professional engineers and land surveyors hereinafter provided by this Act.
6. "Responsible charge" shall mean direct control and personal supervision of engineering or surveying work.
7. "Land surveying" shall mean any service comprising the determination of the location of land boundaries, and land boundary corners, incidental topograph, the preparation of maps showing the shape and area of tracts of land and their subdivision into smaller tracts; the preparation of maps showing the layouts of roads, streets, and rights-of-way of same to give access to smaller tracts and the preparation of official plats or maps of said land thereof within this state.
8. "Land surveyor" shall mean any person engaged in the practice of land surveying as herein defined.
9. "The practice or offer to practice surveying" shall include the engagement of any person in land surveying or the representation by any person by verbal claim, sign, letterhead, card, or in any other manner, that such person is a land surveyor and is able to perform land surveying in this state.

§ 3. Board — Appointments — Terms.) A state board of registration for professional engineers and land surveyors is hereby created whose duty it shall be to administer the provisions of this Act. The board shall consist of five (5) professional engineers who shall be appointed by the governor from among a list of nominees submitted to him by the North Dakota society of professional engineers who shall have the qualifications required by section 4, such list to contain the names of at least three times the number of nominees as there are vacancies to be filled. The members of the board shall be appointed for five (5) years, staggered so the term of one member shall expire June thirtieth of each year. Existing board members shall serve until their term expires. Each member of the board shall receive a certificate of his appointment from the governor and shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of five (5) years a registered professional engineer having the qualifications required in section 4, to take the place of the member

whose term on said board is about to expire. A member may be reappointed to succeed himself. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

§ 4. Board—Qualifications.) Each member of the board shall be a professional engineer, who is a citizen and resident of this state and who shall have been registered in this state a minimum of eight years, and who shall have been engaged in the lawful practice of engineering for at least twelve years and who shall have been in responsible charge of important engineering work for at least five years. At least one member of the board shall be registered both as a professional engineer and as a land surveyor.

§ 5. Board—Compensation and Expenses.) Each member of the board shall receive the sum of fifteen dollars per diem when attending to the work of the board or any of its committees and for the time spent in necessary travel; and, in addition thereto, shall be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this Act.

§ 6. Board—Removal of Members—Vacancies.) The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed by law for removal of state officials. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor as provided in section 3.

§ 7. Board—Organization and Meetings.) The board shall hold at least two regular meetings each year. Special meetings may be held as the bylaws of the board provide. The board shall elect or appoint annually the following officers: A chairman, a vice chairman, and a secretary. A quorum of the board shall consist of not less than three members.

§ 8. Board—Powers.) The board shall have the following powers:

1. To adopt and amend all bylaws, rules of procedure and regulations to administer and carry out the provisions of this Act and for the conduct of its affairs and functions, not inconsistent with the Constitution and laws of this state or this Act, which may be reasonably necessary for the proper performance of its duties and the regulation of its proceedings, meetings, records, examinations and the conduct thereof, and to adopt and promulgate a code of ethics which shall be binding upon all persons registered under or subject to this Act.

2. To adopt and have an official seal, which shall be affixed to each certificate issued.
3. To employ such clerks, technical experts and attorneys as it may deem necessary or desirable to carry out the provisions of this Act.
4. To hold hearings, administer oaths, take and record testimony, and under the hand of its chairman and the seal of the board subpoena witnesses and compel their attendance, and to require the submission of books, papers, documents, or other pertinent data, in any disciplinary matters, or in any case wherever a violation of this Act or of the rules or regulations promulgated by the board is alleged, and to make findings, orders and determinations which shall have the force and effect of law, which shall be subject to review by the courts of this state in the manner provided by chapter 28-32 of the North Dakota Century Code. Upon failure or refusal of any person to comply with any such order of the board, or to honor its subpoena, the board may apply to a court of any jurisdiction to enforce compliance with same.
5. To apply in the name of the state for relief by injunction, without bond, to enforce the provisions of this Act, or to restrain any violation thereof. In such proceedings, it shall not be necessary to allege or prove, either that an adequate remedy at law does not exist, or that substantial or irreparable damage would result from the continued violation thereof. The members of the board shall not be personally liable under this proceeding.

§ 9. Receipts and Disbursements.) The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter, and shall pay the same monthly to the state treasurer, who shall keep such moneys in a separate fund to be known as the "professional engineers' and land surveyors' fund". Such fund shall be kept separate and apart from all other moneys in the treasury, and shall be paid out only upon proper voucher and audit of the state auditing board. All moneys in the "professional engineers' and land surveyors' fund" are specifically appropriated for the use of the board. The secretary shall give a surety bond to the state in such sum as may be required by the laws of this state. The premium on said bond shall be regarded as a proper and necessary expense of the board. The secretary shall receive such salary as the board shall determine. The board shall employ such clerical or other assistants as are necessary for the proper performance of its work, and shall make expenditures of this fund for any purpose which, in the opinion of the board is reasonably neces-

sary for the proper performance of its duties under this Act, including but not limited to the expenses of the board's delegates to meetings of, and membership fees to, the national council of state boards of engineering examiners and any of its subdivisions. Under no circumstances shall the total amount of warrants issued in payment of the expenses and compensation provided for this Act exceed the amount of moneys collected.

§ 10. Records and Reports.) The board shall:

1. Keep a record of its proceedings and of all applications for registration, which record shall show the name, age and last known address of each applicant; the date of application, the place of business of such applicant, his education, experience and other qualifications; type of examination required; whether or not the applicant was rejected; whether or not a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board; which record of the board shall be prima facie evidence of the proceeding of the board and a transcript thereof, duly certified by the secretary under seal, shall be admissible as evidence with the same force and effect as if the original were produced.
2. Annually, as of January first, submit to the governor a report of its transactions of the preceding year, and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

§ 11. Roster.) A complete roster showing the names and last known addresses of all registered engineers and registered land surveyors shall be published by the secretary of the board at intervals as established by board regulations. Copies of this roster shall be mailed to each person so registered, placed on file with the secretary of state and all county auditors, city auditors, and village clerks and may be distributed or sold to the public.

§ 12. General Requirements for Registration.) To be eligible for registration as a professional engineer or land surveyor, or certification as an engineer-in-training, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references shall be registered engineers in the case of engineers, or three of which references shall be land surveyors in the case of land surveyors, having personal knowledge of his engineering or land surveying experience, or in

the case of an application for certification as an engineer-in-training, by three character references.

§ 13. Registration Without Examination—Professional Engineers.) An applicant, otherwise qualified shall be admitted to registration as a professional engineer without examination if he is:

1. A person holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to him by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country and who, in the opinion of the board, based upon verified evidence, meets the requirements of this Act, or
2. A person holding a certificate of qualification issued by the national bureau of engineering registration, who in the opinion of the board meets the requirements of this Act, or
3. Any person registered as a professional engineer by the state of North Dakota under the provisions of chapter 43-19 of the North Dakota Century Code, on the thirtieth day of June, 1967.

§ 14. Registration with Examination — Professional Engineers.) An applicant otherwise qualified shall be admitted to registration as a professional engineer, if he has successfully passed a written examination of not less than eight hours in the principles and practice of engineering, as prescribed by the board, and has one of the following additional qualifications:

1. Is a graduate of an engineering curriculum of four years or more approved by the board as being of satisfactory standing; and with a specific record of an additional four years or more of experience in engineering work, of a grade and character which indicates to the board that the applicant may be competent to practice engineering, and who holds a valid engineering-in-training certificate, or
2. Is a person who has satisfactorily completed a four-year engineering or related curriculum not approved by the board and eight years or more of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering, and who passes a written examination of not less than eight hours in the fundamentals of engineering designed to show knowledge and skill ap-

proximating that obtained through graduation in an approved four-year engineering or related curriculum, or

3. Is a person with a specific record of at least twenty years of lawful practice in engineering work during at least ten years of which he has been in responsible charge of important engineering work which is of a grade and character which indicates to the board that the applicant is competent to practice engineering, or
4. Is a person with experience of not less than four years as a teacher of engineering in a college or university offering an approved engineering curriculum of four years or more and who has had a minimum of two years of practical engineering experience which is of a character and grade which indicates to the board that the applicant is competent to practice engineering.

§ 15. Additional Qualifications of Engineers-in-Training.)

Except in the case of a person who has filed an application prior to July 1, 1967, and any subsequent re-application by such person, an applicant otherwise qualified shall be admitted to certification as an engineer-in-training which certification shall be valid for a period of twelve years, if he is a person who is:

1. A graduate of an approved engineering curriculum of four years or more approved by the board and has passed the board's written examination of not less than eight hours in the fundamentals of engineering shall be certified or enrolled as an engineer-in-training, or,
2. An applicant who has satisfactorily completed a four year engineering curriculum other than the ones approved by the board and who has a specific record of four or more years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of not less than eight hours, in the fundamentals of engineering.

§ 16. Registration—Land Surveyor.) Any person who shall show, to the satisfaction of the board, that he is a person who is otherwise qualified and is over the age of twenty-one years shall be eligible for registration as a land surveyor, if he is:

1. A person holding a certificate of registration to engage in the practice of land surveying issued to him on the basis of a minimum sixteen hour written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, of any

foreign country, based on requirements and qualifications as shown by his application, which, in the opinion of the board, are equal to or higher than the requirements of this Act, or,

2. A graduate from an accredited engineering or surveying curriculum of four years or more, approved by the board, followed by at least four years of land surveying experience, of a character satisfactory to the board; and who shall have passed a written examination of not less than sixteen hours designed to show that he is qualified to practice land surveying, or,
3. A person having eight years or more of active experience in land surveying, of a character satisfactory to the board, and who shall have passed a written examination of not less than sixteen hours designed to show that he is qualified to practice land surveying, or,
4. A person registered as a land surveyor by the state of North Dakota, under the provisions of chapter 43-24 of the North Dakota Century Code, on the thirtieth day of June, 1967.

§ 17. Application for Registration.) Application for registration as a professional engineer or land surveyor, and for certification as an engineer-in-training shall be on a form prescribed and furnished by the board; shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical experience, and references as required by this Act and shall be accompanied by registration fees.

§ 18. Registration Fees.) Registration fees shall be established by the board subject to the following limitations:

1. The registration fee for professional engineers shall be in an amount not to exceed thirty dollars.
2. The fee for engineer-in-training certification or enrollment shall be established by the board in an amount not to exceed ten dollars.
3. The fee for land surveyor shall be established by the board in an amount not to exceed thirty dollars.
4. Should the board deny the issuance of a certificate to an applicant the fee paid shall be retained as an application fee.

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

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

§ 20. Certificates.) The board shall issue a certificate of registration upon payment of the registration fee as provided for in this Act, to any applicant who, in the opinion of the board, has met the requirements of this Act. Enrollment cards shall be issued to those who qualify as engineers-in-training. Certificates of registration shall carry the designation "professional engineer" or "land surveyor", shall show the full name of the registrant, without any titles, shall be numbered and shall be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board shall be prima facie evidence that the person named therein is entitled to all rights and privileges of a professional engineer or land surveyor, during the term of which the said certificate providing the same has not been revoked or suspended.

§ 21. Seals.) Each registrant hereunder may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name, serial number, and the legend, "registered professional engineer" or "registered land surveyor". Final engineering drawings, specifications, maps, plats, reports or other documents prepared by a person required to be registered under this Act shall, when issued, be signed and stamped with the said seal or facsimile thereof. It shall be unlawful for a registrant to affix, or permit his seal and signature or facsimiles thereof to be affixed, to any engineering drawings, specifications, maps, plats, reports or other documents, after the expiration or revocation or during the suspension of a certificate or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this Act.

§ 22. Expirations and Renewals.) Certificates of registration shall expire on the last day of the month of December following their issuance and shall become invalid after that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act, of the date of the expiration of said certificate of registration and

the amount of fee required for its renewal. Such notice shall be mailed to the registrant at his last known address at least one month in advance of the expiration of said certificate. Renewal may be effected at any time prior to or during the month of December by the payment of a fee as established by the board, not to exceed the fees established in section 18 of this Act. Renewal of an expired certificate may be effected under rules promulgated by the board regarding requirements for reexamination and penalty fees.

§ 23. Reissuance of Certificates.) A new certificate of registration, to replace any certificate lost, destroyed, or mutilated, may be issued, subject to the rules of the board. A reasonable charge shall be made for such issuance.

§ 24. Code of Ethics.) The board shall cause to have prepared and shall adopt a code of ethics, a copy of which shall be delivered to every registrant and applicant for registration under this Act, and which shall be published in the roster provided for herein. Such publication shall constitute due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall forthwith notify each registrant in writing of such revisions or amendments. Such code of ethics when adopted shall apply to all certificate holders, including specialists in a particular branch of the engineering or surveying profession.

§ 25. Disciplinary Action — Revocations — Suspensions or Reprimand.) The board shall have power to suspend, refuse to renew, or revoke the certificate of registration of, or reprimand, any registrant, who is found guilty of: The practice of any fraud or deceit in obtaining a certificate of registration, any gross negligence, incompetence, or misconduct, in the practice of engineering or land surveying, any felony or crime involving moral turpitude; or violation of the code of ethics adopted and promulgated by the board.

§ 26. Disciplinary Action—Procedure.) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of the code of ethics, against any individual registrant. Such charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they shall have been preferred. The time and place for said hearing shall be fixed by the board, and a copy of the charges, together with a notice of the time and place of hearing, shall be served upon the accused either personally or sent by registered or certified mail to the last known address of such individual

registrant, at least thirty days before the date fixed for hearing. At any hearing, the accused registrant shall have the right to appear in person or by counsel, or both, to cross-examine witnesses appearing against the accused, and to produce evidence and witnesses in defense of the accused. If the accused person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges. If, after such hearing, a majority of the board vote in favor of sustaining the charges, the board shall make findings of fact, draw its conclusions and issue its order therein and serve the same upon the accused. In said order the board may reprimand, suspend, refuse to renew, or revoke the accused individual's certificate of registration. Any person who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking his certificate of registration may appeal therefrom to the district court under the procedures provided by chapter 28-32 of the North Dakota Century Code.

§ 27. Right to Practice.)

1. No person shall practice or offer to practice professional engineering or land surveying, as defined by this Act, unless such person is duly registered to practice under or exempt from the provisions of this Act.
2. The practice or offer to practice professional engineering or land surveying by registered professional engineers or registered land surveyors, organized as a partnership or incorporated as a professional corporation under the provisions of the Professional Corporations Act of this state or under the provisions of a similar law of any other state is hereby authorized, provided all of the partners of such partnership or each officer and shareholder in the case of a professional corporation are duly registered under or exempt from the provisions of this Act.
3. In addition to and without impairing any rights or exemptions granted others in this Act, the practice of or offer to practice professional engineering or land surveying as defined in this Act by individual engineers or land surveyors registered under this Act either through or as an officer, employee or agent of a partnership or corporation, or by a partnership or a corporation (other than a professional corporation) through individual engineers or land surveyors registered under this Act, is permitted in this state provided:
 - a. That all officers, employees and agents of such a partnership or corporation who will perform the practice of engineering or of land surveying within this state

- for such partnership or corporation are registered under this Act; and
- b. Each person in responsible charge of the activities of any such partnership or corporation which activities constitute the practice of professional engineering and land surveying is a professional engineer or land surveyor registered in this state or a person authorized to practice professional engineering or land surveying as provided in this Act; and
 - c. That such partnership or corporation has been issued a certificate of authorization by the board as provided by subsection 4 of this section; and
 - d. Each such partnership or corporation shall be jointly and severally responsible with and for the conduct or acts of its agents, employees, or officers in respect to any professional engineering or land surveying services performed or to be executed in this state. No individual practicing professional engineering or land surveying shall be relieved of the responsibility for his conduct or acts performed by reason of his employment by or relationship with such partnership or corporation; and
 - e. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or land surveyors as defined in this Act, when issued, shall be dated and bear the seals and signatures of the professional engineers or land surveyors registered under this Act by whom or under whose responsible charge they were prepared; and
4. A partnership or corporation desiring a certificate of authorization or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners of such partnership or officers and directors of such corporation, and the names and addresses of all other employees of such partnership or corporation who are duly registered to practice professional engineering or land surveying in this state and who are or will be in responsible charge of any engineering or land surveying in this state by such partnership or corporation, together with such other information as the board may require. In the event that during the term of any certificate of authorization issued hereunder there shall be a change in any of the information submitted on the application, such partnership or corporation shall file with the board a written report with respect there-

to within thirty days after the effective date of such change. Upon the receipt of such application and of a fee not to exceed fifty dollars for the initial certificate or thirty dollars for each renewal thereof, unless the department finds an error in such application or that any facts exist which would entitle the board to suspend or revoke such certificate if issued to the applicant, the board shall issue to such partnership or corporation a certificate of authorization or a renewal thereof, which certificate of authorization shall not be transferable. The provisions with respect to issuance, expiration, renewal and reissuance of the certificates of registration of individuals contained in this Act shall be deemed to apply to certificates of authorization issued to partnerships and corporations under this subdivision. Each such partnership or corporation shall be subject to disciplinary proceedings and penalties, and certificates of authorization shall be subject to suspension or revocation for cause, in the same manner and to the same extent as is provided with respect to individual persons and their certificates of registration in sections 26, 29 and 31 of this Act. "Registrant" and "certificate of registration" in sections 26, 29 and 31 of this Act, and the provisions of such sections, shall for the purposes of such sections be deemed to include and apply respectively to any partnership or corporation holding a certificate of authorization issued under this Act and to such certificate of authorization.

§ 28. Public Works.) This state and its political subdivisions, including counties, cities, villages, townships and legally constituted boards, districts, commissions, or authorities shall not engage in the construction of public works involving the practice of professional engineering as herein defined when the contemplated expenditure for the project shall exceed the sum of five thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction is executed under the supervision of a registered professional engineer. Any engineering contract executed in violation of this section shall be null and void.

§ 29. Exemption Clause.) This Act shall not be construed to prevent or affect:

1. Temporary permits. The practice or offer to practice engineering or surveying by a person not a resident or having no established place of business in this state, provided such person is legally qualified by registration to practice engineering or surveying, as defined herein, in his own state or country which extends similar privileges to persons registered under this Act, provided such

person shall make application accompanied by the appropriate application fee to the board in writing prior to his practicing or offering to practice engineering or surveying and may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job, provided, however, no right to practice engineering or surveying shall accrue to such applicant with respect to any other work not set forth in said permit.

2. Employees and subordinates. The work of an employee or a subordinate of a person holding a certificate of registration under this Act, or an employee of a person practicing lawfully under subsection 1 of this section; provided such work does not include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by a person holding a certificate of registration under this Act or a person practicing lawfully under subsection 1 of this section.
3. The practice of engineering or surveying for a county by a person not registered under this Act whose appointment as county engineer or county highway superintendent was in effect on January 1, 1967.
4. The practice of any other legally recognized profession or trade, nor shall it be construed to permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.
5. The practice of engineering and land surveying by any person regularly employed to perform engineering services solely for his employer or for a subsidiary or affiliated corporation of his employer, providing the engineering performed is in connection with the property, products or services of his employer.

§ 30. Duties of Register of Deeds.) It shall be unlawful for the register of deeds of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying, which does not have impressed thereon, and affixed thereto the personal signature and seal of a registered land surveyor by whom the map, plat, survey or other document was prepared.

§ 31. Violation and Penalties.) Any person who shall practice, or offer to practice, engineering in this state without being registered in accordance with the provisions of this Act, or any person, firm, partnership, organization, association, corporation

or other entity using or employing the words "engineer" or "engineering" or "professional engineer" or "surveyor" or "land surveyor" or any modification or derivative thereof in its name or form of business or activity except as authorized in this Act, or any person presenting or attempting to use the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or attempting to obtain a certificate of registration or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked or non-existent certificate of registration, or who shall practice or offer to practice when not qualified, or any person who falsely claims that he is registered under this Act, or any person, partnership, corporation or other entity who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor. It shall be the duty of all duly constituted officers, of the state and all political subdivisions thereof, to enforce the provisions of this Act and to prosecute any persons violating same.

§ 32. Duty of Attorney General—Legal Counsel.) The attorney general of the state or his assistant shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the provisions of this Act. The board may employ other counsel and necessary assistance to aid in the enforcement or administration of this Act, and the compensation and expenses therefor shall be paid from funds of the board.

§ 33. Transfers Required.) On the first day of July 1967, all officials charged with the duty of administering the provisions of chapter 43-19 and chapter 43-24 of the North Dakota Century Code shall transfer to the state board of registration for professional engineers and land surveyors all books, records, materials, supplies and equipment used by them in their official capacities under the provisions of said chapters and the state treasurer shall transfer all moneys in or due the professional engineers' fund pursuant to said chapters to the professional engineers' and land surveyors' fund established by section 9 of this Act.

§ 34. Repeal of Conflicting Legislation.) All laws or parts of laws in conflict with the provisions of this Act shall be, and the same are hereby repealed.

§ 35. Repeal.) Chapter 43-19 and chapter 43-24 of the North Dakota Century Code are hereby repealed.

§ 36. Invalid Sections.) If any of the provisions of this Act, or if any rule, regulation or order thereunder, or if the application of such provision to any person, or circumstance

shall be held invalid, the remainder of this Act and the application of such provision of this Act or such rule, regulation or order to persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby.

Approved March 14, 1967.

CHAPTER 353

S. B. No. 62
(Longmire)

PRACTICE OF DENTAL HYGIENISTS

AN ACT

To amend and reenact sections 43-20-02, 43-20-03, 43-20-04, 43-20-06, and 43-20-07 of the North Dakota Century Code, relating to the qualifications, examinations, registration, employment, recording and display of licenses, and practice of dental hygienists, and the licensing of dental hygienists licensed to practice in another state.

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

§ 1. **Amendment.)** Section 43-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

The North Dakota state board of dental examiners may accept, however, as a substitute for graduation from a school of dental hygiene approved or provisionally approved by the council on education of the American dental association, graduation from a non-approved training school for dental hygienists until July 1, 1968.

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

43-20-03. Dental Hygienists—Employment of and Practice by.) Any licensed dentist, hospital, public institution or school authorities may employ such licensed dental hygienist. Such hygienist may be employed and operate in the office of a legally licensed dentist, or in any hospital, or in any state or municipal institution, or in public or parochial schools, or under a public board of health in any public clinic authorized by said board. Such hygienists may make X-ray pictures of the teeth and jaws; may clean and polish teeth; may remove stains; may scale teeth to remove lime deposits and accretions and calcareous deposits from exposed surfaces of teeth and directly beneath free margins of gums; may apply prophylactic or preventive measures as the application of chemicals to the teeth for the prevention of dental caries; may assist in the administration of gas, ether and general anesthesia as applied to dentistry; may make instrumental examination of the teeth for cavities and chart the result of such examination and findings; and may prescribe or apply ordinary mouth washes of soothing character, and apply and use such antiseptic sprays or washes as the employer dentist may direct; but such dental hygienist shall not perform or undertake to perform any other dental operative procedure on the teeth or tissues of the human mouth. A dental hygienist shall not operate in any case except under the direct supervision of a licensed dentist, except that in any public institution, or public or parochial school, a dental hygienist may operate under the general supervision of a licensed dentist. Only one dental hygienist may be employed by any one licensed dentist; in any dental office or establishment in which more than one licensed dentist is practicing his profession, there shall be employed therein no more than one dental hygienist for each licensed and practicing dentist therein.

§ 3. Amendment.) Section 43-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-04. License Recorded—Fee.) Every holder of a license as a dental hygienist in this state, within thirty days after its issuance, shall file the same for record in the office of the

clerk of the district court in the county where the holder works. If said holder of the license changes the place of his employment to another county he shall file the license in the office of the clerk of the district court of such county before practicing therein. The clerk's fee for recording such license shall be fifty cents.

§ 4. Amendment.) Section 43-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-06. License—Fees—Display.) On or before January first of each year, every licensed dental hygienist shall pay to the board of dental examiners a registration fee as required by the board of dental examiners, and in default of such payment, the board, upon twenty days' notice, may revoke or suspend the license of the hygienist in default. The payment of such fee within such twenty-day period, with an additional sum of five dollars, shall excuse the default. The board may collect such fee by suit. Such licensed hygienist must display conspicuously at the place of his employment his annual registration license.

§ 5. Amendment.) Section 43-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-07. Dental Hygienists from Other States.) Any dental hygienist duly licensed to practice as such in another state, and who is of good moral character and desirous of removing to this state, and deposits with the board of dental examiners a license from the examining board of the state in which he is licensed, certifying to the fact of his being licensed, and a letter from the secretary of the state dental association, or the secretary of the state dental hygienists association or organization, of such state, certifying that he is of good moral character and professional attainments, may upon the payment of a fee of thirty-five dollars, in the discretion of the board, and upon the satisfactory passing of such examinations as the said board shall deem necessary and proper, be granted a license to practice in this state. The board may, however, dispense with examining such an applicant if the state in which the applicant was previously licensed grants reciprocity to dental hygienists licensed in the state of North Dakota.

Approved February 15, 1967.

CHAPTER 354

H. B. No. 718

(Wagner, Boustead, Saugstad, Brown)

LICENSING OF REAL ESTATE SALESMEN AND BROKERS

AN ACT

To amend and reenact sections 43-23-01, 43-23-04, subsection 2 of section 43-23-07, sections 43-23-08, and 43-23-13 of the North Dakota Century Code; and to create and enact subdivision g of subsection 1 of section 43-23-11 and subsection 9 of section 43-23-13 of the North Dakota Century Code, relating to the North Dakota real estate commission and the licensing of brokers and salesmen.

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

§ 1. **Amendment.)** Section 43-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-01. Real Estate Commission—Members.) The state real estate commission shall consist of five members, three of whom shall be active real estate brokers, appointed by the governor. The commission shall organize by the election of a chairman.

§ 2. **Amendment.)** Section 43-23-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-04. Commission — Compensation.) The members of the commission shall receive twenty-five dollars for each day actually engaged in the service of the commission and shall be paid actual and necessary traveling expenses to be paid only from the fund derived from fees collected in the administration of this chapter and no part thereof shall be paid out of the state treasury.

§ 3. **Amendment.)** Subsection 2 of section 43-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

*2. Nor shall this chapter be construed to include an attorney at law, admitted to practice in North Dakota handling sales of real estate in the course of estate or guardianship administration in county court, or trust administration, bankruptcy proceedings, receiverships,

*Note: Section 3 of chapter 355, 1967 S.L., amended section 43-23-07 although no amendments were made to subsection 2 of section 43-23-07.

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; nor shall this chapter apply to any person selling real estate as an auctioneer, provided such sale is advertised as a bona fide public auction; nor shall this chapter apply to any bank or trust company or any of its officers or employees in the performance of their duties as an officer or employee of any such bank or trust company;

§ 4. Amendment.) Section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-08. License Standards.)** Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness and fair dealing and who are competent to transact the business of a real estate broker or a real estate salesman in such manner as to safeguard the interest of the public, and whose real estate license has not been revoked in this or any other state within two years prior to date of application. To determine the competency of applicants, the commission shall prescribe and hold examinations at designated times and places.

***Note:** Section 4 of chapter 355, 1967 S.L., also amended section 43-23-08.

§ 5. Amendment.) Section 43-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-13. Fees.)** Fees for real estate brokers and real estate salesmen shall be as follows:

1. A fee of thirty-five dollars shall accompany an application for a real estate broker's license.
2. For each license as real estate broker, issued to a member of a partnership, association, or officer of a corporation other than the member or officer named in the license issued to such partnership, association, or corporation, there shall be a fee of thirty dollars.
3. A fee of thirty dollars shall accompany an application for a real estate salesman's license.
4. It shall be the duty of all persons, licensed to practice as a real estate broker or salesman, to register annually with the commission and to pay for each such annual

***Note:** Section 9 of chapter 355, 1967 S.L., also amended section 43-23-13.

registration as a real estate broker, the sum of thirty dollars and pay for such each annual registration as a real estate salesman, the sum of twenty dollars. Said application, for renewal of real estate broker's or salesman's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.

5. For each additional office or place of business, there shall be an annual fee of five dollars.
6. For each change of office or place of business, there shall be a fee of five dollars.
7. For each duplicate or transfer of salesman's license, a fee of five dollars.
8. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars.

§ 6.) Subdivision g of subsection 1 of section 43-23-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

- g. Where licensee has persistently followed a course of conduct in violation of any of the provisions of the code of ethics as adopted by the commission.

§ 7.) Subsection 9 of section 43-23-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

9. For each additional test given to an applicant, before a license is issued, a fee of ten dollars for a broker's test and a fee of five dollars for a salesman's test.

Approved March 14, 1967.

CHAPTER 355

H. B. No. 772

(Fossum, Freeman, Saugstad, Wagner, Boustead)

LICENSING OF MORTGAGE BROKERS

AN ACT

To create and enact subsection 4 of section 43-23-06 and to amend and reenact section 43-23-05, subsection 3 of section 43-23-06, sections 43-23-07, 43-23-08, 43-23-09, 43-23-10, 43-23-11, 43-23-12, 43-23-13, and 43-23-14 of the North Dakota Century Code, relating to licensing real estate mortgage brokers.

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

§ 1. **Amendment.)** Section 43-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-05. Real Estate License Required.) No person shall act as a real estate broker, real estate salesman, or mortgage broker or advertise or assume to act as such real estate broker, real estate salesman, or mortgage broker without a license issued by the real estate commission. No person shall be entitled to collect any fees, compensation or commission as a real estate broker, real estate salesman, or mortgage broker without having first complied with the provisions of this chapter. No copartnership, association, or corporation shall be granted a license, unless every member or officer of such copartnership, association, or corporation actually engaged as a real estate broker, real estate salesman, or mortgage broker as defined herein, shall hold a license as a real estate broker, and unless every employee who acts as a real estate salesman or mortgage broker for such copartnership, association, or corporation shall hold a license as a real estate salesman or mortgage broker.

§ 2. **Amendment.)** Subsection 3 of section 43-23-06 of the North Dakota Century Code is hereby amended and reenacted and subsection 4 of section 43-23-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. A single act performed, or isolated transactions for a commission or valuable consideration in the buying or selling real estate or mortgages of or for another, or offering for another to buy or sell, or exchange real estate, shall not constitute the person, firm, partnership, copartnership, association, or corporation performing, offering, or attempting to

perform any of the acts enumerated herein, a real estate broker, a real estate salesman, or a mortgage broker within the meaning of the chapter.

4. A mortgage broker within the meaning of this chapter is any person, firm, partnership, copartnership, association, or corporation other than a licensed real estate broker, bank or trust company, savings and loan association, insurance company, or state or federal agency and their employees, who for compensation or valuable consideration sell or offer for sale, buy or offer to buy, or negotiate the purchase or sale or exchange of mortgages upon real estate for others, as whole or partial vocation. The term "mortgages" as used in this chapter shall exclude any leasehold interests.

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

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

*Note: Subsection 2 of section 43-23-07 was amended by section 3 of chapter 354, 1967 S.L. Subsection 2 of section 43-23-07 as contained in this chapter (chapter 355) was not amended but was carried only for the purpose of amending other portions of section 43-23-07.

4. Nor to the acts of any person while acting as a receiver, trustee, administrator, executor, guardian, or under court order, or while acting under authority of a deed or trust or will;
5. Nor shall this chapter apply to public officers while performing their duties as such.

§ 4. **Amendment.)** Section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***43-23-08. License Standards.)** Licenses shall be granted only to persons who bear a good reputation for honesty, truthfulness, and fair dealing and who are competent to transact the business of a real estate broker, a real estate salesman, or mortgage broker in such manner as to safeguard the interest of the public, and whose real estate license or mortgage broker license has not been revoked in this or any other state within two years prior to date of application.

§ 5. **Amendment.)** Section 43-23-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-09. License Application—Bond.) 1. Every application for a real estate broker's license, a real estate salesman's license, or a mortgage broker's license shall be in writing upon blanks prepared by the commission and shall contain such data and information as the commission may require.

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

§ 6. **Amendment.)** Section 43-23-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-10. Nonresident Brokers — Reciprocity — Consent to Service.) A nonresident broker regularly engaged in the real estate business as a vocation, or a mortgage broker regularly

***Note:** Section 4 of chapter 354, 1967 S.L., also amended section 43-23-08.

engaged in the mortgage business as a vocation, and who maintains a definite place of business and is licensed in some other state, which offers the same privileges to the licensed brokers of this state, shall not be required to maintain a place of business within this state. The commission shall recognize the license issued to a real estate broker or mortgage broker by another state as satisfactorily qualifying him for license as a broker, provided that said nonresident broker has qualified for license in his own state and also that said other state permits licenses to be issued to licensed brokers in this state. Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of the state in which a cause of action may arise, in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state, on any member of the commission, or the secretary-treasurer, said consent stipulating and agreeing that such service of such process or pleading shall be taken and held in all courts to be as valid and binding as if due service had been made upon said applicant in this state. Said consent shall be duly acknowledged, and if made by a corporation, shall be authenticated by the seal of such corporation. Any service of process or pleading shall be by duplicate copies, one of which shall be filed in the office of the commission and the other immediately forwarded by registered or certified mail to the last known main office of the applicant against whom said process or pleading is directed, and no default in any such proceedings or action shall be taken except upon affidavit or certificate of the commission or the secretary-treasurer, that a copy of said process or pleading was mailed to the defendant as herein required, and no judgment by default shall be taken in any such action or proceeding until after thirty days from the date of mailing of such process or pleading to the nonresident defendant.

§ 7. **Amendment.**) Section 43-23-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-11. License Refusal—Revocation—Hearing—Appeal.)

1. The commission shall have full power to refuse a license for cause, or to revoke or suspend a license where the licensee, or proposed licensee in performing or attempting to perform any of the acts mentioned herein, shall have
 - a. Willfully violated any provisions of this chapter, or
 - b. Been guilty of any fraudulent act or practice in connection with the sale of real estate or mortgages as a broker or salesman, or

- c. Pursued a continued and flagrant course of misrepresentation in the sale of real estate or mortgages as a broker or salesman, or
- d. Acted for more than one party in a real estate or mortgage transaction without the knowledge of all parties for whom he acts, or
- e. Failed to remit and account for any moneys coming into his possession which belong to others, or subsequent to the effective date of this chapter commingled moneys belonging to others with his own funds, or
- f. Been convicted in a court of competent jurisdiction of this or any other state of forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offense.

2. No license shall be revoked or refused except after hearing before the board upon notice of not less than twenty days, with a copy of the charges for revocation, or the reasons for refusal having been duly served upon the applicant or licensee in the same manner as provided by law for the service of a summons in civil actions in the district court, and then only if the charges or reasons for refusal are sustained. An appeal from the decision of the commission may be taken to the district court of the county where the person whose license is revoked or refused resides in the manner provided by law and the rules of practice and procedure adopted by the supreme court.

§ 8. **Amendment.**) Section 43-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-12. Broker's Place of Business—License of Employed Salesman.) 1. Every person, partnership, association, or corporation licensed as a real estate broker or mortgage broker shall be required to have and maintain a definite place of business within this state, for the transaction of real estate or mortgage broker business, or such business and any other business conducted by him. The certificate of registration as broker and the certificate of each real estate salesman or mortgage broker employed by such broker shall be prominently displayed in said office. The said place of business shall be designated in the license, and no license issued under the authority of this chapter shall authorize the licensee to transact business at any other address. In case of removal from the designated address, the licensee shall make application to the commission before said removal or within ten days after said removal, designating the new location of such office,

whereupon the commission shall forthwith issue a new license for the new location for the unexpired period. The broker's home may qualify as such place of business.

2. All licenses issued to real estate salesmen or mortgage brokers shall designate the employer of such salesmen or brokers. Prompt notice in writing, within ten days, shall be given to the commission by any real estate salesman or mortgage broker of a change of employer, and of the name of the licensed broker into whose employ the salesman or broker is about to enter, and a new license shall thereupon be issued by the commission to such salesman or broker for the unexpired term of the original license, upon the return to the commission of the license previously issued. The change of employer or employment by any licensed real estate salesman or mortgage broker, without notice to the commission as aforesaid, shall automatically cancel the license to him theretofore issued. Upon termination of a real estate salesman's or broker's employment, the broker employer, shall forthwith return the salesman's license or mortgage broker's license to the commission for cancellation. It shall be unlawful for any real estate salesman or mortgage broker to perform any of the acts contemplated by this chapter either directly or indirectly after his employment has been terminated and license as a salesman or mortgage broker has been returned for cancellation, until said license has been reissued by the commission.

§ 9. Amendment.) Section 43-23-13 of 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 shall be as follows:

1. A fee of twenty-five dollars shall accompany an application for a real estate broker's or mortgage broker's license.
2. For each license as real estate broker or mortgage broker, issued to a member of a partnership, association, or officer of a corporation other than the member or officer named in the license issued to such partnership, association, or corporation, there shall be a fee of twenty dollars.
3. A fee of twenty dollars shall accompany an application for a real estate salesman's license.
4. It shall be the duty of all persons, licensed to practice as a real estate broker, or salesman or mortgage broker,

***Note:** Section 5 of chapter 354, 1967 S.L., also amended section 43-23-13.

to register annually with the commission and to pay for each such annual registration as a real estate broker or mortgage broker, the sum of twenty dollars and pay for such each annual registration as a real estate salesman, the sum of ten dollars. Said application, for renewal of real estate broker's, salesman's, or mortgage broker's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.

5. For each additional office or place of business, there shall be an annual fee of five dollars.
6. For each change of office or place of business, there shall be a fee of five dollars.
7. For each duplicate or transfer of salesman's license, a fee of five dollars.
8. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two dollars.

§ 10. Amendment.) Section 43-23-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-14. Fund Handling by Broker.) Every real estate broker or mortgage broker as herein defined shall remit immediately to his principal all money received by him belonging to his principal, except where by the terms of his employment he is permitted to retain possession of such money until the final settlement and consummation of such transaction, in which event he shall immediately deposit said money in a bank in a special or trust account and such money shall not be used by such real estate broker or mortgage broker, except in connection with said transaction.

Approved February 24, 1967.

CHAPTER 356

S. B. No. 237
(Robinson, Roen, Morgan)

UNLAWFUL PRACTICE OF VETERINARY MEDICINE

AN ACT

To amend and reenact section 43-29-17 of the North Dakota Century Code, relating to the unlawful practice of veterinary medicine, providing for violations thereof to be a misdemeanor and in addition thereto providing for the civil remedy of injunction to restrain and enjoin violations thereof.

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

§ 1. **Amendment.**) Section 43-29-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-29-17. Unlawful Practice of Veterinary Medicine—Misdemeanor—Penalty—Civil Remedy.) Any person who shall:

1. Practice veterinary medicine, surgery, or dentistry in this state without compliance with the provisions of this chapter; or
2. Willfully and falsely claim or pretend to have or hold a certificate of registration issued by the state board of veterinary medical examiners; or
3. Willfully and falsely, with intent to deceive the public, claim or pretend to be a graduate of, or to hold a degree or diploma showing the satisfactory completion of a course in veterinary science in a school, college or university recognized by the American veterinary medical association;

shall be guilty of a misdemeanor. In addition to the criminal penalty provided the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person, upon application and unanimous vote of all members of the state board of veterinary medical examiners.

Approved March 3, 1967.

CHAPTER 357

S. B. No. 190

(Longmire, Lowe, Larsen)

LICENSING AND REGULATION OF PSYCHOLOGISTS

AN ACT

Relating to the profession of psychology, providing for the licensing and regulation of psychologists, and creating a state board of examiners, prescribing its powers and duties, and providing penalties for violations.

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

§ 1. Definitions.)

1. "Board" shall mean the North Dakota state board of psychologist examiners.
2. "Psychologist" shall mean a person who holds himself out to the public by any title or description of services representing himself as a psychologist which incorporates the word "psychological", "psychologist" or "psychology", or a person who describes himself as above and, under such title or description, offers to render or renders services involving the application of principles, methods, and procedures of the science and profession of psychology to persons for compensation or other personal gain.
3. "Psychology" shall mean the application of established principles of thinking, learning, motivation, perception and emotional relationships to problems of personnel evaluation, group relations, and behavior adjustment by persons trained in psychology. The application of said principles includes, but is not restricted to, counseling, and behavior modification with persons or groups with adjustment problems in the areas of work, family, school, and personal relationships; measuring and testing of personality, intelligence, aptitudes, emotions, public opinion, attitudes, and skills, and doing research on problems relating to human behavior.
4. "School or college" means any university or other institution of higher learning that is accredited by a regional accrediting association, offering a full-time graduate course of study in psychology.

§ 2. State Board of Psychologists Examiners—How Appointed—Qualifications.) The governor shall appoint a state board of psychologist examiners consisting of five members, each of whom shall have the following qualifications:

1. Be a citizen of the United States.
2. Be a resident of this state.
3. After the first five appointments, shall be a licensed psychologist under this chapter.
4. Has, at least five years prior to appointment, received a doctorate degree in psychology from a school or college as defined in this chapter.
5. Has been actively engaged in the practice or teaching or research of psychology for a period of at least five years.
6. As to at least one member, is currently engaged primarily in rendering service in psychology and as to at least one member, is engaged primarily in teaching, training or research in psychology.

At least thirty days before any appointment is to be made, the North Dakota psychological association shall recommend five persons to the governor for such appointment.

§ 3. Tenure of Members—Vacancies and Oath of Office.) After the first five appointments the term of office of each member of the board shall be three years, and until his successor is appointed and qualified. The terms of the first members of the board shall expire as follows: one member, June 30, 1968; two members June 30, 1969; and two members June 30, 1970. The governor shall fill all vacancies by appointment but in case of a vacancy before the expiration of a term, the appointment shall be for the residue of the term only. A person appointed to the board shall qualify by taking the oath required of civil officers.

§ 4. Removal of Members.) The governor may remove any member of the board for unprofessional conduct, incompetency or neglect of duty after giving such member a written statement of the reasons for removal and after such member has had an opportunity to be heard thereon.

§ 5. Compensation of Members—Expenses of Board and Members Thereof.) Each member of the board shall serve without compensation but he shall receive such mileage and travel expenses while engaged in the performance of the duties of his office as is provided in section 54-06-09. 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.

§ 6. Officers of the Board.) The board shall elect annually a president and vice president from its own number and a secretary who need not be a member of the board.

§ 7. Meetings of Board—Seal of Board.) The board shall hold at least one regular meeting each year. Additional meetings may be held upon call of the president or at the written request of the governor or of any two members of the board. The meetings shall be held at such places as the board may designate. The board shall have a seal.

§ 8. Rules and Regulations.) The board may from time to time adopt such rules and regulations not inconsistent with law, as may be necessary to enable it to carry into effect the provisions of this chapter, which may include a code of ethics for psychologists in the state.

§ 9. Examination of Qualifications of Applicants.) The board shall examine for, deny, approve, revoke, suspend and renew the licensing of applicants as provided under this chapter.

§ 10. Power of Board to Administer Oaths—Conduct Hearings—Summon Witnesses—Take Testimony.) The members of the board and the secretary may administer oaths. The board may summon witnesses as provided in section 43-17-09 and 43-17-10 and take testimony in all matters relating to its duties, including the enforcement of the provisions and purposes of this chapter and the rules and regulations adopted by the board.

§ 11. Annual Reports.) Each year, the board shall transmit to the governor, with a copy thereof to the secretary of state and to the North Dakota psychological association, a full report of all activities under this chapter, together with a report of all receipts and disbursements.

§ 12. Application and License Fee.) The application fee for licensing by written and oral examination and by reciprocity shall be determined by regulation of the board. No fee shall be refundable in whole or in part except for failure of the board to hold examinations at the time originally announced, in which event the entire fee shall be refunded upon demand by the applicant.

§ 13. Annual License and Fee.) On or before January first of each year, every licensed psychologist in the state shall pay to the secretary of the board an annual license fee to be determined by regulation of the board not to exceed one hundred dollars. The secretary of the board, upon payment of the annual license fee by a person licensed under this chapter, shall issue a certificate of annual license. No person shall hold himself out

as a licensed psychologist until the annual license fee has been paid. The violation of this section shall be cause for revocation of his license by the board. The board shall annually mail a renewal notice to all licensed psychologists.

§ 14. Payment of Delinquent License Fees—Reinstatement.)

Any person who has been a licensed psychologist in this state under the provisions of this chapter, and who has had his license revoked because of his failure to pay the annual license fee, shall be reinstated and his license renewed by his paying to the secretary of the board the amount of the annual license fees in which he is then in default.

§ 15. Deposit and Disbursement of Fees.) All fees and moneys received under the provisions of this chapter shall be deposited with and held by the state treasurer and shall be subject to disbursement on warrants drawn against such fund by the president and secretary of the board for proper expenses incurred.

§ 16. Board to Keep Records.)

1. The board shall keep a record of its proceedings and a register of all applicants for licensing which shall show:
 - a. The name, age and residence of each applicant;
 - b. The date of the application;
 - c. The place of business of such applicant;
 - d. A summary of the educational and other qualifications of such applicants;
 - e. Whether or not an examination was required;
 - f. Whether or not license was granted;
 - g. The date of the action of the board;
 - h. Such other information as may be deemed necessary or advisable by the board in aid of the above requirements.
2. The records of the board shall be public records and evidence of the proceedings of the board set forth therein, and a transcript thereof, duly certified by the secretary of the board, bearing the seal of the board, shall be admissible in evidence with the same force and effect as if the original were produced.

§ 17. License Required.) No person shall hold himself out as a psychologist in this state after July 1, 1968, unless he has obtained from the board a license to do so under the provisions of this chapter.

§ 18. Licensing of Psychologists Without Examination — Qualifications of Applicants.)

1. For a period of one year from the effective date of this chapter, the board shall waive examination of a candidate for licensing if it appears that such action is in the public interest, and it shall issue a license upon payment of the required fee, to any applicant who makes application and furnishes evidence satisfactory to the board that he:
 - a. Is of good moral character;
 - b. Is not found by the board to be engaged in unethical practices;
 - c. Has received a doctorate in psychology from an accredited school or college or has training deemed equivalent by the board in both subject matter and extent of training;
 - d. Is a citizen of the United States or intends to become a citizen and files an affidavit as to such with the board.
2. At its discretion, the board may at any time issue a license without examination, upon payment of the required fee, to any diplomate of the American board of examiners in professional psychology.

§ 19. Licensing of Psychologists from Other States.) Upon application and accompanied by the required fee, the board may, without written or oral examination, issue a license to any person who at the time of application furnishes evidence satisfactory to the board that he is licensed or certified as a psychologist by a similar board of another state whose standards, in the opinion of the board, are not lower than those required by this chapter.

§ 20. Licensing—Written and Oral Examination—Qualifications of Applicants.) The board shall issue a license as a psychologist to each applicant who shall file an application upon a form and in such a manner as the board prescribes, accompanied by the required fee, and who furnishes evidence to the board that he:

1. Is of good moral character;
2. Is not found by the board to be engaged in unethical practices;
3. Has received from an accredited school or college as defined by this chapter a doctorate, with a program of studies substantially psychological in nature;

4. Is a citizen of the United States or intends to become a citizen and files an affidavit as to such with the board;
5. Demonstrates professional competence as shown by passing such examinations, written or oral, or both, as the board deems necessary; and
6. Has not, within the preceding six months, failed an examination given.

§ 21. Consideration of Application and Notice to Applicant.) Upon investigation of the application and other evidence submitted, the board shall, not less than thirty days prior to the examination, notify each applicant that the application and evidence submitted for licensing is satisfactory and accepted, or unsatisfactory and rejected. If rejected, said notice shall state the reasons for such rejection.

§ 22. Time and Place of Examination.) The time and place of examination shall be designated by the board and notice thereof shall be given to each applicant. Such examinations shall be given annually and at such other times as in the opinion of the board the number of applicants warrants.

§ 23. Scope and Grading of Examination.) The board shall determine the subject and scope of specialized psychological areas and techniques for examination. Written examinations may be supplemented by such oral examinations as the board may determine. The board shall determine an acceptable level of performance for each examination and a majority decision of the board is required for the issuing of a license. To insure impartiality, the written examination shall be identified by numbers and no paper shall be marked in the name of any applicant, but shall be anonymously graded by the board.

§ 24. Notice to Applicant of Examination Results and Right to Reexamination.) The board shall state in writing its reason for refusal of a license to any applicant who has been so denied. An applicant who fails his examination may be reexamined at a subsequent examination upon again paying the required examination fee.

§ 25. Retention of Examination.) The board shall keep the written examination papers and an accurate recording of the questions and answers relating to the oral examinations and the grade assigned to each answer thereof as a part of its records for at least two years subsequent to the date of the examination.

§ 26. Issuance and Display of License.) The board shall be the sole agency empowered to examine competence in the practice of psychology. Such license certificate shall show the

full name of the licensee, have a serial number and be signed by the president of the board and attested by the secretary under the board's adopted seal. The license issued by the board under the provisions of this chapter shall be prominently displayed at the principal place of business where the psychologist practices.

§ 27. Denial — Revocation — Or Suspension of License — Grounds.) The board, after notice and hearing and by an affirmative vote of at least three of its five members, shall withhold, deny, revoke, or suspend any psychologist license issued or applied for in accordance with the provisions of this chapter, or otherwise discipline a licensed psychologist, upon proof that the applicant or licensed psychologist:

1. Has been convicted of a felony or any offense involving moral turpitude, the record of conviction being conclusive evidence thereof;
2. Is using any narcotic or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a professional psychologist with safety to the public;
3. Has impersonated another person holding a psychology license or allowed another person to use his license;
4. Has used fraud or deception in applying for a license or in taking an examination provided for in this chapter;
5. Has allowed his name or license issued under this chapter to be used in connection with any person or persons who perform psychological services outside of the area of their training, experience or competence;
6. Is legally adjudicated insane or mentally incompetent, the record of such adjudication being conclusive evidence thereof;
7. Has engaged in any form of unethical conduct as defined in "Ethical Standards for Psychologists" as adopted and published by the American psychological association, 1953, and as revised;
8. Has become grossly negligent in the practice of his profession;
9. Has willfully or negligently violated any of the provisions of this chapter.

The suspension by the board of the license of a psychologist shall be for a period not exceeding one year. A person who has been refused a license, or whose license has been revoked,

under the provisions of this section, may reapply for licensing after two years have elapsed from the date of such denial or revocation.

§ 28. Notice—Hearing—Findings of Fact and Order.)

1. The board shall not withhold, deny, revoke or suspend any psychologist license for any cause listed in this chapter unless the person involved has been given at least thirty days' notice in writing by certified or registered mail, with return receipt demanded, of the charges against him and time and place of a public hearing by the board. The psychologist involved is entitled to be heard in his defense in person and with right of counsel and may produce testimony and may testify in his own behalf. A record of the hearing shall be taken and preserved. The hearing may be adjourned from time to time. If the psychologist involved fails or refuses to appear, the board may proceed to hear and determine the charges in his absence.
2. The board shall make its findings of fact and order and a copy of such findings and order shall be mailed to the psychologist involved by registered or certified mail with a return receipt requested. Such order shall be effective upon mailing.

§ 29. Appeal from Decision of Board.) An appeal from the final decision of the board in any matter covered by this chapter may be taken to the district court of the county in which the decision was made in accordance with the provisions of chapter 28-32 of the title Judicial Procedure, Civil.

§ 30. Persons Exempt from the Provisions of This Chapter.) The provisions of this chapter shall not apply to the following:

1. Any person in the employ of any federal, state, county or municipal agency, or other political subdivision, or any nonprofit corporation or educational institution presently chartered by this state, insofar as the activities and services of such person are a part of the duties of his office or position with such agency, nonprofit corporation or institution. This exemption shall not be available or effective after July 1, 1970, provided, however, that such exemption period shall be extended by the board in individual cases where hardship or other good cause is shown by the agency, nonprofit corporation or institution covered hereby, or where the person affected hereby has received from a school or college as defined herein, a master's degree in psychology and his activities and services with such agency, nonprofit corporation or

institution are performed under the supervision of a licensed psychologist.

2. A student, intern or resident in psychology pursuing a course of study in psychology at a school or college as defined in this chapter if such activities and services constitute a part of his supervised course of study.
3. A nonresident, duly licensed or certified in the state of his residence who does not practice psychology in this state for a period of more than thirty days in any calendar year.
4. Lecturers from any school or college who utilize their academic or research title when lecturing to institutions or organizations.

§ 31. Violation and Penalties.) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both such imprisonment and fine. Each violation shall be deemed a separate offense. In addition to the criminal penalties provided the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person.

§ 32. Drugs—Medicine.) Nothing in this chapter shall be construed as permitting psychologists licensed under this chapter to administer or prescribe drugs, or in any manner engage in the practice of medicine as defined by the laws of this state.

Approved March 13, 1967.