

# OCCUPATIONS AND PROFESSIONS

## CHAPTER 458

HOUSE BILL NO. 1477  
(Martinson)

### ARCHITECT'S LIABILITY FOR FAULT

AN ACT to create and enact a new section to chapter 43-03 of the North Dakota Century Code, relating to architects.

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

SECTION 1.) A new section to chapter 43-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

ARCHITECT NOT LIABLE FOR CONTRACTOR'S FAULT UNLESS RESPONSIBILITY ASSUMED - LIABILITY FOR OWN NEGLIGENCE.) An architect shall not be liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees, unless he assumes responsibility therefor by contract or by his actual conduct. Nothing herein shall be construed to relieve an architect from liability from his negligence, whether in his design work or otherwise.

Approved March 15, 1979

## CHAPTER 459

HOUSE BILL NO. 1313  
(Hedstrom, Gunderson, Stenehem)

## BARBERING REGULATION

AN ACT to amend and reenact sections 43-04-02 and 43-04-07, subsection 2 of section 43-04-11, subsection 5 of section 43-04-12, and section 43-04-42 of the North Dakota Century Code, relating to a declaration of policy, the compensation of members of the board of barber examiners, rules and orders, the general powers of the board, and the fees to be paid by an applicant for a barbering license; and to repeal sections 43-04-16 and 43-04-17 of the North Dakota Century Code, relating to an order fixing minimum barber service price schedules and the amendment or modification of price schedules after approval.

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

SECTION 1. AMENDMENT.) Section 43-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-02. DECLARATION OF POLICY.) It is hereby declared that the practice of barbering, by reason of the personal contacts exercised therein, is a business affecting the public health, public welfare, and public safety, ~~that--unfair--and--uneconomic--trading practices--which--have--been--and--are--now--being--carried--on--in--the operation--of--barber--shops--in--this--state,--and--unfair--competition existing--between--individual--barber--shop--operators--of--this--state--have brought--about--an--unjust--and--uneconomic--reduction--in--prices--for services--commonly--performed--by--said--profession,--and--that--the decrease--in--income--and--purchasing--power--resulting--from--such reduction--in--prices--have--made--it--impossible--for--many--members--of--said occupation--within--this--state--to--maintain--a--healthful--standard--of living,--and--to--purchase--the--sanitary--products--and--equipment necessary--to--support--and--maintain--reasonably--safe--and--healthful barbering--service--to--the--public--and--in--the--interests--of--public welfare,--public--health,--and--public--safety,~~ that immediate public supervision and control of said occupation in the exercise of the police power of this state and in accordance with the proper standards of said profession, are necessary to the protection and preservation of the public health, public safety, and public

welfare, and that this chapter is enacted in the exercise of the police power of this state to protect the public welfare, public health, and public safety.

SECTION 2. AMENDMENT.) Section 43-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-07. COMPENSATION - ~~MILEAGE EXPENSES~~ - HOW PAID.) Each member of ~~said~~ the board shall receive ~~twenty~~ thirty dollars per day for actual services and shall also be paid ~~his~~ actual expenses as provided by law incurred in attending ~~said~~ meetings of the board and in the performance of his official duties. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 3. AMENDMENT.) Subsection 2 of section 43-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every other rule or order of the board shall be posted for public inspection in the main office of the board, and a certified copy shall be filed in the office of the secretary of the board and published in the press publications representing the barber industry. An order applying only to a person or persons named therein shall be served on the person or persons affected. An order herein required shall be served by personal delivery of a certified copy or by mailing a certified copy in a sealed envelope with postage prepaid to each person affected thereby, or in the case of a corporation, to an officer or agent of the corporation upon whom a summons may be served in accordance with the provisions of law. The posting in the main office of the board of any rule or order not required by this chapter to be served, and such filing in the office of the secretary of the board and publishing in representative publications, shall constitute due and sufficient notice to all persons affected by such rule or order. A rule of the board when duly published, posted, and filed as provided in this section, shall have binding force and effect. ~~The provisions of this section as to service of orders shall not apply to orders fixing minimum prices--as to which provision is made in section 43-04-16.~~

SECTION 4. AMENDMENT.) Subsection 5 of section 43-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The board shall sponsor an educational program to carry out the purposes of protecting the public health and safety by encouraging barber shops that are clean, healthful, and sanitary with capable, skilled, professional barbers. The board is directed to use the sum of ~~three~~ five dollars from each fee paid for the

renewal of any barber's certificate for the purpose of such educational program.

SECTION 5. AMENDMENT.) Section 43-04-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-42. FEES.) The fees to be paid by an applicant are as follows:

1. For examination for a certificate to practice master barbering, twenty dollars.
2. For issuance of such certificate, two dollars.
3. For examination for a certificate to practice as an apprentice barber, ten dollars.
4. For issuance of such certificate, two dollars.
5. For renewal of master barber's certificate, ~~fifteen~~ twenty-five dollars.
6. For restoration of expired master barber's certificate, a ~~five~~ ten dollar penalty fee in addition to the regular renewal fee.
7. For renewal of apprentice barber's certificate, ~~ten~~ fifteen dollars.
8. For restoration of expired apprentice barber's certificate, a ~~five~~ ten dollar penalty fee in addition to the regular renewal fee.
9. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars.
10. Annual establishment fees to be paid by each shop owner in advance, five dollars for the first barber chair and two dollars for each additional barber chair which is usable in the shop.

Each application to open or establish a barber shop in this state shall be accompanied by a fee of ~~twenty-five~~ fifty dollars to cover expenses of inspection, which shall be retained by the board and deposited as other fees. A duplicate license, certificate, or permit will be issued upon the filing of a statement covering the loss of the same, verified by the oath of the applicant, and submitting a signed photograph of the applicant and the payment of a fee of fifty cents for the issuance of the duplicate. The board shall have the power to reduce renewal fees below the amounts heretofore set out in this section whenever ~~such~~ the board determines that the full amount is not necessary to finance the necessary and regular operations of the board. Such reduction shall be made by the board only by applying an equal percentage of

reduction to all renewal fees provided for in this chapter, and such reduction shall be made when commencing the licensing year and shall be in effect for the whole of such year. Anyone becoming a member of the armed forces of the United States in time of war while holding a license as a barber or apprentice and while in good standing as to payment of fees, may obtain a restoration of his certificate without payment of ~~such~~ the restoration fee.

SECTION 6. REPEAL.) Sections 43-04-16 and 43-04-17 of the North Dakota Century Code are hereby repealed.

Approved March 7, 1979

## CHAPTER 460

SENATE BILL NO. 2191  
(Hanson, Olin)

## CONTRACTOR LICENSE RENEWAL

AN ACT to amend and reenact section 43-07-10 of the North Dakota Century Code, relating to the renewal of licenses for contractors.

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

SECTION 1. AMENDMENT.) Section 43-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-10. RENEWAL OF LICENSE.) Any license issued under the provisions of this chapter may be renewed for each successive calendar year by obtaining from the registrar a certificate of renewal thereof. For the purpose of obtaining such certificate of renewal, the licensee shall file with the registrar an application therefor, which application shall be accompanied by a list in duplicate showing each contract or subcontract obtained by the licensee during the ~~preceeding~~ calendar year in North Dakota for which a license was required under this chapter, the nature of the work contracted or subcontracted, and, if a performance bond was required by the contract, the name and address of the corporation or other person who issued the bond. The registrar shall within a reasonable time forward one copy of such list to the state tax commissioner and shall also indicate whether or not the license of the applicant was renewed by him. The application for such certificate of renewal must be made to the registrar on or before the first day of ~~April~~ January of each successive calendar year. ~~Such renewal certificate shall be good for the then current calendar year.~~ At the time of filing the application for a certificate of renewal, the applicant shall pay to the registrar a license fee equal to twenty percent of the license fee for the original license. If any applicant for a certificate of renewal shall apply for a renewal under a class different from the license theretofore issued to him, such new license shall be issued only upon the showing and under the terms and conditions and upon the payment of the same fee required for the issuance of an original license of the class applied for. All certificates of renewal wherein the applicant does not apply for a change in the class of license shall be issued by the registrar to the applicant when the application is properly filed and the license renewal fee is paid.

Approved March 10, 1979

## CHAPTER 461

SENATE BILL NO. 2211  
(Hanson)

## ELECTRICIAN SURETY BOND

AN ACT to amend and reenact section 43-09-14 of the North Dakota Century Code, relating to the surety bond of a master and class B electrician.

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

SECTION 1. AMENDMENT.) Section 43-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-14. MASTER ELECTRICIAN AND CLASS B ELECTRICIAN - BOND.) Before receiving a license as entering into a contract agreement or undertaking with another for the installation of electrical wiring or installation of electrical parts of other apparatus, a master electrician or as a class B electrician, ~~an applicant~~ shall execute and deposit with the board a surety bond, unless such a bond has been previously deposited, in the sum of ~~two~~ three thousand dollars for a master electrician or ~~one~~ two thousand dollars for a class B electrician conditioned for the faithful performance of all electrical work undertaken by him and the strict compliance with all the provisions of this chapter and the requirements of the board. In cities requiring a bond by virtue of a city ordinance, such bond shall not be superseded by the bond required by this section.

Approved March 10, 1979

## CHAPTER 462

HOUSE BILL NO. 1422  
(Wessman)

## EMBALMER AND FUNERAL ESTABLISHMENT LICENSE FEES

AN ACT to amend and reenact sections 43-10-05, 43-10-13, 43-10-14, 43-10-15, and 43-10-22 of the North Dakota Century Code, relating to the power of the board of embalmers to establish license fees, the fees for embalmer licenses issued after examination and without examination, license renewal fees, and license and renewal fees for funeral establishments.

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

SECTION 1. AMENDMENT.) Section 43-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-05. POWER OF BOARD TO ADOPT RULES FOR TRANSACTION OF BUSINESS - SEAL - LICENSE FEES.) The board may:

1. Adopt such regulations for the transaction of its business and the management of its affairs as it deems expedient.
2. Adopt and use a seal.
3. Promulgate regulations requiring that each funeral home, at the time of selection of merchandise and services from such funeral home, disclose in writing to the person or persons making the selection:
  - a. The total price at retail of the merchandise and services selected and a listing of what merchandise and services are included within such total.
  - b. The price at retail of each item of supplemental service or merchandise requested.
  - c. The amount of cash advances to the extent that the same are known or can be ascertained at the time of the selection.

d. The terms by which payment for merchandise and services is to be made.

4. Establish license and renewal fees for embalmers and funeral establishments within the limits imposed by this chapter.

SECTION 2. AMENDMENT.) Section 43-10-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-13. LICENSE - WHEN GRANTED - FEE - SIGNED BY MAJORITY OF BOARD - NONTRANSFERABLE - WHERE DISPLAYED.) The board shall grant a license to practice embalming or preparing dead human bodies for burial or shipment, if the applicant:

1. Has the required qualifications;
2. Has passed the required examination; and
3. Has paid to the treasurer of the board the sum of fifteen not more than seventy-five dollars, as established by the board.

The license shall be signed by a majority of the members of the board and shall be attested by its seal and shall specify by name the person to whom it is issued. A license shall be nonassignable and nontransferable and shall be displayed by the licensee in a conspicuous place in his office or place of business.

SECTION 3. AMENDMENT.) Section 43-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-14. LICENSE - ISSUED WITHOUT EXAMINATION.) The board may issue a license to practice embalming or preparing dead human bodies for burial or shipment to an applicant who has not taken the examination if:

1. He holds a license to practice embalming issued to him by another state where the requirements for a license are equivalent to those of this state and where like privileges are accorded to holders of licenses issued in this state.
2. He pays the fee of fifty not more than one hundred dollars, as established by the board.

SECTION 4. AMENDMENT.) Section 43-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-15. LICENSE - TERM - RENEWAL - FEE FOR RENEWAL.) The license to practice embalming or preparing dead human bodies for burial shall be issued for one year only but shall be renewed by the board upon the payment to the treasurer of the annual renewal fee. The amount of such the fee shall ~~be determined by the board but~~

~~shall~~ not exceed ~~twenty-five~~ fifty dollars. The board may refuse to renew the license for cause.

SECTION 5. AMENDMENT.) Section 43-10-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-22. LICENSURE OF FUNERAL ESTABLISHMENTS.) After January 1, 1964, no person shall operate or manage, for himself or others, a funeral establishment without a funeral establishment license issued by the state board of embalmers for each ~~such~~ place of business. No funeral establishment shall be located on tax-exempt property. Any person desiring to operate a funeral establishment shall submit an application for an annual license for each funeral establishment to the secretary of the state board of embalmers accompanied by a license fee for each establishment of ~~twenty-five not more than fifty~~ dollars, as established by the board. Thereafter each person operating or managing a funeral establishment shall annually, on or before ~~January~~ December first, submit an application for renewal of such license together with a renewal fee of ~~ten~~ not more than fifty dollars, as established by the board. Such licenses shall be valid until the following January first, unless sooner revoked as hereinafter provided. All applications must show that the funeral establishment sought to be licensed has complied with all rules and regulations promulgated by the board in regard to safety and sanitation and will be under the supervision of a North Dakota licensed embalmer. Any applicant who has met these standards shall be issued a license. In case of the death of an owner of a funeral establishment who leaves an established business as part or all of his estate, the said board may issue a special renewable temporary license to the ~~legal~~ personal representative of ~~such the~~ deceased person for the duration of the administration of the estate, but which shall in no instance exceed two years. The fee for such temporary license shall be the same as required for regular licenses. Any person operating a funeral establishment as defined in section 43-10-21, who is engaged in business at a fixed location in North Dakota on the date of approval of sections 43-10-21 through 43-10-24 may apply for and be entitled to a funeral establishment license on the same basis as would a currently licensed embalmer.

Approved March 8, 1979

## CHAPTER 463

HOUSE BILL NO. 1219  
(Committee on Industry, Business and Labor)  
(At the request of the Securities Commissioner)

## PRE-NEED FUNERAL SERVICES

AN ACT to create four new sections to chapter 43-10.1 of the North Dakota Century Code, relating to application of chapter 28-32 to this chapter, and to fraudulent practices, orders, injunctions, investigations, and subpoenas under the pre-need funeral services laws; to amend and reenact section 43-10.1-07 of the North Dakota Century Code, relating to prosecutions for violation of the pre-need funeral services laws; to amend and reenact section 43-10.1-08 of the North Dakota Century Code, relating to penalties for violation of this Act; and to repeal section 43-10.1-06 of the North Dakota Century Code, relating to special audits of funeral establishments or cemetery associations under the reporting requirements of the pre-need funeral services laws.

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

SECTION 1.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADMINISTRATION.) The commissioner of securities shall have the power to promulgate rules and regulations having the force and effect of law, reasonably necessary to carry out the provisions of this chapter, in accordance with chapter 28-32. Any hearing held and any orders issued pursuant to this chapter shall be in accordance with chapter 28-32. In addition to those powers set forth in chapter 28-32, the commissioner of securities shall have additional powers as set forth in this chapter.

SECTION 2.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

FRAUDULENT PRACTICES.) It shall be a fraudulent practice and it shall be unlawful:

1. For any person knowingly to subscribe to, or make or cause to be made, any material false statement or representation in any report or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact in any such document or statement which is necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.
2. For any person, in connection with the sale of any pre-need funeral service or personal property, directly or indirectly, to employ any device, scheme, or artifice to defraud.
3. For any person, in connection with the sale of any pre-need funeral service or personal property, directly or indirectly, to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

SECTION 3.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

ORDERS AND INJUNCTIONS.) Whenever it shall appear to the commissioner either upon complaint or otherwise, that any person has engaged in, is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any order of the commissioner issued pursuant to any section of this chapter or which is declared to be illegal in this chapter, the commissioner may, in his discretion:

1. Issue any order, including but not limited to cease and desist, stop, and suspension orders, which he deems necessary or appropriate in the public interest or for the protection of purchasers; provided, however, that any person aggrieved by an order issued pursuant to this subsection may request a hearing before the commissioner if such request is made within ten days after receipt of the order. Such hearing shall be held in accordance with chapter 28-32 as shall be any appeal therefrom.
2. Apply to the district court of any county in this state for an injunction restraining such person and his agents, employees, partners, officers, and directors from continuing such act, practice, or transaction of engaging therein or doing any acts in furtherance thereof, and for such other and further relief as the facts may warrant. In any proceeding for an injunction, the commissioner may apply for and on due showing be entitled to have issued the court's subpoena requiring the appearance forthwith of any defendant and his agents, employees, partners, officers, or directors, and the production of such

documents, books, and records as may appear necessary for the hearing upon the petition for an injunction. Upon proof of any of the offenses described in this section, the court may grant such injunction as the facts may warrant. The court may not require the commissioner to post a bond.

SECTION 4.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

INVESTIGATIONS AND SUBPOENAS.)

1. The commissioner in his discretion:
  - a. May make such public or private investigation within or outside this state as he deems necessary to determine whether any person has violated or is about to violate any provision of this chapter of any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder.
  - b. May require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter to be investigated.
  - c. May publish information concerning any violation of this chapter or any rule or order hereunder.
2. For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.
3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the district court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.
4. No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any

officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

SECTION 5. AMENDMENT.) Section 43-10.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-07. PROSECUTION FOR VIOLATIONS OF LAW.) If, as a result of verification procedures or ~~special--audits~~ investigations as provided in sections 43-10.1-05 and ~~43-10.1-06~~ 3 of this Act, or based upon other reliable information, the commissioner of securities, after consultation with the attorney general, shall believe that grounds for criminal prosecution of the operator or manager of any licensed funeral establishment or cemetery association or any other person exist for violation of this chapter or any other law of this state, the commissioner of securities may 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.

SECTION 6. AMENDMENT.) Section 43-10.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-08. ~~PENALTIES FOR VIOLATION OF CHAPTER.~~ Any person who ~~shall refuse, fail, or neglect to file any report and provide any information as required by section 43-10.1-03 after written notification by the commissioner of securities that he is required to do so, or who shall otherwise violate any provisions of this chapter,~~ willfully violates any provision of this chapter or any rule or order of the commissioner made pursuant to the provisions of this chapter, or who engages in any act, practice, or transaction declared by any provision of this chapter to be unlawful shall be guilty of a class ~~A-misdemeanor~~ C felony.

SECTION 7. REPEAL.) Section 43-10.1-06 of the North Dakota Century Code is hereby repealed.

Approved March 10, 1979

## CHAPTER 464

HOUSE BILL NO. 1357  
(Wald, Hedstrom)

## HAIRDRESSERS AND COSMETOLOGISTS

AN ACT to create and enact a new subsection to section 43-11-31 of the North Dakota Century Code, relating to refusal to grant a certificate of registration for hairdressers and cosmetologists; and to amend and reenact sections 43-11-11 and 43-11-12, subsection 2 of section 43-11-16, sections 43-11-17 and 43-11-19, subsection 1 of section 43-11-20.1, subsections 3 and 4 of section 43-11-21, sections 43-11-24 and 43-11-25, subsections 1 and 2 of section 43-11-26, subsections 1, 2, and 3 of section 43-11-27, subsections 1, 2, and 3 of section 43-11-28, and section 43-11-30 of the North Dakota Century Code, relating to sanitary rules, aid of the board of hairdressers and cosmetologists, registered schools, fees for certificates of registration for schools, student registration, tuition refund, operator's certificate examination, operator's certificate without examination, manager-operator, instructor's license, renewal of certificate, and revocation of certificate.

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

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

43-11-11. SANITARY RULES.) The board, with the approval of the state department of health, shall prescribe--such adopt those sanitary rules as it may--deem deems necessary to be employed--to prevent the creating and spreading of infectious and contagious diseases. The board shall adopt other rules consistent with and necessary to carry out the provisions of this chapter. A hairdressing or cosmetician shop shall be separate from all other businesses and establishments and shall not be used for living or sleeping quarters. An operator may practice outside of such the establishment under the direction and control of an owner or manager thereof under such--regulations-as rules promulgated by the board may provide.

SECTION 2. AMENDMENT.) Section 43-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-12. PERSONS CALLED TO AID OF BOARD.) The board may call to its aid any person of established reputation and known ability in hairdressing and cosmetology for the purpose of conducting examinations, inspections, and investigations of any or all persons, firms, or corporations affected by this chapter. ~~Such~~ The person shall not be connected with any school teaching any of the occupations under this chapter. Any person called by the board to its aid shall receive for ~~her~~ those services not more than ~~ten~~ thirty-five dollars for each day employed in the actual discharge of ~~her~~ official duties, and ~~her~~ actual and necessary expenses to be paid in the same manner as the compensation and expenses of members of the board are paid.

SECTION 3. AMENDMENT.) Subsection 2 of section 43-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 2. Requires one thousand five eight hundred hours of training and instruction in cosmetology;

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

43-11-17. CERTIFICATE OF REGISTRATION ISSUED FOR SCHOOLS OF HAIRDRESSING, COSMETOLOGY, AND SHOPS - FEE FOR ANNUAL REGISTRATION.) The board may issue an annual certificate of registration for a school giving instruction in hairdressing and cosmetology. The annual registration fee for ~~such~~ a school shall be determined annually by the board, but shall not exceed the sum of one hundred dollars. The board shall, after inspection and approval, issue a shop registration certificate, the annual fee for which shall be determined annually by the board, but shall not exceed fifty dollars for new registrations and ~~not exceed--ten~~ twenty-five dollars for shops previously registered.

SECTION 5. AMENDMENT.) Section 43-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-19. STUDENTS - REGISTRATION.) A student hairdresser and cosmetologist, ~~as defined by section 43-11-01,~~ shall be registered with the board, but to be registered as a student one shall have the following qualifications:

- 1. Be at least seventeen years of age.
- 2. Be of good moral character.
- 3. Have educational qualifications equivalent to completion of two years of high school.

4. Have matriculated in a registered school and complied with the preliminary requirements thereof.

The names and qualifications of all students shall be certified to the board by each registered school. The certification of the names and qualifications of the students registered at each school shall be accompanied by a processing fee for each student in an amount as may be fixed by the board, not to exceed five dollars.

SECTION 6. AMENDMENT.) Subsection 1 of section 43-11-20.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. When notice is received prior to or within seven days after completion of the first day of instruction, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.

SECTION 7. AMENDMENT.) Subsections 3 and 4 of section 43-11-21 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. ~~Such~~ An examination fee as may be fixed by the board ~~which shall not to exceed fifteen~~ twenty dollars ~~for--both classifications.~~
4. Satisfactory proof that the applicant has the required training in a registered school which shall not be less than one thousand ~~five~~ eight hundred hours for hairdressers and cosmetologists.

SECTION 8. AMENDMENT.) Section 43-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-24. OPERATOR'S CERTIFICATE - WHEN ISSUED - FAILURE TO PASS EXAMINATION - REEXAMINATION.) An operator's certificate shall be issued to any person who has:

1. Complied with the provisions of section 43-11-21; and
2. Passed to the satisfaction of the board, the examination of applicants for a certificate to practice under this chapter.

If the applicant fails to pass the examination, the examination fee shall not be returned ~~to--her~~, but within one year after such examination, ~~she~~ the applicant may be examined again ~~without~~ with the payment of an additional examination fee as may be fixed by the board, not to exceed twenty dollars.

SECTION 9. AMENDMENT.) Section 43-11-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-25. CERTIFICATE ISSUED WITHOUT EXAMINATION - CONDITIONS.) The board may dispense with the examination of applicants for certificates to practice hairdressing and cosmetology and may grant ~~such~~ certificates of registration upon the payment of a fee ~~of--thirty-five~~ as may be fixed by the board, not to exceed forty dollars, if:

1. The applicant has complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the requirements are equal substantially to those in force in this state at the time the application for the certificate is filed; or
2. Due proof is furnished that for at least ~~five~~ three years immediately prior to the application the applicant has practiced continuously the occupation for which a certificate is desired in the District of Columbia, or another state, territory, foreign country, or province.

SECTION 10. AMENDMENT.) Subsections 1 and 2 of section 43-11-26 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Furnishes to the board evidence ~~that-she-has~~ of:
  - a. ~~Practiced~~ Having practiced as a licensed operator in this state for at least two hundred fifty days; and
  - b. ~~Attained~~ Having attained the age of ~~twenty-one~~ eighteen years.
2. Pays a fee ~~of-ten~~ as may be fixed by the board, not to exceed twenty dollars.

SECTION 11. AMENDMENT.) Subsections 1, 2, and 3 of section 43-11-27 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. No person may be licensed as an instructor in any practice, or any combination of the practices, of cosmetology unless ~~such~~ the person shall furnish the board evidence of having attained the age of eighteen years and ~~has~~ having a general education equivalent to the completion of four years in high school and shall pay the ~~original--instructor's--license~~ examination fee of-ten as fixed by the board, not to exceed twenty dollars and shall hold a license as a cosmetologist issued pursuant to section 43-11-21 hereof, and in addition:
  - a. Shall have at least nine hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than one thousand

- one hundred hours teacher's training be required for admission to examination; or
- b. Shall have at least one year's experience as an active practicing cosmetologist, supplemented by not less than four hundred eighty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination under this subdivision; or
  - c. Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to ~~such person's~~ application for an instructor's license supplemented by not less than one hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination under this subdivision. No instructor or student instructor shall be permitted to practice cosmetology on a patron other than that part of practical work which shall pertain directly to the teaching of practical operations to students.
2. Student instructors in cosmetology shall be registered as ~~such without fee~~ upon enrollment in a registered school of cosmetology and upon certification by ~~such~~ the school to the board of the name, age, and qualifications of ~~said~~ the student instructor which shall be recorded in a register kept for that purpose. A student instructor shall, at the time of enrollment, possess a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, ~~said~~ the student instructor shall make application on a form provided by the board and pay a fee of ~~ten~~ twenty dollars, ~~such~~. The board shall thereupon cause ~~such~~ the applicant to be examined for an instructor's certificate, ~~such~~. The examination ~~to~~ shall be given by a special examining committee comprised of the board, assisted by one designated by the board, who shall possess at least the minimum qualifications entitling him to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only. Upon successfully passing ~~said~~ the examination the board shall issue an instructor's certificate to the applicant.
  3. No person may be licensed as a demonstrator unless ~~such~~ the person shall ~~be~~ is a licensed cosmetologist or shall file proof with the board ~~that he has~~ of continuously ~~practiced~~ practicing in another state as a cosmetologist for a period of at least two years prior to the date of

the application for license as ~~such~~ a demonstrator and shall pay an ~~annual~~ original license fee of ~~five~~ fifteen dollars.

SECTION 12. AMENDMENT.) Section 43-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-28. RENEWAL OF CERTIFICATE - FEE.) The certificate of registration issued by the board under the provisions of this chapter shall be valid for one year and shall be renewed by the board on or before the thirty-first day of December of each year upon the payment of the annual renewal fee, which shall be:

1. For operators, not more than ~~eight~~ ten dollars.
2. For manager-operators, not more than ~~ten~~ fifteen dollars.
3. For instructors, not more than ~~ten~~ fifteen dollars.
4. For demonstrators, not more than ten dollars.

The board may reduce a renewal fee from the maximum amount only if it applies an equal percentage of reduction to all renewal fees. The board shall sponsor an educational program for certificate holders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled operators, manager-operators, and instructors. The board is directed to use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 13. AMENDMENT.) Section 43-11-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-30. REVOCATION OF CERTIFICATE.) The board may revoke and suspend certificates of registration upon proof of the violation of the provisions of this chapter or rules and--regulations established promulgated by the board.

SECTION 14.) A new subsection to section 43-11-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

Violates the provisions of this chapter or the rules promulgated by the board.

Approved March 24, 1979

## CHAPTER 465

SENATE BILL NO. 2356  
(Senator Peterson)  
(Representative Olson)

OCULAR DIAGNOSTIC PHARMACEUTICAL  
AGENTS

AN ACT to create and enact a new section to chapter 43-13 of the North Dakota Century Code, relating to the certification of optometrists to use ocular diagnostic pharmaceutical agents; to amend and reenact subsection 1 of section 43-13-01 and subsection 4 of section 43-15-01 of the North Dakota Century Code, relating to definitions; and providing an expiration date.

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

\* SECTION 1.) A new section to chapter 43-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

BOARD MAY AUTHORIZE USE OF OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS - TRAINING REQUIRED FOR CERTIFICATION - BOARD MAY ADOPT RULES.) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to administer ocular diagnostic pharmaceutical agents. This authorization shall only include the ordering and utilization of such ocular diagnostic pharmaceutical agents.

Only those optometrists who have duly applied to the board and satisfactorily passed an examination and completed such courses prescribed by the board in general and ocular pharmacology, including cardiopulmonary resuscitation and first aid for adverse reactions, shall be permitted the use of ocular diagnostic pharmaceutical agents.

No course or courses in pharmacology shall be approved by the board unless taught by an institution having the capability for both the didactic and clinical instruction in pharmacology, which institution is accredited by a regional or professional accrediting organization recognized and approved by the council on postsecondary accreditation or the United States office of education, and transcript credit for the course or courses is certified to the board by the institution as being equivalent in both hours and content to those courses in pharmacology required of health professional students graduating after June, 1972.

In issuing an original or renewal license certificate pursuant to this chapter, the board shall expressly state whether such

\* NOTE: This section is temporary and is therefore not codified as a section of North Dakota Century Code Chapter 43-13.

licensed person has been certified to prescribe and use such ocular diagnostic pharmaceutical agents, and such certification shall be prominently displayed on the license certificate.

The board shall adopt rules, including requirements for additional educational qualifications necessary to ensure the required professional competency by those practitioners who apply to the board to be certified in the use of such ocular diagnostic pharmaceutical agents.

In addition to the licensing fees charged by the board, an additional reasonable fee may be set for the examination, reexamination and certification of applicants for certification under this section.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Optometry shall be defined as a profession whose practitioners are engaged in the refraction of the human eye and the examination thereof, together with its appendages, without the use of ~~drugs,--medicines---or~~ surgery; and by using such objective or subjective techniques as are necessary to enable recognition of disease for medical referral, ~~--and--to--determine--and interpret.~~ Included within the definition shall be the application of ocular diagnostic pharmaceutical agents as authorized by this chapter, and the determination and interpretation of any visual, muscular, neurological or anatomical anomaly of the eye, which may be aided, relieved or corrected through visual training procedures or through the use of lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings. Any person so engaged in visual training procedures or who employs or prescribes lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings, to aid, relieve or correct any visual anomaly, or holds himself out as being able to do so, shall be deemed to be engaged in the practice of optometry and must have a certificate of registration, as herein provided by this chapter.

\* SECTION 3. AMENDMENT.) Subsection 4 of section 43-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

\* NOTE: Section 43-15-01 was amended by section 86 of House Bill No. 1073, chapter 187.

4. "Prescription" means any order for drugs or medical supplies, where such order is written or signed or transmitted by word of mouth, telephone, telegram or other means of communication by a duly licensed physician, optometrist, dentist, veterinarian or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded or dispensed by a pharmacist.

SECTION 4. EXPIRATION DATE.) The provisions of section 1 of this Act expire at twelve midnight on June 30, 1981.

Approved March 21, 1979

## CHAPTER 466

HOUSE BILL NO. 1456  
(Martinson)

### OPTOMETRIC SERVICE DISCRIMINATION PROHIBITED

AN ACT to prohibit discrimination in the choice of optometric services.

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

SECTION 1. DISCRIMINATION IN OPTOMETRIC SERVICES PROHIBITED.)  
No person shall discriminate between licensed practitioners of optometry and physicians, or interfere with any individual's right to free choice of ocular practitioner, with respect to the providing of professional services within the scope of section 43-13-01. If a group health, accident or disability policy or contract of insurance, or any other type of employee group benefit or safety program specifically provides for the payment of optometric services within the scope of section 43-13-01, the payment shall be made regardless of whether the service is performed by a physician or optometrist. The provisions of this Act shall not apply to nonprofit medical service corporations or plans as set forth in chapter 26-27.

Approved March 7, 1979

## CHAPTER 467

HOUSE BILL NO. 1557  
(Conmy)

## PHARMACIST REGISTRATION

AN ACT to amend and reenact subsections 1 and 3 of section 43-15-10, sections 43-15-14, 43-15-19, 43-15-20, 43-15-21, 43-15-22, 43-15-25, 43-15-26, 43-15-27, 43-15-28, 43-15-29, 43-15-32, 43-15-34, subsection 2 of section 43-15-38, and section 43-15-43 of the North Dakota Century Code, deleting references to assistant registered pharmacists and increasing fees charged by the board of pharmacy; and to repeal section 43-15-17 of the North Dakota Century Code, relating to the qualifications of assistant registered pharmacists.

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

SECTION 1. AMENDMENT.) Subsections 1 and 3 of section 43-15-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To cancel, revoke, or suspend the certificate and registration of any registered pharmacist~~7--or--registered assistant-pharmacist7~~ who:
  - a. Is addicted to any drug habit.
  - b. Uses any advertising statements of a character tending to deceive or mislead the public~~7--or--uses---any advertising--in--which-reference-is-made-to-any-price, cost7--charge--or--fee--for--prescription--services--or prescription-materials7--elements7--or--compounds.~~
  - c. Is a chronic or persistent inebriate.
  - d. Permits or engages in the unauthorized sale of narcotic drugs.
  - e. Permits or engages an unauthorized person to practice pharmacy.

- f. Is mentally or physically incompetent to handle his pharmaceutical duties.
  - g. Is guilty of fraud, deception, or misrepresentation in passing his pharmacist examination.
  - h. Willfully and repeatedly violates any of the provisions of the laws regulating pharmacists or the rules and regulations established by the board.
3. To examine and register as pharmacist ~~and--assistant pharmacist~~ any applicant found entitled to such registration.

\* SECTION 2. AMENDMENT.) Section 43-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-14. DRUGS, POISONS, MEDICINES, CHEMICALS - WHO MAY SELL.) No drug, poison, medicine, or chemical, except patent or proprietary preparations shall be manufactured, compounded, sold, or dispensed in this state for medicinal use by any person other than a registered pharmacist, ~~assistant-registered-pharmacist,~~ or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsectien-4\*-of~~ section 43-15-15, or regularly licensed physician, nor shall any person except a registered pharmacist, ~~assistant--registered-pharmacist,~~ or a regularly licensed physician, or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsectien-4\*-of~~ section 43-15-15, dispense or compound a prescription of a medical practitioner except as provided in this chapter.

SECTION 3. AMENDMENT.) Section 43-15-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-19. EXAMINATION FOR REGISTRATION.) Except as otherwise provided in this chapter, every applicant for registration as a pharmacist ~~or--assistant-pharmacist,~~ before receiving a certificate from the board, shall pass such an examination as to his education and professional qualifications as the board shall prescribe.

SECTION 4. AMENDMENT.) Section 43-15-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-20. FEES FOR EXAMINATION.) Each applicant for registration as a pharmacist in this state shall pay to the secretary of the board ~~the--sum--of--twenty-five--dollars~~ before examination a fee to be set by the board not to exceed three hundred dollars. If the applicant fails to pass a satisfactory examination, he may be reexamined at any regular meeting of the board, upon the payment of a further fee ~~of--five~~ to be set by the board not to exceed three hundred dollars.

SECTION 5. AMENDMENT.) Section 43-15-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \* NOTE: Section 43-15-14 was also amended by section 87 of House Bill No. 1073, chapter 187.

43-15-21. CERTIFICATE - ISSUANCE.) The board shall cause to be issued to each pharmacist ~~or-assistant-pharmacist~~ in this state whom it finds entitled thereto, a certificate showing:

1. The date of issue.
2. The fact that the person to whom it was issued is a registered pharmacist ~~or-assistant-pharmacist, as-the-case may-be.~~
3. The residence of the person to whom the certificate was issued.

The certificate shall be signed by a majority of the members of the board.

SECTION 6. AMENDMENT.) Section 43-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-22. REGISTRATION WITHOUT EXAMINATION.) The board, without examination, may register and issue a certificate as a pharmacist ~~or--assistant--pharmacist~~ to any person of good moral character who presents to the board satisfactory evidence that before coming to this state he legally had been licensed as a pharmacist ~~or-assistant--pharmacist~~ in another state or foreign country, in which the requirements for such license with respect to qualifications are equivalent to the requirements of this state, but the board need not recognize or accept such license, certificate, or registration as evidence of the applicant's qualifications unless it is satisfied that the applicant is in fact qualified to be a pharmacist ~~or-assistant-pharmacist~~ in this state. The board may deny recognition or acceptance of the license, certificate, or registration of any state or foreign country which does not accord similar recognition to licentiates of this state. A fee to be set by the board not to exceed three hundred dollars shall be paid prior to registration without examination as provided for herein.

SECTION 7. AMENDMENT.) Section 43-15-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-25. TERM OF CERTIFICATE - RENEWAL - FEE - WHERE DISPLAYED.) The certificate issued by the board to a pharmacist ~~or assistant--pharmacist~~ under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed ~~fifty~~ two hundred dollars. Upon ~~the~~ payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drugstore where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue

~~such the~~ registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

SECTION 8. AMENDMENT.) Section 43-15-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-26. FAILURE TO RENEW CERTIFICATE - RENEWAL FEE - CANCELLATION OF REGISTRATION AND CERTIFICATE - REINSTATEMENT.) If a registered pharmacist ~~or--assistant--registered-pharmacist~~ in this state fails to pay the fee for a renewal of his certificate within the time required, the secretary of the board shall mail him a notice, addressed to his last known place of residence, notifying him of his failure to obtain a renewal certificate. The delinquent certificate holder, within sixty days after the notice is mailed, may procure a renewal certificate upon the payment of a renewal fee ~~of seven~~ to be set by the board not to exceed two hundred dollars. If the certificate holder fails to have his certificate renewed within sixty days after the notice is mailed, his original or renewal certificate, as the case may be, shall become void and the registry thereof shall be canceled. The board, on application of the delinquent certificate holder and upon the payment of all unpaid fees, may authorize the issuance to him of a new certificate without examination, if it is satisfied that the applicant is a proper person to receive the same.

SECTION 9. AMENDMENT.) Section 43-15-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-27. CHANGE PLACE OF BUSINESS - RECORD - FEE.) Every registered pharmacist, ~~and every assistant-pharmacist in this state,~~ within thirty days after changing his place of business as designated on the books of the board, shall notify the secretary of the board of his new place of business and shall accompany the ~~said~~ notice with a fee ~~of fifty cents~~ to be set by the board not to exceed twenty-five dollars. Upon receipt of ~~said the~~ fee and the notice of change of place of business, the secretary shall make the necessary change in the register and issue a receipt for the ~~said~~ fee to the person sending it.

SECTION 10. AMENDMENT.) Section 43-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-28. CERTIFICATE OF REGISTRATION CANCELED - NOTICE OF HEARING.) The certificate and registration of a pharmacist ~~or assistant--pharmacist~~ in this state shall not be revoked or canceled until after a hearing before the board. The complaint against the person accused shall be in writing. He shall be given notice of the hearing, an opportunity to appear in person and by counsel, and an opportunity to produce witnesses in his own behalf. The notice shall contain a copy of the complaint. When a pharmacist ~~or assistant--pharmacist~~ has been convicted of an offense which is ground for the cancellation of the certificate or registration, a

certified copy of the judgment of conviction filed with the board authorizes the board summarily to cancel and revoke the certificate of the convicted pharmacist.

SECTION 11. AMENDMENT.) Section 43-15-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-29. FALSE REGISTRATION - PENALTY.) Any person who shall procure or attempt to procure registration as a pharmacist, ~~or assistant-pharmacist~~, for himself or any other person under this chapter, by making or causing to be made any false representations, or who falsely or fraudulently shall represent himself to be registered, shall be guilty of a class A misdemeanor, and in addition to the penalty imposed by the court, shall, if he is a registered pharmacist ~~or--registered--assistant--pharmacist~~, shall have his registration canceled by the board.

SECTION 12. AMENDMENT.) Section 43-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-32. WHO MAY ENGAGE IN DRUG BUSINESS.) Every store, dispensary, pharmacy, laboratory, or office, selling, dispensing, or compounding drugs, medicines, or chemicals, or compounding or dispensing prescriptions of medical practitioners in the state, and every business carried on under a name which contains the words, "drugs", "drugstore", or "pharmacy" or which is described or referred to in such terms by advertisements, circulars, posters, signs, or otherwise, shall be in charge of a registered pharmacist, ~~or---during--his--temporary--absence--of--a--registered--assistant pharmacist~~.

SECTION 13. AMENDMENT.) Section 43-15-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-34. OPERATION OF PHARMACY - PERMIT REQUIRED - APPLICATION - FEE.) No person, copartnership, association, or corporation shall open, establish, operate, or maintain any pharmacy within this state without first obtaining a permit so to do from the board. Application for the permit shall be made upon a form to be prescribed and furnished by the board and shall be accompanied by a fee to be set by the board not to exceed ~~seventy-five~~ three hundred dollars. A like fee shall be paid upon each annual renewal thereof. Separate applications shall be made and separate permits required for each pharmacy opened, established, operated, or maintained by the same owner and for the change of location, name, or ownership of an existing pharmacy.

SECTION 14. AMENDMENT.) Subsection 2 of section 43-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Payment of the regular renewal fee and an additional five fee to be set by the board not to exceed two hundred dollars.

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

43-15-43. PHARMACIST NEGLIGENTLY ENDANGERING LIFE - PENALTY.) Any pharmacist ~~ex-assistant-pharmacist~~ in this state, who in putting up any drug or medicine, willfully or negligently:

1. Omits to label the drug or medicine;
2. Puts an untrue label, stamp, or other designation of contents upon the box, bottle, or package containing the drug or medicine;
3. Substitutes a different article for an article prescribed or ordered;
4. Puts up a greater or less quantity of an article than that prescribed or ordered; or
5. Deviates from the terms of the prescription or order in any manner,

in consequence of which human life is endangered, is guilty of a class A misdemeanor.

SECTION 16. REPEAL.) Section 43-15-17 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

## CHAPTER 468

HOUSE BILL NO. 1664  
(Timm)

## DENTAL HYGIENISTS AND DENTISTS

AN ACT to amend and reenact sections 43-20-06, 43-28-05, 43-28-14, and 43-28-17 of the North Dakota Century Code, relating to late registration fees for dental hygienists, compensation of members of the board of dental examiners, dental reexamination fees, and late registration fees for dentists.

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

SECTION 1. 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~~ ten 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.

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

43-28-05. MEETING OF BOARD - OFFICERS - BOND - COMPENSATION OF MEMBERS - QUORUM.) The board shall hold a regular annual meeting, at such place as is designated by it and such special meetings as are necessary. At the regular meeting of the board, the members shall elect from their number a president, vice president, and a secretary-treasurer. The secretary-treasurer shall furnish a bond in the amount fixed by the board. Each member of the board shall receive as compensation the sum of ~~fifty~~ seventy-five dollars for each day actually engaged in the duties of his office, ~~ten~~ fifteen cents per mile [1.61 kilometers] for the distance necessarily traveled in going to and returning from meetings of the board, and not to exceed ~~ten-dollars-a~~ actual expenses per day for

meals and lodging while attending meetings of the board. The secretary-treasurer shall be paid an annual salary equal to fifteen percent of all funds received by the board during the year. Three members of the board shall constitute a quorum but a smaller number may adjourn from time to time.

SECTION 3. AMENDMENT.) Section 43-28-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-14. REEXAMINATION - FEE.) If an applicant fails to pass the examination given by the board, he may apply for another examination, and upon the payment of a fee of ~~ten~~ twenty-five dollars shall be reexamined. The board shall determine the number of times an applicant may be reexamined.

SECTION 4. AMENDMENT.) Section 43-28-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-17. FAILURE TO PAY ANNUAL FEE - REVOCATION OF LICENSE.) Whenever a licensed dentist fails to pay the annual fee for the renewal of his certificate of registration, after thirty days' written notice of such default, the board may revoke his license to practice dentistry forthwith and notify such dentist thereof. The payment of the annual fee within the thirty-day period, with an additional sum of twenty-five dollars, will excuse the default.

Approved March 8, 1979

## CHAPTER 469

SENATE BILL NO. 2153  
(Committee on Industry, Business and Labor)  
(At the request of the Real Estate Commission)

## REAL ESTATE LICENSE STANDARDS AND SUSPENSION OR REVOCATION

AN ACT to amend and reenact subsection 2 of section 43-23-08 and subsection 1 of section 43-23-11.1 of the North Dakota Century Code, relating to license standards and grounds for suspension or revocation of licenses of real estate brokers and salesmen.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In addition to the requirements established by subsection 1, an applicant for a broker's or salesman's license must be at least eighteen years of age and shall be a citizen of the United States and a North Dakota resident.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-23-11.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commission upon its own motion may, and upon the verified complaint in writing of any person shall, investigate the activities of any licensee or any person who shall assume to act in such capacity within the state, and shall have the power to suspend or revoke a license when the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:
  - a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
  - b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to any party.

- c. Making any false promise of a character such as to influence, persuade, or induce a party to a real estate transaction to his injury or damage.
- d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom he acts.
- e. Failure to account for or to remit, within a reasonable time, any moneys coming into his possession belonging to others; commingling funds of others with his own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized depository in this state, or keeping records relative to the deposit, which shall contain such information as may be prescribed by the rules and regulations of the commission relative thereto.
- f. ~~Been convicted or pleaded guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as a real estate broker or salesman, or the commission determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12-1-33-02+1~~ any court of any felony, or of a misdemeanor involving theft, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other similar offense. A certified copy of the record of conviction shall be conclusive evidence of conviction in such cases.
- g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to his principal or employer the full amount of such licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
- h. Failing or refusing upon demand to produce any document, book, or record in his possession or under his control, concerning any real estate transaction under investigation by the commission.
- i. Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on any terms other than those authorized by the owner or his authorized agent.
- j. Refusing, because of race, color, national origin or ethnic group, to show, sell, lease, or rent any real estate to prospective renters, lessees, or purchasers.

- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed thereto.
- l. Paying compensation or commission in connection with any real estate sale, lease, or other transaction to any person who is not licensed as a real estate broker or real estate salesman under this chapter.
- m. Failing to disclose to an owner his intention or true position if he directly or indirectly through a third party purchases for himself or acquires or intends to acquire any interest in or any option to purchase property which has been listed with his office for sale or lease.
- n. Failure to include a fixed date of expiration in any written listing agreement and failure to leave a copy of such agreement with the principal.
- o. Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement, showing all of the receipts and disbursements handled by such broker for the seller; also failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed, and to retain true copies of such statements in his files.
- p. Violating any provisions of this chapter or rule or regulation promulgated by the commission.
- q. Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.
- r. Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this chapter, or by rule or regulation of the commission, from any person except the licensed real estate broker under whom he is licensed as a salesman.
- s. If the licensee is a broker, allowing any unlicensed salesman to do any act or engage in any activity regulated by this chapter or under rule or regulation of the commission, which is carried on in the name of or under the authority of the broker.
- t. Failure of a salesman to place with his employing broker for deposit in the brokerage trust account all

real estate trust moneys received by him within twenty-four hours of the time of receipt; or failure of the employing broker to place such moneys for deposit within twenty-four hours of the time of receipt from his salesman. Provided that if trust money is received on a day prior to a holiday or on another day prior to which the depository is closed where the trust fund is maintained, the moneys shall then be deposited during the next business day of the depository.

- u. Failure of the licensee to reduce an offer to writing where a proposed purchaser requests that such offer be submitted to the seller, or failure of the licensee to submit all offers to a seller when such offers are received prior to the seller accepting an offer in writing and until the broker has knowledge of such acceptance.

- v. Any other conduct, whether of the same or of a different character than specified in this subsection, which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of his licensed privilege.

Approved April 7, 1979

## CHAPTER 470

SENATE BILL NO. 2152

(Senators Wenstrom, Goodman, Tallackson)  
(Representatives Mertens, Opedahl, Wessman)

## PHYSICAL THERAPIST REGISTRATION

AN ACT to amend and reenact sections 43-26-01, 43-26-04, 43-26-05, 43-26-06, 43-26-07, 43-26-08, 43-26-09, 43-26-10, 43-26-11, 43-26-12, and 43-26-13 of the North Dakota Century Code, relating to the examination, registration, and practice of physical therapy and physical therapist assistants; and to repeal sections 43-26-02 and 43-26-03 of the North Dakota Century Code, relating to the duties of the state board of medical examiners and the state physical therapy examining committee.

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

SECTION 1. AMENDMENT.) Section 43-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Physical therapy" means the treatment-of-any-disability, injury, disease-or-other-condition-of-health-of-human beings,--or--the--prevention--of--such-disability, injury, disease-or-other-conditions-of-health--and--rehabilitation as--related--thereto--by-the-use-of-the-physical, chemical and-other-properties--of--air,--cold,--heat,--electricity, exercise,--massage,--radiant-energy,--including-ultraviolet, visible--and--infra-red--rays,--ultrasound,--water--and apparatus--and--equipment--used--in-the-application-of-the foregoing-or-related-thereto.--The-use-of--Roentgen-rays and--radium--for--diagnostic-and-therapeutic-purposes,--and the-use-of-electricity-for--surgical--purposes,--including cauterization,--are-not-authorized-under-the-term-"physical therapy"--as-used-in-this-chapter. art and science of a health speciality concerned with the prevention of disability and the physical rehabilitation for congenital or acquired disabilities resulting from, or secondary to, injury or disease. The practice of physical therapy means the practice of the health speciality, and encompasses

physical therapy evaluation, treatment planning, instruction, and consultative services, including:

- a. Performing and interpreting tests and measurements as an aid to physical therapy treatment.
  - b. Planning initial and subsequent treatment programs, on the basis of test findings.
  - c. Administering treatment by therapeutic exercise, neurodevelopmental procedures, therapeutic massage, mechanical devices, and therapeutic agents which employ the physical, chemical, and other properties of air, water, heat, cold, electricity, sound, and radiant energy for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability.
2. "Physical therapist" means a person who applies physical therapy as defined in this chapter ~~upon the prescription, and under the direct supervision of a person licensed and registered in this state to practice medicine and surgery and whose license is in good standing.~~
  3. "Physical therapist assistant" means a person who assists, under the onsite direction of a registered physical therapist, in the practice of physical therapy and who performs such delegated procedures commensurate with the assistant's education and training. No more than two physical therapist assistants may be supervised by one physical therapist.

SECTION 2. AMENDMENT.) Section 43-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-04. STATE EXAMINING COMMITTEE - MEMBERS - TERMS - APPOINTMENTS - VACANCIES.) The state examining committee for physical therapists, hereinafter the "committee," shall administer this chapter. The committee shall consist of three registered physical therapists, two licensed physicians, and a citizen who is not a health care professional. The governor shall appoint the committee members of the state examining committee for physical therapists for a term of five years, staggered so the term of only one member terms of no more than two members shall expire each year. No person shall serve more than two full consecutive terms. The term of office shall commence Terms shall begin on July first of each year. All appointments to the examining committee shall be made by the governor from a list of three qualified physical therapists or doctors of medicine. The health care appointments will be made from a list of three qualified physical therapists submitted by the governing body of the North Dakota chapter of the American physical therapy association if a physical therapist is to be appointed and, or from a list of three doctors qualified

physicians submitted by the state board of medical examiners if a doctor physician is to be appointed. The governor shall appoint the citizen member at large. Appointments to the state-examining committee to fill a vacancy occurring for other than the expiration of a term shall only be made for the remainder of the unexpired term. Each physical therapist appointed ~~thereto--shall--be--a--duly registered--physical--therapist,--shall--have--had--not--less--than--three years--experience--in--physical--therapy--immediately--preeding--his appointment,--and--shall--be--actively--engaged--in--physical--therapy--in this--state--during--his--term--of--office.---Each--doctor--of--medicine appointed--to--said--state--examining--committee--shall--be--duly--licensed and--registered--to--practice--medicine--and--surgery--in--this--state,--and shall--have--had--not--less--than--four--years--actual--experience--in--the practice--of--medicine--and--surgery~~ must have had at least three years of physical therapy experience in North Dakota immediately prior to appointment, and must practice in North Dakota during the term. Each physician appointed must have practiced medicine at least three years in North Dakota immediately prior to appointment and must practice in North Dakota during the term. Each member of the state examining committee, before entering upon the discharge of his or her duties, shall take and file with the secretary of state the oath of office prescribed for state officials.

SECTION 3. AMENDMENT.) Section 43-26-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-05. OFFICERS - DUTIES - COMPENSATION.) Annually a A president, and a vice president,--and--secretary shall be elected annually by the board committee from its members to serve for one year or until their successors are elected and qualified. The committee shall designate a secretary who does not have to be a committee member. The state-examining committee shall serve--in--an advisory--capacity--to--the--state--board--of--medical--examiners--in--matters pertaining--to--physical--therapists,--and--the--state--board--of--medical examiners--shall have authority to prescribe reasonable rules and regulations relative to the qualification and examination of physical therapist and physical therapist assistant applicants. As to any matters coming under its jurisdiction, the state--examining committee may take such testimony as it may deem necessary in the exercise of its powers and the performance of its duties under the provisions--of this chapter,--and--any--member--of--said. Any committee member shall have the power to administer oaths in the taking of such testimony.

A simple majority of the committee shall constitute a quorum for the transaction of business. The secretary shall keep a record of all committee proceedings of--said--committee. The examining committee shall meet at such time and at such place as the president shall direct,--under--the--direction--of--the--state--board--of--medical examiners,--except--that--the. The committee shall conduct the examination examinations for the registration of physical therapists and physical therapist assistants at least once each year. The board--of--medical--examiners--may--appoint--and--fix--the--compensation--of such--employees--as--may--be--necessary--to--assist--the--examining--committee

~~and the board of medical examiners shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of~~ committee shall hire and set the compensation for any employees it needs to administer this chapter. No member of the examining committee shall receive any compensation for time spent in the performance of his duties but shall receive actual expenses and travel expenses payable out of the funds of the board Committee members shall receive expenses from committee funds for each day or a portion thereof spent in committee work as provided for other state officers in chapter 44-08. All funds collected or received by the board committee shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 4. AMENDMENT.) Section 43-26-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-06. APPLICANTS - QUALIFICATIONS - EXAMINATIONS.) It shall be the duty of the ~~state board of medical examiners with the advice and assistance of the state examining~~ committee to pass upon the qualifications of all applicants for physical therapy and physical therapist assistant examination and registration, provide for and conduct all examinations, determine the applicants who successfully pass the examination, and duly register such persons. A person who desires to To be registered as a physical therapist or a physical therapist assistant, a person must have the following qualifications:

1. Be at least eighteen years of age.
2. ~~Be a citizen of the United States of America or have filed a declaration of intention to become a citizen and, having made such declaration of intention, have filed a petition for naturalization within sixty days after becoming eligible to do so.~~
3. Be of good moral character.
4. ~~Have successfully obtained a high school education or its equivalent, as determined by the board.~~
5. 3. Have been graduated by a school of physical therapy or a program of physical therapist assistant training approved by the board for training physical therapists committee.

~~Application shall be made on a form furnished by the board, for examination for registration as a physical therapist, in determining whether or not such approval shall be given, the board may take into consideration the approval or nonapproval of such schools by the appropriate association, if any, at the time of applicant's graduation, or if graduated prior to 1936, whether or not the school or course was approved by the American physical therapy association, at the time of graduation. The examination Examinations shall embrace the following subjects: the applied sciences of anatomy, neuroanatomy, kinesiology, physiology,~~

~~pathology,--psychology,--physies,--physical-therapy-as-defined-in-this chapter,--as-applied-to-medicine,--neurology,--orthopedies,--pediatrics,--psychiatry,--surgery,--medical--ethics,--and-technical-procedures-in physical-therapy-as-defined-in-this--chapter~~ subjects to test an applicant's knowledge of the basic and clinical sciences as they relate to physical therapy, and physical therapy theory and procedures, and such other subjects as the board committee may determine to be necessary. ~~At-the-time-of-making--such--application~~ When applying to take the registration examination, the applicant shall pay to the board committee a fee of ~~twenty-five~~ fixed by committee regulation and not exceeding seventy-five dollars which shall not be returned if ~~such~~ the application is denied.

SECTION 5. AMENDMENT.) Section 43-26-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-07. REGISTRATION.) The ~~state--board-of--medical examiners committee~~ shall register all applicants as physical therapists or physical therapist assistants who successfully pass the ~~examination~~ examinations provided for in this chapter and who are otherwise qualified as required herein, and shall furnish a certificate of registration to each successful applicant.

SECTION 6. AMENDMENT.) Section 43-26-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-08. WHEN EXAMINATION NOT REQUIRED - FEE.) The ~~state board-of--medical--examiners committee~~ may issue a registration certificate of registration in physical therapy without examination ~~therein~~ to an applicant who presents satisfactory evidence, ~~satisfactory--to--the--board,~~ of having passed the examination in physical therapy of the American registry of physical therapists, or an examination before a similar, lawfully authorized examining board in physical therapy or for physical therapist assistants of another state, the District of Columbia, a United States territory, or a foreign country. However, this reciprocity can be granted only if the standards for registration in physical therapy or physical therapist assistants in such other ~~state,--district,--territory--or foreign--country-as-determined-by-said-board-are-as-high-as-those-of this-state~~ jurisdiction are determined by the committee to be as high as North Dakota's. ~~At-the-time-of-making-such-application,--the applicant-shall-pay-to-the-board-a-fee-of-twenty-five-dollars--which shall--not--be--returned--if-the-application-is-denied~~ The committee shall establish a registration fee under this section within the limits of section 43-26-06.

SECTION 7. AMENDMENT.) Section 43-26-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-09. RENEWALS - CONTINUED CURRENCY - FEES.) In January of each year every physical therapist or physical therapist assistant shall apply to the board committee for an extension of his or her registration and pay a fee of ~~five~~ determined by committee regulation and not exceeding twenty-five dollars. Registration that

is not annually renewed on or before January thirty-first,--each year, shall lapse on said that date. The board committee, in its discretion, may reinstate a lapsed registration upon the payment of the full five--dollar renewal fee as provided in this section and may, in its discretion, require a late renewal fee of twenty-five dollars.

The committee may establish rules and regulations to require some evidence of continued currency for registration or re-registration as a physical therapist or a physical therapist assistant.

SECTION 8. AMENDMENT.) Section 43-26-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-10. RULES AND REGULATIONS.) The board may committee shall adopt such whatever rules and regulations as may be, pursuant to the provisions of chapter 28-32, that are necessary to carry out the provisions of this chapter. The committee secretary of--the board shall keep a record of all proceedings under this chapter and a list of all persons registered under it. The register shall show the name, address, date and number of the original registration, and the renewal thereof. The board secretary annually shall, on or before February fifteenth of--each--year, compile a list of all registered physical therapists and physical therapist assistants and mail a copy thereof to the state department of health and the state's attorney of each county. Any other--interested--person--may obtain a A copy of such this list on request--to be obtained from the board secretary for a fee upon payment of such amount as may be fixed by the board committee. The--board--shall--provide--blanks, books, application forms, registration certificates, stationery, and any--other--supplies--or--assistance--that--may--be--necessary--to--carry--out the provisions of this chapter. All money received by the board under this chapter shall be paid to the secretary of the board. Said money so received may be used by the board in defraying The committee shall use the funds it receives under this chapter to defray its expenses in carrying out the provisions of administering this chapter. It shall be the duty of the The secretary to shall sign all orders for payment of money and other accounts and other orders of the board committee.

SECTION 9. AMENDMENT.) Section 43-26-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-11. REFUSAL, SUSPENSION OR REVOCATION OF CERTIFICATE.) The state board of medical examiners committee may refuse to grant registration--to register any physical therapist or physical therapist assistant, or may suspend or revoke the registration of any physical therapist or physical therapist assistant, for any of the following grounds:

1. Habitual--indulgence--in--the--use--of--narcotic--drugs--or--other habit-forming drugs Use of controlled substances, drugs,

or liquor to an extent that affects professional competency.

2. ~~Excessive-indulgence-in-the-use-of-alcoholic-liquors-~~
- 3- Conviction of an offense determined by the board committee to have a direct bearing upon a holder's ability to serve the public as a physical therapist or physical therapist assistant, or if the board committee determines, following conviction of any offense, that a holder is not sufficiently rehabilitated under section 12.1-33-02.1.
- 4--~~Conviction-of-a-crime-involving-moral-turpitude-~~
- 5--~~Conviction--for--violating-any-municipal,-state-or-federal-narcotic-law-~~
- 6- 3. Procuring, aiding, or abetting a--~~criminal~~ an illegal abortion.
- 7- 4. Obtaining or attempting to obtain registration by fraud or deception.
- 8- 5. ~~Finding~~ A finding by a court of competent jurisdiction that the registrant is a mentally ill person and has not thereafter been restored to legal capacity.
- 9- 6. Conduct unbecoming a person registered as a physical therapist or physical therapist assistant, or detrimental to the best interests of the public.
- 10--~~Failure--to--file--a--petition--for--naturalization-within-ninety-days-after-becoming-eligible-to-do-so,-or,-if--such-petition--has--been--filed,-failure-to-become-a-citizen-of-the-United-States-of-America-within-six-months-after--such-filing-~~
- 11- 7. For treating or attempting to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this chapter.
- 12- 8. For applying or offering to apply physical therapy independent-of-the-prescription-and-direct-supervision--of-a-person-licensed-and-registered-in-this-state-to-practice-medicine-and-surgery exclusive of initial evaluation or screening other than upon the referral of a licensed physician, or a licensed dentist, or in the case of a physical therapist assistant, practicing or offering to practice other than under the onsite direction of a licensed physical therapist.

SECTION 10. AMENDMENT.) Section 43-26-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-12. USE OF CERTAIN WORDS AND INITIALS PROHIBITED.) It shall be unlawful for any ~~person~~ persons, corporations, or associations to, in any manner, represent ~~himself~~ themselves as a physical--therapist physical therapists or physical therapist assistants, as providing physical therapy services, or to use in connection with his their name names the words or letters physical therapist, physiotherapist, physical therapy technician, registered physical therapist, physical therapist assistant, P.T.A., P.T., Ph. T., P.T.T., or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that he--is--a--physical--therapist they are physical therapists or physical therapist assistants, or provide physical therapy services, without a valid existing certificate or registration as a--physical--therapist physical therapists or physical therapist assistants issued to him them pursuant to ~~the provisions of~~ this chapter. Nothing in this chapter shall prohibit any ~~person~~ persons licensed or registered in this state, under chapter 43-17 or another law, from carrying out the therapy or practice for which ~~he--is~~ they are duly licensed or registered. Nor shall it prevent schools, ~~Y-M-C-A- clubs~~ YMCA's, athletic clubs, and similar organizations from furnishing therapy service to their players and members. This chapter, ~~also, shall not be construed so as to~~ does not prohibit masseurs and masseuses from engaging in their practice ~~not--otherwise--prohibited--by--law--and~~ provided they do not represent themselves as physical therapists or physical therapist assistants.

SECTION 11. AMENDMENT.) Section 43-26-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-13. PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT MUST BE REGISTERED - REPRESENTATIONS AND BILLINGS WITHOUT REGISTRATION PROHIBITED - ENFORCEMENT - INJUNCTIONS.) ~~No person shall practice physical therapy or hold himself out--as--a--physical therapist--unless--he--has--been--registered--by--the--state--board--of medical-examiners-as-provided--for--in--this--chapter.~~ No person, persons, corporations, or associations shall practice physical therapy or hold themselves out, represent themselves, or send out billings as providing physical therapy services, without personal registration or the use of registered employees as provided in this chapter. It shall be unlawful to employ an unregistered physical therapist or physical therapist assistant to provide physical therapy services. The secretary, under the direction of the committee, shall aid the state's attorneys of the various counties in the enforcement of the provisions of this chapter and the prosecution of any violations thereof. In addition to the criminal penalties provided by this chapter, 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.

SECTION 12. REPEAL.) Sections 43-26-02 and 43-26-03 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1979

## CHAPTER 471

HOUSE BILL NO. 1224  
(Committee on Industry, Business and Labor)  
(At the request of the Attorney General)

## POLYGRAPH EXAMINER INTERNSHIP

AN ACT to create and enact a new section to chapter 43-31 of the North Dakota Century Code, relating to an internship period for polygraph examiners; to create and enact new subsections to sections 43-31-01 and 43-31-14 of the North Dakota Century Code, relating to the definition of a polygraph examiner internship and the license fees for a polygraph examiner intern; and to amend and reenact subsection 6 of section 43-31-07 of the North Dakota Century Code, relating to qualifications for licensing as a polygraph examiner.

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

SECTION 1.) A new section to chapter 43-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

INTERNSHIP LICENSE.)

1. Upon approval by the attorney general, an internship license shall be issued to a trainee provided he applies for such license and pays the required fee within ten days prior to the commencement of his internship. The application shall contain such information as may be required by the attorney general.
2. An internship license shall be valid for the term of twelve months from the date of issue. Such license may be extended or renewed for any term not to exceed six months upon good cause shown to the attorney general.
3. A trainee shall not be entitled to hold an internship license after the expiration of the original twelve month period and six month extension, if such extension is granted by the attorney general until twelve months after the date of expiration of the last internship license held by said trainee.

SECTION 2.) A new subsection to section 43-31-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Internship" means the study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a licensed examiner in accordance with a course of study prescribed by the attorney general at the commencement of such internship.

SECTION 3. AMENDMENT.) Subsection 6 of section 43-31-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Who has satisfactorily completed ~~specialized--training deemed-acceptable-by--the--attorney--general~~ a polygraph examiners course approved by the attorney general and has satisfactorily completed not less than six months of internship training.

SECTION 4.) A new subsection to section 43-31-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

The fee to be paid for an internship license, and for the extension or renewal thereof, is twenty-five dollars.

Approved March 7, 1979

## CHAPTER 472

HOUSE BILL NO. 1216  
 (Committee on Industry, Business and Labor)  
 (At the request of the Attorney General)

## POLYGRAPH EXAMINER LICENSE RENEWAL

AN ACT to amend and reenact sections 43-31-08 and 43-31-14 of the North Dakota Century Code, relating to the renewal of lapsed polygraph examiners licenses.

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

SECTION 1. AMENDMENT.) Section 43-31-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-08. REINSTATEMENT OF LICENSE.) An examiner whose license has expired may be reinstated at any time within ~~five--years~~ one year after the expiration thereof, by making a renewal application therefor and by paying the renewal license fee ~~and--all lapsed--renewal--fees--for--each--year--since--the--expiration--of--his~~ license.

SECTION 2. AMENDMENT.) Section 43-31-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

Approved March 7, 1979

## CHAPTER 473

SENATE BILL NO. 2463  
(Senators Thane, Sandness)  
(Representative Dietz)

## PSYCHOLOGIST LICENSURE EXEMPTION

AN ACT to create and enact a new subsection to section 43-32-30 of the North Dakota Century Code, relating to the exemption from licensure as a psychologist of persons practicing as school psychologists.

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

SECTION 1.) A new subsection to section 43-32-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any person employed by a public school whose activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption shall apply only when the person to be exempted has received a master's degree in school psychology from an accredited graduate training program. Standards will be established by mutual consent of the board of psychological examiners and the department of public instruction.

Approved April 7, 1979

## CHAPTER 474

HOUSE BILL NO. 1236  
(Nicholas)

## NURSING HOME ADMINISTRATORS

AN ACT to amend and reenact section 43-34-02 and subsection 1 of section 43-34-03 of the North Dakota Century Code, relating to the composition of the state board of examiners for nursing home administrators, and to qualifications for licensure.

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

SECTION 1. AMENDMENT.) Section 43-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. ~~Three~~ Two members of the board shall be the state health officer, and the executive director of the social service board of North Dakota,~~---and---the-commissioner-of-higher education.~~
2. One member of the board shall be a physician appointed to the board for a three-year term by the governor from a list of three names submitted ~~to him~~ by the state medical association.
3. One member of the board shall be a hospital administrator appointed to the board for a three-year term by the governor from a list of three names submitted ~~to him~~ by the North Dakota hospital association.
4. Three members of the board shall be licensed nursing home administrators appointed to the board for three-year terms by the governor from a list of names submitted ~~to him~~ by the North Dakota hospital association. The association shall submit three names for each appointive position.
5. One member of the board shall be a licensed nursing home administrator appointed to the board for a three-year term

by the governor from a list of three names submitted by the North Dakota health care association.

- 5- 6. One member of the board shall be a nurse appointed to the board for a three-year term by the governor from a list of three names submitted ~~to him~~ by the North Dakota state nurses' association.
- 6- 7. Any vacancies occurring in the appointments made by the governor shall be filled in the same manner as was used in naming the prior appointee.
- 7- 8. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. He or she is at least eighteen years of age, a ~~citizen of the United States~~, of good moral character, and of sound physical and mental health.

Approved March 18, 1979

## CHAPTER 475

SENATE BILL NO. 2295  
(Lodoen)

## WATER WELL CONTRACTORS

AN ACT to amend and reenact subsection 5 of section 43-35-02, and sections 43-35-07 and 43-35-17 of the North Dakota Century Code, relating to certificates issued by the state board of water well contractors.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 43-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Well" shall mean any artificial opening or artificially altered natural opening, however made, by which ground water is sought, including test holes drilled for the purpose of exploration for and development of ground water, or through which ground water flows under natural pressure or is artificially withdrawn, provided that this definition shall not include a natural spring, stock ponds, or holes drilled for the purpose of exploration for production of oil, gas, gravel, or other minerals.

SECTION 2. AMENDMENT.) Section 43-35-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-07. COMPENSATION AND REIMBURSEMENT OF EXPENSES.) Each appointive member of the board shall receive ~~fifteen-dollars-per-day for--the--actual--services--rendered,--and--in--addition--thereto,--each member--shall--receive--the--necessary--and--actual--expenses--incurred--by him--in--the--discharge--of--his--duties,--The--mileage--and--travel--expenses allowed--shall--not--exceed--the--amount--provided--for--in--section--54-06-09~~ the same compensation per day and shall be reimbursed for his expenses in the same amounts as provided for in section 54-35-10 for members of the legislative council while attending board meetings or otherwise engaged in the official business of the board.

SECTION 3. AMENDMENT.) Section 43-35-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-17. RENEWAL OF CERTIFICATE.) A certificate issued under the provisions of this chapter shall be valid for up to one year and shall expire on the thirty-first day of December in the year it was issued. The certificate may be renewed by the board upon application made prior to April first in the year following its expiration accompanied by a fee in the an amount of--twenty--dollars to be set by the board not to exceed fifty dollars and the furnishing of a bond as provided in section 43-35-14.

Approved March 15, 1979

## CHAPTER 476

HOUSE BILL NO. 1398  
(Wald)

## ELECTROLOGISTS AND ELECTRONIC HAIR REMOVAL TECHNICIANS

AN ACT to provide for the licensing of electrologists and electronic hair removal technicians, relating to the definitions of terms relating to electrology, qualifications and examinations of electrologists and electronic hair removal technicians, and the special licensing of electrologists and electronic hair removal technicians by the state health council; and providing a penalty.

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

*13-38-01* SECTION 1. DEFINITIONS.) In this chapter unless the context or subject matter otherwise requires:

- 1* ② "Electrolysis" means the removal of superfluous hair by use of the electric needle or electronic process;
- 2* ① "Electrologist" means a qualified and licensed person proficient in the removal of hair by means of the electric needle;
3. "Electronic hair removal technician" means a qualified and licensed person proficient in the removal of hair by means of an electronic process other than the electric needle;
4. "State health council" means the state health council as defined in chapter 23-01.

*13-38-02* SECTION 2. DUTIES OF STATE HEALTH COUNCIL.) The state health council shall issue an electrologist's or electronic hair removal technician's license. The annual license shall be determined annually by the council but shall not exceed fifty dollars for new licenses and not exceed twenty-five dollars for relicensure.

*13-38-03* SECTION 3. RULEMAKING AUTHORITY OF COUNCIL.) The state health council shall establish standards, rules and regulations which are found necessary for the maintenance of public health,

including sanitation and disease control. The council shall have the following powers:

1. To establish minimum age levels;
2. To establish education and training levels for electrologists and electronic hair removal technicians;
3. To issue, deny, suspend, or revoke licenses;
4. To develop application and licensure forms;
5. To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it; and
6. To promulgate such requirements as may be found necessary to carry out the intent of this Act.

All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the council upon proof, satisfactory to the council, of having met the qualifications.

47-38-04 SECTION 4. PENALTY.) Any person who holds himself out as an electrologist or an electronic hair removal technician without having met the requirements and without an annual license or violates any of the provisions of this Act or rules and regulations promulgated hereunder shall be guilty of an infraction.

Approved March 19, 1979