

OCCUPATIONS AND PROFESSIONS

CHAPTER 470

HOUSE BILL NO. 1281
(Conmy)

ARCHITECT REGISTRATION AND RENEWAL FEES

AN ACT to amend and reenact section 43-03-18 and 43-03-19 of the North Dakota Century Code, relating to registration and renewal fees paid by an architect.

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

SECTION 1. AMENDMENT. Section 43-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-18. Fees. The following shall be the registration and renewal fees required to be paid by an architect:

1. ~~Registration fee, following~~ Following examination, ~~fifty a registration fee of not more than one hundred dollars, as set by the board.~~
2. ~~Registration fee, when~~ When examination ~~is~~ not necessary under section 43-03-15, ~~fifty a registration fee of not more than one hundred dollars, as set by the board.~~
3. ~~Annual~~ An annual renewal fee, ~~twenty-five of not more than one hundred dollars, as set by the board.~~

SECTION 2. AMENDMENT. Section 43-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-19. Effect of failure to pay renewal fee.

1. If the holder of a certificate of registration as an architect fails to pay the annual renewal fee when due, he shall have his certificate revoked unless his application for renewal is made within one year after the expiration of his certificate. He then shall pay a the renewal fee of twenty-five dollars set by the board under section 43-03-18. If a former holder applies for renewal more than one year after the expiration of his certificate he

may, in the board's discretion, be reinstated upon payment of a fee of one hundred dollars.

2. No certificate shall be revoked for nonpayment of fees unless the secretary of the board has first given at least thirty days' notice by certified mail to the holder of such certificate. The notice shall be directed to the last known address or place of residence of the delinquent.

Approved March 3, 1983

CHAPTER 471

HOUSE BILL NO. 1595
(Representatives Gates, Laughlin)
(Senator Wogsland)

APPRENTICE BARBERS

AN ACT to amend and reenact sections 43-04-22, 43-04-24, and 43-04-31 of the North Dakota Century Code, relating to the supervision of apprentice barbers, the hours and course of study of a barbering school, and the length of time an apprentice barber must serve under a registered barber.

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

SECTION 1. AMENDMENT. Section 43-04-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-22. Apprentice barber - Certificate of registration required - Powers. A person may not serve as an apprentice barber unless he:

1. Has a certificate of registration and is registered as an apprentice or has a permit to work as an apprentice barber; and
2. Is under the immediate supervision of a registered barber.

The certificate of registration of an apprentice, as required in subsection 1, shall be annulled three years after the person first makes his application as an apprentice. An apprentice barber may do any or all of the acts constituting the practice of barbering. Not more than ~~one~~ two apprentice shall be employed in any one barber shop.

SECTION 2. AMENDMENT. Section 43-04-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-24. Minimum standard of schools of barbering. No school of barbering shall be approved by the board unless it requires as a prerequisite to graduation a course of instruction of not less than one thousand ~~two~~ five hundred hours to be completed within a reasonable period of time as determined by the board with not more than eight hours in any one working day. Such course of instruction shall include the following subjects:

1. Scientific fundamentals of barbering.
2. Hygiene.
3. Bacteriology.
4. Histology of the hair, skin, muscles, and nerves.
5. Structure of the head, face, and neck.
6. Elementary chemistry relating to sterilization and antiseptics.
7. Diseases of the skin, glands, and nails.
8. Massaging and manipulating the muscles of the upper body.
9. Hair cutting.
10. Shaving.
11. Arranging, dressing, coloring, bleaching, perming, and tinting the hair.

SECTION 3. AMENDMENT. Section 43-04-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-31. Qualifications for certificate of registration as registered barber. A person is qualified to receive a certificate of registration to practice barbering if he:

1. Is qualified in accordance with the provisions of section 43-04-23;
2. Is at least eighteen years of age;
3. Is of good moral character and temperate habits;
4. Has practiced as a registered apprentice for a period of ~~twenty-four~~ fifteen months under the immediate supervision of a registered barber; and
5. Has passed a satisfactory examination conducted by the board to determine his fitness to practice barbering.

Approved March 10, 1983

CHAPTER 472

HOUSE BILL NO. 1114
(Committee on Social Services and Veterans Affairs)
(At the request of the Board of Chiropractic Examiners)

CHIROPRACTIC BOARD MEMBERSHIP AND CHIROPRACTIC LICENSURE

AN ACT to create and enact a new section to chapter 43-06 of the North Dakota Century Code, relating to use of national examining board examination of chiropractors; and to amend and reenact sections 43-06-02, 43-06-05, 43-06-08, 43-06-09, 43-06-10, 43-06-12, and 43-06-13 of the North Dakota Century Code, relating to the board of chiropractic examiners and relating to licensure of chiropractors.

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

SECTION 1. AMENDMENT. Section 43-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-02. Who exempt from the provisions of this chapter. This chapter shall not apply to ~~chiropractors~~:

1. Chiropractors from the District of Columbia, or other states, territories, or countries who are in actual consultation in this state.
2. Students duly enrolled in an approved and accredited college of chiropractic who have completed chiropractic studies of at least nine quarters or the equivalent if the school is on some other basis other than quarters and who are continuing their training under a preceptorship program and performing the duties of an intern under the supervision of a chiropractor licensed in the state of North Dakota who has received approval to supervise such internship by the board and said students having received approval to participate in such internship by the board.
3. A graduate of any approved and accredited college of chiropractic who has for the first time made application for license by examination to practice chiropractic in the state of North Dakota, may, under the supervision of a North Dakota licensed chiropractor, perform the duties of an intern, provided that a supervising chiropractor has

certified to the state board of chiropractic examiners that the graduate is of good character and competent chiropractic ability. The authorization granted by the board shall terminate on the day of issuance of a chiropractic license after the North Dakota chiropractic examination for which application is made, except such authorization granted shall terminate when the results of that North Dakota chiropractic examination are announced for those graduates who do not receive a passing grade on that examination.

SECTION 2. AMENDMENT. Section 43-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-05. Meetings of board - When held - Place of meeting - Quorum - Officers - Seal - Expenses - How paid. The board shall hold regular meetings for the examination of applicants on the first Tuesday of January and July of each year twice yearly at approximate six-month intervals and such special meetings as it may deem necessary. The meetings shall be held at such places as the board may designate. Three members of the board shall constitute a quorum. At the regular first meeting of the board on the first Tuesday of January of each calendar year, the members of the board shall elect from their membership a president, vice president, and secretary-treasurer. Each shall hold office for one year and until his a successor is elected and qualified. The board shall have a seal, and by may adopt appropriate rules and regulations shall make provision for the payment of the expenses of the members of the board necessary to carry out the provisions of this chapter. A member of the board shall receive compensation in an amount to be fixed by regulation of the board for each day or portion thereof spent in the discharge of duties, such mileage as is provided by section 54-06-09, and shall be reimbursed for actual and necessary expenses incurred in the discharge of official duties in accordance with section 44-08-04. In addition to the compensation, expenses and mileage, the secretary-treasurer of the board shall receive such salary as shall be fixed by a resolution of the board adopted at a regular meeting.

SECTION 3. AMENDMENT. Section 43-06-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-08. License required - Application - Examination required - Fee. No person shall practice chiropractic in this state unless he that person has a license from the state board of chiropractic examiners. Any person who desires a license shall apply to the board and submit to an examination. Each applicant shall present with his the application his a diploma from an accredited school or a college of chiropractic accredited by the council on chiropractic education or its successor, or a photograph photocopy of the same, and proof that he the applicant has the required qualifications. Before beginning the examination, the applicant shall pay to the secretary-treasurer of the board the sum a fee, to be determined by the board from time to time, of ~~five~~ an amount not to exceed two hundred dollars. The

board may in its discretion accept a national examining board certificate in lieu of an examination for a license, provided all other requirements are met examination shall be held twice yearly at intervals of approximately six months with date and place to be determined by the board.

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

43-06-09. Chiropractor - Qualifications. An applicant for examination to practice chiropractic in this state shall have-

- 1- Completed a standard resident high school course of not less than sixteen units or credits;
- 2- Completed, in an accredited college or university, at least two years of work in the basic sciences of physics, chemistry, hygiene, anatomy, psychology, pathology, and diagnosis; and
- 3- A degree received from an approved and accredited school or college of chiropractic where the resident course of instruction is not less than four years of eight nine months each, or four thousand hours. An approved and accredited college of chiropractic within the meaning of this chapter is a college of chiropractic that is approved by the board and accredited by the council on chiropractic education or its successor.

SECTION 5. AMENDMENT. Section 43-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-10. Examination - Subjects covered. The examination for a license to practice chiropractic in this state shall must be in the manner and form as prescribed by the board from time to time. It must cover the following subjects:

1. Anatomy.
2. Physiology.
3. Symptomatology.
4. Diagnosis.
5. Nerve tracing.
6. Dietetics Nutrition.
7. Chiropractic ~~orthopedics~~ orthopedics.
8. Chemistry.
9. Pathology.

10. Bacteriology.
11. Gynecology Obstetrics and gynecology.
12. Chiropractic philosophy.
13. Chiropractic jurisprudence and, adjusting, and patient management as taught by chiropractic schools and approved and accredited colleges of chiropractic.
14. X-ray.

SECTION 6. A new section to chapter 43-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

National board examination. The board may in its discretion accept parts one and two of the national examining board examination in lieu of part of an examination for a license, providing all other requirements are met but will require examination in:

1. Nutrition.
2. Chiropractic orthopedics.
3. Nonsurgical gynecology.
4. Chiropractic jurisprudence, adjusting, and patient management as taught by approved and accredited colleges of chiropractic.
5. X-ray.

SECTION 7. AMENDMENT. Section 43-06-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-12. Reexamination - Fee. If an applicant for a license to practice chiropractic fails to pass the examination, the board, within one year after he is rejected rejection, may permit him that person to take a second examination, upon the payment of a fee, to be determined by the board from time to time, of twenty-five an amount not to exceed two hundred dollars.

SECTION 8. AMENDMENT. Section 43-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-06-13. Term of license - Renewal - Fee - Requirements. A license to practice chiropractic in this state shall be is valid for one year only and shall must be renewed on or before the first day of September of each year. The fee for renewal of a license shall must be determined by the board, but shall may not exceed twenty-five two hundred dollars. The board, before it issues a renewal license, may shall require each applicant practicing who has a license to practice in this state to attend a postgraduate course in an accredited chiropractic school or consisting of at least twelve

hours sponsored by a college of chiropractic, accredited by the council on chiropractic education or its successor and approved by the board, or to attend at least a two-day session consisting of a minimum of twelve hours of the educational program arranged by the North Dakota chiropractic association and approved by the board. A license which has not been renewed, as a result of nonpayment of annual registration fees required by this chapter, may be reinstated upon payment to the board of the amount of renewal fees then in default along with an additional administrative fee to be fixed by the board not to exceed four hundred dollars. In addition to the payment of fees, the board, after an investigation, may require a chiropractor whose license has not been renewed to submit to a reexamination as to the applicant's qualifications to practice chiropractic before the applicant is reinstated, if the board in the exercise of its discretion finds and determines that the best interests of the public, and the applicant, will be served thereby.

Approved March 10, 1983

CHAPTER 473

SENATE BILL NO. 2382
(Stromme, Grotberg)

CONTRACTOR'S LICENSES AND RENEWALS

AN ACT to amend and reenact sections 43-07-04 and 43-07-10 of the North Dakota Century Code, relating to contractor's licenses and renewals.

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

SECTION 1. AMENDMENT. Section 43-07-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-04. License - How obtained. To obtain a license under this chapter, an applicant shall submit, on such forms as the registrar shall prescribe, an application under oath containing a statement of the applicant's experience and qualifications as a contractor, and the value and character of the contract work completed by him during the one year preceeding the date of such application, and the names of the persons for whom such work was done names of three persons who are knowledgeable about the applicant's experience and qualifications. A bond, as hereinafter prescribed, shall be filed with the application and the contractor shall submit a statement from the North Dakota workmen's compensation bureau that the contractor has secured workmen's compensation coverage satisfactory to that bureau along with such other information as may be required by the registrar to assist him in determining the applicant's fitness to act in the capacity of a contractor. The application shall contain a statement that the applicant desires the issuance of a license under the terms of this chapter, and shall specify the class of license sought. Any person refused a license by the registrar shall have a right of appeal from such refusal to the district court of Burleigh County, North Dakota, if a nonresident, or to the district court of the county of his residence, if a resident of North Dakota.

SECTION 2. AMENDMENT. Section 43-07-10 of the 1981 Supplement to 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 fiscal 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 preceding fiscal year in North Dakota for which a license was ~~required under this chapter~~ over the amount of ten thousand dollars, 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 February of each successive fiscal 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. If any contractor fails to file an application for a certificate of renewal when due, such contractor shall have his license revoked. Any contractor who had his license revoked shall be notified by mail of such revocation within sixty days of the filing deadline. He may then renew his license within ninety days of the filing deadline by paying a penalty fee of twenty-five percent of the original license fee and filing an application for a certificate of renewal and paying the renewal fee.

Approved April 8, 1983

CHAPTER 474

HOUSE BILL NO. 1294
(Moore)

PUBLIC PROJECT BID REQUIREMENTS

AN ACT to amend and reenact section 43-07-12 of the North Dakota Century Code, relating to bids on contracts for public projects.

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

SECTION 1. AMENDMENT. Section 43-07-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-12. Bids to show license issued. All bids and proposals for the construction of any public contract project subject to the provisions of this chapter shall contain a statement showing that the bidder or contractor is duly and regularly licensed hereunder. The number and class of such license then held by such public contractor shall appear upon such bid or proposal copy of the license or certificate or renewal thereof issued by the secretary of state enclosed in the required bid bond envelope. No contract shall be awarded to any contractor unless he is the holder of a license in the class within which the value of the project shall fall as hereinbefore provided. Except in the case of bids submitted to the state highway department for any federal aid project, a contractor must be the holder of a license at least ten days prior to the date set for receiving bids, to be a qualified bidder. Except in the case of bids submitted to the state highway department, the bid shall be submitted in a sealed envelope upon which there is disclosed the following information:

- 1- The class of license held by the bidder-
- 2- The number of the bidder's license-
- 3- The name of the person, firm or corporation submitting the bid-
- 4- Date on which license was issued or renewed-

The requirements of this section do not apply to bids submitted to the state highway department. A bid submitted without this information on the envelope properly enclosed in the bid bond envelope shall not be read nor considered and shall be returned to the bidder.

Approved March 4, 1983

CHAPTER 475

SENATE BILL NO. 2097
(Committee on Industry, Business, and Labor)
(At the request of the Secretary of State)

CONTRACTOR LICENSE RECORDS

AN ACT to amend and reenact section 43-07-13 of the North Dakota Century Code, relating to contractor's license records and certified copies thereof.

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

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

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

Approved March 4, 1983

CHAPTER 476

SENATE BILL NO. 2190
 (Committee on Industry, Business, and Labor)
 (At the request of the Electrical Board)

ELECTRICIAN LICENSURE AND ELECTRICAL INSTALLATION INSPECTION

AN ACT to create and enact a new subsection to section 43-09-15 of the North Dakota Century Code; and to amend and reenact sections 43-09-05, 43-09-14, and 43-09-20 of the North Dakota Century Code, relating to the value of electrical installations requiring inspection in municipalities, undertaking and liability insurance for electricians contracting for electrical installations, and reasons for nonrenewal of license.

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

SECTION 1. AMENDMENT. Section 43-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-05. Powers and duties of state electrical board - Report. The board shall adopt a seal and may make reasonable rules and regulations to carry out the provisions of this chapter. The board shall submit a biennial report as prescribed by section 54-06-04 to the governor and the department of accounts and purchases office of management and budget. The board shall appoint qualified inspectors, who shall within fifteen days after notice of completion of any electrical wiring installation involving a value of ~~one hundred fifty dollars~~ three hundred dollars or more in municipalities having ordinances requiring such inspection, inspect such electrical installation and approve or condemn the same. A report thereof shall be made on forms prescribed by the board.

SECTION 2. AMENDMENT. Section 43-09-14 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-14. Master electrician and class B electrician - Bond Undertaking - Fund. Before entering into a contract agreement or undertaking with another for the installation of electrical wiring or installation of electrical parts of other apparatus, a master electrician or a class B electrician shall execute and deposit with the board a surety bond, unless such a bond has been previously

deposited, an undertaking in the sum of three thousand dollars for a master electrician or two thousand dollars for a class B electrician conditioned for the faithful performance of all electrical work undertaken by him and the strict compliance with all the provisions of this chapter and the requirements of the board. In cities requiring a bond by virtue of a city ordinance, such bond shall not be superseded by the bond required by this section. In addition, a deposit must be made with the board in the amount of twenty-five dollars by a master electrician and in the amount of fifteen dollars by a class B electrician, in lieu of a surety bond. The deposit so made must be accumulated by the board in a special fund to be used for the completion of installations abandoned by electricians referred to in this section, not to exceed the amount of three thousand dollars for a master electrician and two thousand dollars for a class B electrician. The board shall waive the deposit for a renewal of license by electricians who have made an initial deposit under this section if at the beginning of the renewal year the fund exceeds thirty thousand dollars. The board may prescribe forms for the undertaking and make such rules as it may deem necessary to carry out the intent of this section.

SECTION 3. A new subsection to section 43-09-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Failure or refusal to make deposit or acquire public liability insurance as required by sections 43-09-14 and 43-09-20.

SECTION 4. AMENDMENT. Section 43-09-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-20. Contract for installation of electrical wiring and installation of electrical equipment made with master electrician - Requirement for liability insurance. No contract, agreement, or undertaking with another for the installation of electrical wiring or the installation of electrical parts of other apparatus shall be entered into by anyone not a master electrician. A class B electrician, as herein defined, is authorized to enter into a contract, undertaking, or agreement for the installation of farmstead electrical wiring or residential electrical wiring in one or two family dwellings located in municipalities of two thousand five hundred or less population, and his authority under the contract, undertaking, or agreement is limited to the actual installation by him of farmstead electrical wiring or residential electrical wiring in one or two family dwellings located in municipalities of two thousand five hundred or less population, and the installation of electrical equipment, appliances, and apparatus used on farmsteads and such residences. Before an electrician referred to in this section shall enter into a contract for installation of electrical wiring, he shall deposit with the board evidence of the existence of public liability insurance with a licensed insurance carrier, with policy limits of at least one hundred thousand dollars for a master electrician, and fifty thousand dollars for a class B electrician.

Approved March 4, 1983

CHAPTER 477

SENATE BILL NO. 2292
(Senator Grotberg)
(Representative Dean Horgan)

EMBALMER LICENSE REQUIREMENTS AND REVOCATION HEARINGS

AN ACT to amend and reenact sections 43-10-03, 43-10-10, 43-10-16, and 43-10-19 of the North Dakota Century Code, relating to the state board of embalmers and licensing of embalmers.

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

SECTION 1. AMENDMENT. Section 43-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-03. Officers of board - Compensation of members - Treasurer's bond. The members of the board may elect from their number a president, a secretary, and a treasurer. The treasurer shall be bonded for the faithful discharge of his duties in the ~~penal~~ sum of ~~five hundred two thousand~~ dollars. The members of the board shall receive their actual traveling expenses which shall not exceed the amount specified in section 54-06-09 and other necessary expenses and in addition ~~thereto~~ the secretary shall receive one hundred dollars a year for his services.

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

43-10-10. License required. No person shall embalm or prepare for burial, cremation, or shipment any dead human body unless he has a license to do so from the board or is under the direct supervision of a person who holds a license.

SECTION 3. AMENDMENT. Section 43-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-16. Grounds for revocation of license. The board may revoke or refuse to issue a license to practice embalming or preparing dead human bodies for burial, cremation, or shipment if the licensee:

1. Is unfit to practice embalming.

2. Has violated any of the provisions of this chapter or the rules and regulations of the board.

SECTION 4. AMENDMENT. Section 43-10-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-19. Hearing - Revocation. A licensed embalmer against whom charges have been made under the provisions of section 43-10-16 may appear before the board at the time and place of the hearing and refute the charges made against him. Any member of the board may administer oaths to witnesses. If after considering the facts and circumstances, the board has sufficient reason to believe that the licensee is guilty of the charges made against him, it may revoke and ~~cancel~~ or refuse to issue his license.

Approved March 4, 1983

CHAPTER 478

SENATE BILL NO. 2213
(Committee on Industry, Business, and Labor)
(At the request of the State Board of Pharmacy)

FOREIGN PHARMACIST GRADUATE REGISTRATION

AN ACT to create and enact a new subsection to section 43-15-15 of the North Dakota Century Code, relating to applicants for registration as pharmacists who are graduates of a school or college of pharmacy located outside the United States.

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

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

Any applicant who is a graduate of a school or college of pharmacy located outside the United States, whose school or college of pharmacy has not been recognized by the board as an approved school but who is otherwise qualified to apply for registration to practice pharmacy in this state, may be deemed to have satisfied the requirements of subsection 3 of this section by verification to the board of applicant's academic record and applicant's graduation and by meeting such other requirements as the board may establish from time to time. The board may require such applicant to successfully pass an examination or examinations given or approved by the board to establish proficiency in English and equivalency of education of such applicant with qualified graduates of a school or college recognized by the board as a prerequisite of taking the registration examination provided for in section 43-15-19.

Approved March 10, 1983

CHAPTER 479

HOUSE BILL NO. 1408
(Representative Unhjem)
(Senator Todd)

PHYSICIAN LICENSURE REQUIREMENT

AN ACT to create and enact a new subsection to section 43-17-31 of the North Dakota Century Code, relating to the grounds for revocation or suspension of a physician's license; to amend and reenact section 25-02-04 of the North Dakota Century Code, relating to the licensure of physicians on the professional staff of the state hospital; and to repeal section 43-17-23 of the North Dakota Century Code, relating to recording physician's licenses in registry of deeds.

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

SECTION 1. AMENDMENT. Section 25-02-04 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-02-04. Superintendent to possess certain qualifications - Employees. The superintendent of the state hospital shall be a certified psychiatrist. The superintendent shall appoint with the approval of the executive director of the department of human services an assistant superintendent of administration who shall be under ~~his~~ the superintendent's supervision and who shall be a qualified and experienced hospital administrator. The superintendent shall appoint and employ the professional staff and define their qualifications and duties. Every physician on the professional staff must have a license issued by the state board of medical examiners. The assistant superintendent shall employ such other personnel as may be necessary and shall define their qualifications and duties.

SECTION 2. A new subsection to section 43-17-31 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

The violation of the restrictions or conditions of a license limiting the practice of medicine to services in the employ of the state hospital.

SECTION 3. REPEAL. Section 43-17-23 of the North Dakota Century Code is hereby repealed.

Approved April 5, 1983

CHAPTER 480

SENATE BILL NO. 2456
(Fritzell)

PRACTICE OF MEDICINE WITHOUT LICENSE

AN ACT to amend and reenact section 43-17-34 of the North Dakota Century Code, relating to the practice of medicine without a license; and providing a penalty.

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

SECTION 1. AMENDMENT. Section 43-17-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-34. Practicing without a license - Violation of chapter - Penalty. Any ~~physieian~~ person who practices medicine in this state without complying with the provisions of this chapter, and any ~~physieian~~ person who violates any of the provisions of this chapter for which another penalty is not specified is guilty of a class B misdemeanor. In addition to the criminal penalties provided, the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person.

Approved April 8, 1983

CHAPTER 481

HOUSE BILL NO. 1579
(Moore, Unhjem)

BOARD OF ENGINEERS AND LAND SURVEYORS

AN ACT to amend and reenact sections 43-19.1-03 and 43-19.1-04 of the North Dakota Century Code, relating to the membership of the state board of registration for professional engineers and land surveyors, appointments to the board, and terms of appointments.

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

SECTION 1. AMENDMENT. Section 43-19.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-03. Board - Appointments - Terms. A state board of registration for professional engineers and land surveyors is hereby created whose duty it shall be ~~is~~ to administer the provisions of this chapter. The board shall ~~consist~~ consists of ~~five~~ four professional engineers who shall be appointed by the governor from among a list of nominees submitted to him by the North Dakota society of professional engineers who shall have the qualifications required by section 43-19.1-04, such list to contain the names of at least three times the number of nominees as there are vacancies to be filled and one professional land surveyor. The governor shall appoint the land surveyor member of the board from a list of nominees submitted by the North Dakota society of professional land surveyors. The list must include the names of at least three nominees for the vacancy to be filled. The members must possess the qualifications required by section 43-19.1-04. The members of the board shall be appointed for five years, five-year terms which are staggered so the term of one member shall expire expires June thirtieth of each year. The first professional land surveyor on the board shall be appointed for a five-year term beginning July 1, 1984. Existing board members shall serve until their term expires. Each member of the board shall receive a certificate of his appointment from the governor and shall file with the secretary of state his written oath or affirmation for the faithful discharge of his official duties. On the expiration of the term of any member, the governor shall in the manner hereinbefore provided appoint for a term of five years a registered professional engineer

a board member having the qualifications required in section 43-19.1-04, to take the place of the member whose term on said the board is about to expire. A member may be reappointed to succeed himself. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

SECTION 2. AMENDMENT. Section 43-19.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-04. Board - Qualifications. Each member of the board shall of the professional engineer board members must be a professional engineer, who is a citizen and resident of this state and who shall have, has been registered in this state a minimum of eight years, and who shall have has been engaged in the lawful practice of engineering for at least twelve years, and who shall have been in has had responsible charge of important engineering work for at least five years and the professional land surveyor board member must be a registered land surveyor, who is a citizen and resident of this state who has been registered as a professional land surveyor in this state a minimum of eight years and has been responsible for important land surveying work for at least five years. At least one member of the board shall be registered both as a professional engineer and as a land surveyor.

Approved March 15, 1983

CHAPTER 482

HOUSE BILL NO. 1392
(Moore, Unhjem)

LAND SURVEYORS-IN-TRAINING

AN ACT to create and enact a new section to chapter 43-19.1 and a new subsection to section 43-19.1-02 of the North Dakota Century Code, relating to the qualifications of land surveyors-in-training and the definition of a land surveyor-in-training; and to amend and reenact sections 43-19.1-12, 43-19.1-17, 43-19.1-18, and 43-19.1-20 of the North Dakota Century Code, relating to the registration of land surveyors-in-training, application for registration, registration fees, and certification.

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

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

Qualifications of land surveyors-in-training. An applicant for certification as a land surveyor-in-training who has had a minimum of four years of qualifying land surveying experience of a character satisfactory to the board, of which a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, may receive from the board, upon passing a written examination on the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed the examination and been recorded as a land surveyor-in-training.

SECTION 2. A new subsection to section 43-19.1-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Land surveyor-in-training" means a person who complies with the requirements for education, experience, and character, and has passed an examination in the fundamentals of mathematics and the basic principles of land surveying as required in this chapter and as established by the board.

SECTION 3. AMENDMENT. Section 43-19.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-12. General requirements for registration. To be eligible for registration as a professional engineer or land surveyor, or certification as an engineer-in-training or land surveyor-in-training, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references shall be registered engineers in the case of engineers, or three of which references shall be registered land surveyors in the case of land surveyors, having personal knowledge of his the applicant's engineering or land surveying experience, or in the case of an application for certification as an engineer-in-training or land surveyor-in-training, by three character references.

SECTION 4. AMENDMENT. Section 43-19.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-17. Application for registration. Application for registration as a professional engineer or land surveyor, and for certification as an engineer-in-training or land surveyor-in-training, shall be on a form prescribed and furnished by the board, ~~shall contain~~ containing statements made under oath, showing the applicant's education and a detailed summary of his the applicant's technical experience, and references as required by this chapter, and ~~shall be~~ accompanied by registration fees.

SECTION 5. AMENDMENT. Section 43-19.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 6. AMENDMENT. Section 43-19.1-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-20. Certificates. The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter, to any applicant who, in the opinion of the board, has met the requirements of this chapter. Enrollment cards shall be issued to those who qualify as engineers-in-training and land

surveyors-in-training. Certificates of registration shall carry the designation "professional engineer" or "land surveyor", shall show the full name of the registrant without any titles, shall be numbered, and shall be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board shall be is prima facie evidence that the person named ~~therein~~ on the certificate is entitled to all rights and privileges of a professional engineer or land surveyor during the term of which the ~~said~~ certificate providing the same has not been revoked or suspended.

Approved March 8, 1983

CHAPTER 483

SENATE BILL NO. 2432
(Senator Grotberg)
(Representatives E. Pomeroy, Horgan, C. Martin)

ENGINEER EMPLOYMENT FOR PUBLIC WORKS CONSTRUCTION

AN ACT to amend and reenact section 43-19.1-28 of the North Dakota Century Code, relating to when the state and its political subdivisions must employ a professional engineer for construction of public works.

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

SECTION 1. AMENDMENT. Section 43-19.1-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-19.1-28. Public works. This state and its political subdivisions, including counties, cities, townships and legally constituted boards, districts, commissions, or authorities, shall not engage in the construction of public works involving the practice of professional engineering as herein defined when the contemplated expenditure for the project shall exceed the sum of ~~five~~ fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction is executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section shall be is null and void.

Approved March 17, 1983

CHAPTER 484

HOUSE BILL NO. 1393
(Moore, Unhjem)

TEMPORARY PERMITS FOR ENGINEERS AND LAND SURVEYORS

AN ACT to amend and reenact subsection 1 of section 43-19.1-29 of the North Dakota Century Code, relating to the practices not subject to the registration requirements for engineers and land surveyors.

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

SECTION 1. AMENDMENT. Subsection 1 of section 43-19.1-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The practice or offer to practice engineering ~~or surveying~~ by a person not a resident or having no established place of business in this state, ~~provided such~~ if that person is legally qualified by registration to practice engineering ~~or surveying~~, as defined herein in this chapter, in his own another state or country which extends similar privileges to persons registered under this chapter, ~~provided such~~. However, that person shall must make an application accompanied by the appropriate application fee to the board in writing prior to his practicing or offering to practice engineering or surveying, and may be granted a one-time temporary permit for a definite period of time not to exceed one year to do a specific job; provided, however, no. No right to practice engineering or surveying shall accrue accrues to such any applicant with respect to any other work not set forth in said the temporary permit. A land surveyor as defined in this chapter may not receive a temporary permit under this subsection.

Approved March 4, 1983

CHAPTER 485

HOUSE BILL NO. 1048
(Legislative Council)
(Interim Budget "C" Committee)

REAL ESTATE COMMISSION FEES

AN ACT to create and enact section 43-23-13.1 of the North Dakota Century Code, relating to license renewals by the real estate commission; and to amend and reenact section 43-23-13 of the North Dakota Century Code, relating to fees collected by the real estate commission.

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

SECTION 1. AMENDMENT. Section 43-23-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

- mortgage broker, the sum of thirty dollars and pay for such each annual registration as a real estate salesman, the sum of twenty dollars. Said application, for renewal of real estate broker's, salesman's, or mortgage broker's license, shall be made to the commission annually no later than December thirty-first of each succeeding year.
- 5- For each additional office or place of business, there shall be an annual fee of five ten dollars.
 - 6- 5. For each change of office or place of business, there shall be a fee of five ten dollars.
 - 7- 6. For each duplicate or transfer of a real estate salesman's license, a fee of five ten dollars.
 - 8- 7. For each duplicate license, where the original license is lost or destroyed and affidavit made thereof, a fee of two ten dollars.
 - 9- 8. For each additional test examination given to an applicant, before a license is issued, a fee of ten fifteen dollars for a broker's test and a fee of five dollars for a salesman's test.
 - 9- For each change of name, a fee of ten dollars.

SECTION 2. Section 43-23-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-23-13.1. License renewal. Every person licensed to practice as a real estate broker, real estate salesman, or mortgage broker must register annually with the commission and pay the appropriate annual renewal fee. The application for renewal of a real estate broker's, real estate salesman's, or mortgage broker's license shall be made to the commission no later than December thirty-first of each year after licensure. Failure to remit an annual renewal fee no later than December thirty-first automatically cancels the license on January first of the subsequent year. A licensee who fails to file a timely application for the renewal of any license and pay the renewal fee as provided in section 43-23-13 may file a late renewal application before March first of the subsequent year and shall pay, in addition to the renewal fee, the sum of ten dollars for each month or fraction thereof after the January first when the license was canceled.

Approved March 4, 1983

CHAPTER 486

HOUSE BILL NO. 1535
 (Representatives Lardy, Hill, DeMers)
 (Senator Maixner)

MASSAGE THERAPIST LICENSURE

AN ACT to amend and reenact sections 43-25-02, 43-25-03, 43-25-04, 43-25-05, 43-25-06, 43-25-07, 43-25-08, 43-25-09, 43-25-10, 43-25-11, 43-25-12, and 43-26-12 of the North Dakota Century Code, relating to massage registration and defining "massage therapist", exemption from registration, nonapplication of physical therapist registration provisions, and replacing masseur and masseuse with massage therapist.

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

SECTION 1. AMENDMENT. Section 43-25-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-02. Definitions.

1. "~~Masseur~~" or "~~masseuse~~" shall mean Massage therapist means a person who practices or administers all or any of the following named subjects, and who has made a study of the underlying principles of anatomy and physiology as are generally included in a regular course of study by a recognized and approved school of massage, ~~to wit:~~ the art of body massage either by hands or with a mechanical or vibratory apparatus for the purpose of body massaging, reducing or contouring, the use of oil rubs, heat lamps, salt glows, hot and cold packs, tub, shower, or cabinet baths. Massage is the practice of a profession scientifically applied to the patient by the operator's hands. Variations of the following procedures are used: touch, stroking, friction, kneading, vibration, percussion, and medical gymnastics. ~~Masseurs or masseuses~~ Massage therapists shall not diagnose or treat classified diseases, nor practice spinal or other joint manipulations, nor prescribe or administer vitamins.
2. The term "~~massage establishments~~" as used in this chapter shall be construed and deemed to mean any massage "Massage establishment", or " " means any place of business wherein

all or any one or more of the named subjects and methods of treatments, as defined in this section, are administered or used.

3. The term "~~board~~" as used in this chapter shall be construed to mean "Board" means the North Dakota board of massage created by this chapter.

SECTION 2. AMENDMENT. Section 43-25-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-03. ~~Masseurs and masseuses~~ Massage therapists to be registered. It shall be ~~is~~ unlawful for any person or persons to engage in the practice or attempt to practice massage for a fee, or for a gratuity or, to conduct or teach massage without a certificate of registration issued pursuant to the provisions of this chapter.

It shall be ~~is~~ unlawful for any person or persons to operate or conduct any massage establishment which does not conform to the sanitary regulations herein contained, or which may be adopted by the board ~~created herein~~, or to employ any person as an operator who does not hold a certificate of registration.

It shall be ~~is~~ unlawful for any person or persons to practice any branch of massage as defined in subsection 1 of section 43-25-02, whether for payment or free demonstration without first being a registered ~~masseur or masseuse~~ massage therapist under the provisions of this chapter, or without operating and maintaining a bona fide massage establishment, and without first paying a registration fee to the ~~North Dakota~~ board of massage.

SECTION 3. AMENDMENT. Section 43-25-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-04. Exemptions. The following classes of persons are exempt from this chapter:

1. Persons authorized by the laws of this state to practice medicine, surgery, osteopathy, chiropractic, podiatry, or persons holding a drugless practitioner's certificate under the laws of this state.
2. Registered nurses and licensed practical nurses under the laws of this state.
3. Registered physical therapists under the laws of this state.
4. Schools, and Y. M. C. A. clubs, athletic clubs, and similar organizations who furnish therapy and massage services to their players and members.
5. Registered hairdressers and cosmetologists under the laws of this state.

6. Registered barbers under the laws of this state.

Any exemption granted under this chapter is effective only insofar as and to the extent that the bona fide practice of the profession or business of the person exempted overlaps into the field comprehended by this chapter, and exemptions under this chapter are only for those activities which are performed in the course of the bona fide practice of the business or profession of the person exempted.

SECTION 4. AMENDMENT. Section 43-25-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-05. Board of massage examiners - Terms. For the purpose of carrying out the provisions of this chapter, the governor shall appoint a board to be known as the "North Dakota Board of Massage", to consist of three ~~masseurs or masseuses~~ massage therapists who are members of the North Dakota massage association. The members shall be appointed for three years, staggered so that the term of one member expires each year, and they shall hold office until their successors are appointed and qualified.

SECTION 5. AMENDMENT. Section 43-25-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-06. Removal of members of board of massage - Officers of the board - Meeting. The governor may remove from office members of the ~~North Dakota~~ board of massage for neglect of duties as required by this chapter or for malfeasance in office and incompetency, or for unprofessional conduct. The governor may fill any vacancy caused by removal of any member of the board of massage, on his or her resignation or death, and all such appointees are to be practicing masseurs or masseuses massage therapists in the state.

The board of massage shall within two weeks after ~~their~~ its appointment meet at some convenient place within the state of ~~North Dakota~~ and shall ~~then~~ elect a president from their own members, and a secretary-treasurer. The secretary-treasurer shall be bonded in the sum of one thousand dollars for the faithful discharge of his duties. The board of massage shall hold examinations from time to time at such place or places as ~~said~~ the board may designate.

It shall also be the duty of ~~said~~ the board from time to time to examine and inspect or cause to be examined or inspected all massage establishments. ~~Said~~ The board and its agents and employees shall have and they are hereby ~~given~~ authority are authorized to enter and inspect any such massage establishments establishment at any time during which ~~said~~ the establishment is open for the transaction of business.

SECTION 6. AMENDMENT. Section 43-25-07 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-07. Requisites for examination - Subjects - Minimum passing grade - Fees. Any person who shall furnish to the North Dakota board of massage satisfactory proof that he or she is eighteen years of age or more, a high school graduate and a bona fide resident of the state of North Dakota for at least one month immediately preceding his or her application to take the examination, and of good moral character and temperate habits, and shall present a diploma or credentials issued by a recognized, approved school of massage or like institution of not less than one thousand hours of study and who passes a reasonable demonstrative, oral, and written examination, conducted by and under the supervision and direction of said the board in the art of body massage by hand, or with any mechanical or vibratory apparatus for the purpose of body massaging, reducing or contouring, the use of oil rubs, salt glow, hot and cold packs, tub, shower, heat lamps, and similar baths, and shall pay the fees hereinafter specified, which fees shall accompany the application to the secretary-treasurer of the board, shall be entitled to be registered and to be issued a certificate of registration as masseur or masseuse a massage therapist. Minimum requirements for certificate of registration shall be a general average score in said the examination of seventy-five percent in all subjects involved and not less than fifty percent in any one subject.

Any applicant failing to pass said the requirements shall be entitled within six months to a reexamination upon payment of an additional fee of ten dollars, but two such reexaminations shall exhaust the privilege under the original application.

Conviction of an offense shall not disqualify a person from registration under this chapter unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as a masseur or masseuse a massage therapist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 7. AMENDMENT. Section 43-25-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-08. Fees for certificate of registration. The fee to be paid by an applicant to determine his or her fitness to receive a certificate of registration to practice as a registered masseur or masseuse as classified and defined in this chapter a massage therapist shall be thirty-five dollars.

The fee to be paid by a masseur or masseuse a massage therapist for the renewal of a certificate shall be ten dollars for each renewal and said a certificate shall be renewed annually. Attendance at postgraduate work at least three days a year, as prescribed by the board, is a further requirement for renewal of said a certificate.

SECTION 8. AMENDMENT. Section 43-25-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-09. Certificate of registration - Recording - Displaying conspicuously - Renewal. Each certificate of registration shall be conspicuously displayed at the place of practice and must be recorded in the office of the clerk of the district court of each county wherein ~~such the~~ registered ~~masseur or masseuse~~ massage therapist practices, and within thirty days after issuance of such certificates. Annually, on or before the first day of January of each year, each and every registered ~~masseur or masseuse~~ massage therapist shall pay to the secretary-treasurer of the board ~~of massage~~ the renewal fee as herein provided. Attendance at postgraduate work at least three days a year, as prescribed by the board, is a further requirement for renewal of ~~said~~ the certificate. In the estimation of the board ~~of massage~~ examiners, if they should so decide, and upon due proof, after a physical examination of any operator whom they suspect or know to be in such physical well-being as to jeopardize the health of those who seek relief from him or her, the board shall then require the applicant to have a physical examination by a competent medical examiner, and if found to have had or has any communicable disease to disqualify said applicant of a state certificate to practice massage in the state ~~of North Dakota~~, the granting of ~~such the~~ certificate shall be denied until applicant furnishes due proof of being physically and mentally competent and sound. The holder of an expired certificate of registration may, within one year from the date of expiration thereof, have the certificate renewed upon payment of the required renewal fee, and production of a new certificate of physical examination as herein provided. All certificate holders shall be designated as certified ~~masseurs or masseuses~~ massage therapists and shall not use any title or abbreviation thereof without the designation "~~masseur~~" ~~or~~ "~~masseuse~~" "massage therapist".

SECTION 9. AMENDMENT. Section 43-25-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-10. Revocation of certificates - Preferment of charges. The certificate of registration of a ~~masseur or masseuse~~ massage therapist may be revoked, suspended or annulled upon any one or more of the following grounds:

1. That the registrant is guilty of fraud in the practice of massage or fraud or deceit in his admission to the practice of massage.
2. That the registrant has been convicted of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a ~~masseur or masseuse~~ massage therapist, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1. The conviction of an offense shall include conviction in any jurisdiction in the United States of any offense, which if committed within the state of North Dakota would constitute an offense under the laws thereof.

3. That the registrant is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name.
4. That the registrant is addicted to the habitual use of intoxicating liquors, narcotics or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties.
5. That the registrant is guilty of untrue, fraudulent, misleading or deceptive advertising, or that he or she prescribes medicines, drugs, or vitamins, or infringes on any other licensed profession.
6. That the registrant is guilty of willful negligence in the practice of massage, or has been guilty of employing, allowing or permitting any unregistered person to perform massage in his or her establishment.
7. That said registrant has violated any provisions of this chapter.
8. Any registrant who does not renew his or her registration for two consecutive years because of sickness or other reason, or absence from the state of North Dakota must take the examination as prescribed for an applicant to become a registered operator and to comply with all the provisions hereof, applicable to any applicant to become a registrant.

Charges may be preferred by any person, or the board may on its own motion direct the executive officer of said board to prefer said charges. Any accusation may be filed with the secretary-treasurer of the board charging any registered masseur or masseuse massage therapist with any of the offenses herein enumerated. Such accusation shall be in writing, signed by the accuser and verified under oath.

SECTION 10. AMENDMENT. Section 43-25-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-11. Provisions for hearing - Notice. Whenever such accusations as provided in section 43-25-10 are filed, the board shall set a day for hearing and the secretary-treasurer of the board shall transmit to the accused a true copy of any and all charges filed with him relating to such accusations, and shall notify in writing the accused that on the day fixed for the hearing, which shall not be less than ten days from the date of such notice, he may appear or show cause if any, why his or her certificate and license to practice massage in the state of North Dakota should not be revoked, suspended or annulled. For the purpose of such hearing the board may require by subpoena the attendance of witnesses, to administer oaths and hear testimony and receive evidence, either oral or documentary, for and against the accused, and said accused

shall have the right at said hearing to cross-examine the witnesses, to produce witnesses in his defense, and to appear personally or by counsel.

The notice provided for in this section shall be substantially in the following form:

To -----

You are hereby notified that charges have been filed with the secretary-treasurer of the North Dakota Board of Massage against you as a practicing ----- in the state

(Masseur or Masseuse)
(Massage Therapist)

of North Dakota, a true copy of such charges being attached hereto, and that the said board has fixed the ----- day of -----, A.D. 19----- at the hour of ----- o'clock ----- at ----- in ----- for a hearing on such charges, at which time and place you are hereby notified to appear before the board, and show cause, if you can, why your certificate to practice massage in the state of North Dakota should not be revoked, suspended or annulled. At the same time and place the board will hear testimony and receive evidence, either oral or documentary both for and against you relating to such charges.

Dated at ----- this ----- day of ----- A.D. 19---

Secretary-treasurer of the
North Dakota Board of Massage

Such notice shall be sent to the accused by registered or certified mail directed to his last known mailing address, and the post-office registration receipt thereof, signed by the accused or his agent, shall be prima facie evidence of service of such notice.

SECTION 11. AMENDMENT. Section 43-25-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-25-12. Power of board to revoke, suspend, or annul certificates. The board of massage may, upon satisfactory proof made that any certificate holder has been guilty of any of the charges preferred against him or her, revoke, suspend, or annul any certificate to do business issued hereunder, upon a two-thirds majority vote of the board, provided however that such accused person may have the proceedings of said board reviewed by certiorari to the district court of the district in which the certificate is recorded. Said writ shall be issued upon the petition of the person whose certificate has been revoked, suspended, or annulled at any time within ninety days after such revocation, suspension, or annulment.

The accused shall have the right to demand a trial de novo before the district court and thereafter the court shall hear and determine the guilt or innocence of the accused according to the evidence and law applicable to the facts which shall be produced before him, and unless in evidence. Unless the court shall render a

decision in favor of the accused, and restore him or her to all rights to practice under this chapter, the action of the board shall stand. Appeals from any decisions of the district court may be taken to the supreme court of North Dakota in the same manner and subject to like conditions as appeals in other cases are taken. In the event that any such certificate shall be revoked, suspended, or annulled under the provisions of this chapter, the board shall forthwith transmit to the clerk of the district court in which the accused is registered as a ~~masseur or masseuse~~ massage therapist, a certificate under its seal certifying that ~~such the~~ registration has been revoked, suspended, or annulled, as the case may be, and ~~such the~~ clerk shall, upon receipt of ~~such the~~ certificate, file same it and forthwith mark ~~such the~~ registration revoked, suspended, or annulled, as the case may be, and in the event of suspension, shall indicate thereon the period for which it is suspended.

Any person who shall practice massage after his or her certificate has been revoked, suspended, or annulled shall be deemed to have practiced massage without a certificate. However, at any time after six months from the date of said conviction, said the board may in the exercise of its reasonable discretion by a majority vote, issue a new certificate to the person affected, restoring or conferring all rights and privileges of and pertaining to the practice of massage, but the fee shall be the same as upon issuance of the original certificate.

SECTION 12. AMENDMENT. Section 43-26-12 of the 1981 Supplement to 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 is unlawful for any persons, corporations, or associations to, in any manner, represent themselves as physical therapists or physical therapist assistants, as providing physical therapy services, or to use in connection with their 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 they are physical therapists or physical therapist assistants, or provide physical therapy services, without a valid existing certificate or registration as physical therapists or physical therapist assistants issued to them pursuant to this chapter. Nothing in this chapter shall prohibit any persons licensed or registered in this state, under chapter 43-17 or another law, from carrying out the therapy or practice for which they are duly licensed or registered. Nor shall it prevent schools, and YMCA's, athletic clubs, and similar organizations from furnishing therapy service to their players and members. This chapter does not prohibit masseurs and masseuses massage therapists from engaging in their practice provided they do not represent themselves as physical therapists or physical therapist assistants.

Approved March 15, 1983

CHAPTER 487

HOUSE BILL NO. 1420
(Conmy)

PRIVATE INVESTIGATOR LICENSURE

AN ACT to amend and reenact sections 43-30-01, 43-30-02, 43-30-03, 43-30-04, 43-30-05, 43-30-06, 43-30-09, 43-30-10, 43-30-11, 43-30-12, 43-30-15, and 43-30-16 of the North Dakota Century Code, relating to the licensure of detectives and providing for the licensure of private investigators and private security services; to repeal section 43-30-07 of the North Dakota Century Code, relating to the contents and posting of a license; to provide a penalty; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 43-30-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. The "private detective business" shall consist of the following: The business of making, for hire or reward, an investigation or investigations for the purpose of "Private investigative service" means obtaining or furnishing information with reference to any of the following matters: Crime against the state or wrongs done or threatened; the habits, conduct, movements, whereabouts, associations, transactions, reputations or character of any person, firm or corporation; the credibility of witnesses or other persons; the location or recovery of lost or stolen property; the causes, origin or responsibility for fires or accidents or injuries to real or personal property; or concerning the truth or falsity of any statement or representation; or the business of securing, for hire or reward, evidence to be used before authorized investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases, or the business of act or individual.

2. "Private security service" means furnishing for hire ~~or reward guard or guards, security officers~~ or other persons to protect persons or property, ~~or to prevent the theft or the unlawful taking of goods, wares, and merchandise,~~ or to prevent the misappropriation or concealment of goods, wares and, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers, or the business of performing the service of such guard, security officer or other person for any of said these purposes, including any investigative service required in carrying out these duties.
- 2- A "detective agency" shall mean and include any person, firm or corporation engaged in the private detective business ~~who employs one or more persons in conducting such business.~~
- 3- A "private detective" shall mean and include any person who, singly, conducts a private detective business without the assistance of any employee.

SECTION 2. AMENDMENT. Section 43-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-02. Exemptions. ~~The provisions of this~~ This chapter shall does not apply to:

1. Any detective investigator or officer employed by or under any contract with the federal government, state, or any county or city thereof, appointed, elected, or contracted with, by due authority of law, while engaged in the performance of his official duties.
2. Any state's attorney.
3. Any attorneys or counselors at law in the regular practice of their profession.
4. Any person, firm, or corporation whose business is the furnishing of information as to the business and financial standing and credit of persons, firms, or corporations.
5. Any person making any investigation of any matter in which such that person or the person, firm, or corporation by whom such that person is solely employed is interested or involved.
6. Any person making any investigation for any person, firm, or corporation engaged in the business of transporting persons or property in interstate commerce.
7. Any adjuster or investigator representing an insurance company ~~or companies.~~

SECTION 3. AMENDMENT. Section 43-30-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-03. Unlawful acts Private investigative and security board. It shall be unlawful for any person to engage in or attempt to engage in the private detective business without a license as a private detective issued by the attorney general of the state. It shall be unlawful for any person, firm or corporation to conduct a detective agency without a license issued by the attorney general of the state. The governor shall appoint a private investigative and security board. The board shall consist of not less than five nor more than eleven members appointed for staggered four-year terms. Appointees to the board must be knowledgeable in private investigative or private security matters. A majority of the members of the board, must be actively engaged in the private investigative or security profession. The board shall make recommendations to the attorney general with respect to the exercise of the powers provided in section 43-30-04. Members of the board may not receive any compensation for their service on the board, but they are entitled to be reimbursed for their expenses incurred in performing their duties in the amounts provided by law for state employees.

SECTION 4. AMENDMENT. Section 43-30-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-04. Powers of attorney general. The attorney general of the state shall exercise, subject to the provisions of this chapter, the following functions, powers, and duties:

- 1- Conduct examinations to ascertain the qualifications and fitness of applicants for license and pass upon the qualifications of applicants.
- 2- Prescribe rules and regulations for a method of examination of applicants.
- 3- Prescribe forms for applications, bonds, licenses and other forms provided for by the within chapter.
- 4- Establish a standard for surety companies qualified to execute bonds in conjunction with applicants, and approve surety companies by reference to compliance with said standard.
- 5- Conduct hearings on proceedings to suspend or revoke or refuse renewal of licenses of persons, firms or corporations applying therefor and to revoke or refuse to renew such licenses.
- 6- Formulate rules and regulations when required in any act to be administered.

- 7- Require submission of the names, addresses, dates of birth, and any other information deemed to be necessary with regard to prospective employees of any private detective agency licensed pursuant to the provisions of this chapter establish by rule the procedures for classifying, qualifying, licensing, bonding, and regulating persons providing private investigative and securities services including installation and servicing of protective devices and systems. The attorney general shall establish the qualifications required for licensing armed security personnel. All rules adopted by the attorney general and appeals therefrom, shall be in accordance with chapter 28-32.

SECTION 5. AMENDMENT. Section 43-30-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-05. Qualifications of applicant License required to provide private investigative or security services. A person is qualified to receive may not provide private investigative or security services without a license as a private detective-

- 1- Who is at least eighteen years of age-
- 2- Who establishes, to the satisfaction of the attorney general, that he is a person of honesty, truthfulness, and integrity-
- 3- Who has not been convicted of an offense determined by the attorney general to have a direct bearing upon the person's ability to serve the public as a private detective, or who, following conviction of any offense, is determined, pursuant to section 12-1-33-02-1, not to be sufficiently rehabilitated-
- 4- Who has filed with the attorney general a bond executed by the applicant and by a reputable surety company to be approved by the attorney general in the penal sum of five thousand dollars conditioned for the faithful and honest conduct of the business of such applicant, which bond shall be in the form prescribed by the attorney general and shall be taken in the name of the people of the state of North Dakota and shall provide that any person injured by the breach of the conditions of such bond may bring an action on said bond in the name of the people of the state of North Dakota for the use of such person so injured to recover legal damages suffered by reason of such breach, provided, however, that the aggregate liability of the surety for all such damages shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving thirty days' notice in writing to the attorney general and thereafter shall be

relieved of liability for any breach of condition occurring after the effective date of said cancellation.

- 5- Who has passed a satisfactory examination conducted by the attorney general to determine his competency to receive a license as a private detective issued by the attorney general.

SECTION 6. AMENDMENT. Section 43-30-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-06. License applications. Every person who desires to obtain a license shall apply ~~therefor~~ to the attorney general in writing on applications prepared and furnished by said the attorney general. Each application shall ~~contain proof of the particular qualifications include the information required of the applicant,~~ shall be verified by the applicant under oath, by the attorney general and shall be accompanied by the required fee.

SECTION 7. AMENDMENT. Section 43-30-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-09. Detective agency license. Upon payment of the required fee, the The attorney general shall grant, without examination, a license to ~~conduct~~ may establish by rule the procedures to be followed by a private investigator to operate a detective agency to any of the following:-

- 1- An individual who makes application therefor in writing, who is the holder of a license as a private detective issued by the attorney general under the provisions of this chapter.
- 2- A partnership which makes application therefor in writing and all of the members of which hold licenses as private detectives issued by the attorney general under the provisions of this chapter.
- 3- A corporation which is authorized by its articles of incorporation to engage in the business of conducting a detective agency, provided at least one officer or executive employee holds a license as a private detective issued by the attorney general under the provisions of this chapter, and that every officer of said corporation actively participating in the detective business in this state holds such a license.

Every person, firm, or corporation desiring to obtain such a license shall apply therefor to the attorney general in writing on applications prepared and furnished by said attorney general, which application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

The holder of such a license may employ, to assist him in the work of private detective and in the conduct of such business, as many persons as such license holder may deem necessary. Any person so in the employ of such license holder need not be the holder of a license as a private detective issued pursuant to the provisions of this chapter.

The applicant for a private detective agency license shall be required to file with the attorney general a bond executed by the applicant and a reputable surety company approved by the attorney general in an amount determined by the number of persons employed by the applicant, based upon the following schedule:

One to five employees - \$7,500.00

Six to ten employees - \$10,000.00

Eleven to twenty employees - \$15,000.00

More than twenty employees - \$20,000.00

A new bond shall be executed at any time the number of employees exceeds the maximum number in a given category, as above described.

No private detective agency shall employ any person to assist it in the work of private detective and in conduct of its business until such prospective employee's name, address, and other information as required by section 43-30-04 has been submitted to the attorney general and the attorney general has approved the employment of such individual, except that an individual may be employed as a probationary employee for a time not to exceed fourteen days, if the information required by section 43-30-04 is submitted to the attorney general within two days of the beginning of such probationary period, and if the probationary employee is covered by the bond as required pursuant to subsection 5 of section 43-30-05.

SECTION 8. AMENDMENT. Section 43-30-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-10. Violations-- Penalty. Any person who violates any provision of this chapter or any person who falsely states or represents that he the person has been or is a detective or investigative officer or employed by a detective investigative or security officer or agency shall be is guilty of a class B misdemeanor.

SECTION 9. AMENDMENT. Section 43-30-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-11. Renewal of licenses. Every holder of a A license as a private detective or of a license to conduct a detective agency who continues in active practice shall annually on or before the first day of October to provide private investigative or security services

is valid for a two-year period, ending on September thirtieth of each odd-numbered year renew his license and pay the required renewal fee. Every holder of a license as a private detective or a license to conduct a detective agency whose license has expired may have the same restored immediately upon payment of all lapsed renewal fees and of the required restoration fee, provided, however, that not more than one year has elapsed since the date of expiration, provided, however, that nothing herein contained shall relieve any person from criminal prosecution for engaging in practice without a license as required in this chapter. License fees must be prorated for the portion of each license period the license is in effect.

SECTION 10. AMENDMENT. Section 43-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-12. Revocation or refusal to renew. The attorney general may either refuse to renew or may suspend or may revoke a license for any one or any combination of the following causes:

1. Fraud in obtaining a license.
2. Violation of any of the terms and provisions of this chapter or rules adopted which implement section 43-30-04.
3. If the holder of any license or a member of any copartnership or an officer of any corporation has been adjudged guilty of the commission of an offense determined by the attorney general to have a direct bearing upon a holder's ability to serve the public as a private detective investigative or security agency, or if the attorney general determines that, following conviction of any offense, the holder is not sufficiently rehabilitated under section 12.1-33-02.1.
4. If the license holder is found guilty of willful betrayal of a professional secret or secrets-
5. Upon the disqualification or insolvency of the surety of the license holder's bond unless such the license holder files a new bond with sufficient surety within thirty days after notice from the attorney general.

SECTION 11. AMENDMENT. Section 43-30-15 of the North Dakota Century Code is hereby amended and reenacted, to read as follows:

43-30-15. Appeal from decision - Application of chapter 28-32. The district court of the county wherein the accused person resides shall have power to review any order of revocation or suspension and all questions of law and fact thereon provided application therefor is made by either party within thirty days from the date of service of such order. Any decision of the attorney general must be appealed to the private investigative and security board prior to any judicial proceeding. Chapter 28-32 governs the procedures under

this chapter. Any decision made by the attorney general under section 43-30-12 is governed by chapter 28-32.

SECTION 12. AMENDMENT. Section 43-30-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-16. Examination and license fees.

1. The fee to be paid by an applicant for an examination to determine his the applicant's fitness to receive a license as a private detective investigator is twenty fifty dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private detective investigator is fifty one hundred dollars.
3. The fee to be paid by an applicant to apply for a license to conduct a detective private security agency is fifty dollars; provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, The fee for the issuance or the renewal of a license shall be issued to such partnership or corporation without additional charge is two hundred dollars.
4. The one-time fee to be paid by an applicant for the renewal of a license to conduct a detective agency is twenty-five dollars; provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, a license shall be issued to such partnership or corporation without additional charge issuance of a private security training certificate is five dollars.
5. The annual fee to be paid by an applicant for the renewal of a license as a private detective is twenty-five issuance of an armed private security certificate is five dollars.
6. The fee to be paid for the restoration of an expired license is ten an application for a security system is fifty dollars. The fee for registration of the system is one hundred dollars.
7. The fee to be paid for the issuance of a duplicate license is ten dollars.

SECTION 13. REPEAL. Section 43-30-07 of the North Dakota Century Code is hereby repealed.

SECTION 14. EFFECTIVE DATE. This Act becomes effective on January 1, 1984.

Approved April 15, 1983

CHAPTER 488

SENATE BILL NO. 2464
(Barth)

WATER WELL DRILLER CERTIFICATION

AN ACT to amend and reenact section 43-35-13 of the North Dakota Century Code, relating to the certification of water well drillers.

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

SECTION 1. AMENDMENT. Section 43-35-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-13. Certificate - How obtained - Fee - Bond. Any person desiring to take the examination to become a certified water well contractor shall first have completed a minimum of one year apprenticeship or experience in water well drilling and construction under the direct supervision of a certified water well contractor or have completed a vocational school program of at least one year in water well construction and shall make application to the board and pay to the board treasurer a nonrefundable examination fee in the amount of ten dollars. If upon examination the applicant is found to be qualified as a water well contractor, the board shall issue to him a certificate upon the applicant's executing and filing with the board a bond as required in this chapter. Such certificate shall not be transferable.

Approved March 17, 1983

CHAPTER 489

HOUSE BILL NO. 1494
(Martinson)

SPEECH-LANGUAGE PATHOLOGIST AND AUDIOLOGIST LICENSURE

AN ACT to amend and reenact sections 43-37-01, 43-37-02, 43-37-03, 43-37-04, 43-37-05, 43-37-06, 43-37-08, 43-37-09, 43-37-13, and 43-37-18 of the North Dakota Century Code, relating to licensure of audiologists and speech-language pathologists; and to repeal sections 43-37-07, 43-37-10, 43-37-11, 43-37-12, 43-37-14, 43-37-15, 43-37-16, and 43-37-17 of the North Dakota Century Code, relating to the licensing and regulation of audiologists and speech pathologists.

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

SECTION 1. AMENDMENT. Section 43-37-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-01. Policy. It is declared to be a policy of the state of North Dakota that, in order to safeguard the public health, safety, and welfare, to protect the public from being misled by incompetent, unscrupulous, and unauthorized persons and from unprofessional conduct on the part of such persons providing services, and to obtain the highest possible quality audiology and speech-language pathology services to the communicatively handicapped people of this state, it is necessary to provide regulatory authority over persons offering audiology and speech-language pathology services to the public.

SECTION 2. AMENDMENT. Section 43-37-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-02. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Board" means the state board of examiners ~~of~~ on audiology and speech-language pathology.
2. "Person" means any ~~individual, organization, or corporate body, except that only an individual may be licensed under this chapter~~ human being.

3. "Audiologist" means an individual a person who practices audiology and who presents himself oneself to the public by any title or description of services incorporating the words audiologist, hearing clinician, hearing therapist, or any similar title or description of service. No person may use the term "audiologist" in referring to himself oneself unless he meets all the requirements of this chapter pertaining to audiology are met.
4. "Audiology" means the application of principles, methods, and procedures of measurement, testing, evaluation, prediction, consultation, counseling, instruction, habilitation, or rehabilitation related to hearing and disorders of hearing including vestibular testing, for the purpose of evaluating, identifying, preventing, ameliorating, or modifying such disorders and conditions in individuals or groups of individuals.
5. "Habilitation" and "rehabilitation" include, ~~but are not limited to,~~ hearing aid evaluation and recommendation, auditory training, and speech reading.
6. "Speech-language pathologist" means a person who practices speech-language pathology and ~~must meet~~ meets all requirements of this chapter pertaining to speech-language pathology.
7. "~~The practices of speech~~ Speech-language pathology" means the application of principles, methods, and procedures for measurement, testing, evaluation, identification, prediction, counseling, or instruction related to the development and disorders of speech and language, including voice, rhythm, language, or tongue thrust and articulation for the purpose of identifying, evaluating, preventing, managing, habilitating or rehabilitating, ameliorating, or modifying such disorders and conditions, in individuals, or groups of individuals.
8. "State association" means the North Dakota speech and hearing association.
9. "National association" means the American Speech and Hearing Association, the national administrative office of which is located in the District of Columbia.

SECTION 3. AMENDMENT. Section 43-37-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-03. License required - Exceptions. No person shall practice or represent himself oneself as an audiologist or speech-language pathologist in this state unless he is licensed annually in accordance with the provisions of this chapter. However, nothing in this chapter shall be construed to does not prevent or restrict:

1. A physician or surgeon from engaging in the practice of medicine in this state.
2. A hearing aid dealer from engaging in testing of hearing and other practices and procedures used solely for the fitting and selling of hearing aids in this state as provided in chapter 43-33.
3. Any person licensed in this state by any other law from engaging in the profession or occupation for which he is licensed.
4. A person who holds a valid and current credential as a speech-language pathologist or hearing specialist teacher of the hearing impaired, issued by the department of public instruction, or a person employed as an audiologist or speech-language pathologist by the government of the United States, if such person performs speech-language pathology or audiology services solely within the confines or under the jurisdiction of the governmental or state educational organization by which he is employed. However, such person may, without obtaining a license under this chapter, consult with or disseminate his one's research findings and other scientific information to speech-language pathologists or audiologists outside the jurisdiction of the organization by which he that person is employed.
5. The activities and services of a person pursuing a course of study leading to a degree in speech-language pathology or audiology at a college or university if such activities and services constitute a part of a supervised course of study and such person is designated audiology or speech-language pathology intern, audiology or speech-language pathology trainee, or by any other such titles clearly indicating the training status appropriate to his the level of training.
6. The activities and services of persons fulfilling the clinical experience requirement requirements of subsection 3 of section 43-37-04, if such activities and services constitute a part of the experience required for the section's fulfillment.
7. Any person not a resident of this state from practicing in this state as long as he is able to present to the board proof of a bona fide practice in this state, so long as he meets the requirements of this chapter and is licensed under this chapter.
8. The performance of audiology or speech-language pathology services in this state by any person not a resident of this state who is not licensed under this chapter.

- a- If if such services are performed for no more than five days in any calendar year and in cooperation with an audiologist or speech-language pathologist licensed under this chapter, and if such person meets the qualifications and requirements for application for licensure described in subsections 1, 2, and 3 of section 43-37-04, or
- b- Who is the holder of a certificate of clinical competence in audiology or speech pathology or is licensed by another state whose licensure requirements are at least equivalent to those established by this chapter, may offer audiology or speech pathology services in this state for no more than thirty days in any calendar year, if such services are performed in cooperation with an audiologist or speech pathologist licensed under this chapter.
- 9- 8. Any person holding a valid credential as a teacher of the hearing-impaired issued by the council on education of the deaf from engaging in the practice of habilitation and rehabilitation of hearing-impaired persons.
- 10- 9. No speech pathologist or audiologist licensed pursuant to this chapter shall receive any remuneration of any kind from the sale of any type of hearing aid unless he is licensed as provided in chapter 43-33.
10. Any person possessing a valid certificate as a certified audiometric technician recognized by the state board as meeting Council for Accreditation in Occupational Hearing Conservation Standards Appendix II or its equivalent from providing audiometric testing if such service is performed in cooperation with either an audiologist licensed under this chapter or a licensed physician.
11. Any person providing hearing screening services as part of a public service project solely intended for the purposes of identification of hearing impairment if such services are performed in cooperation with an audiologist licensed under this chapter who is directly responsible for:
- a. The training of said person;
 - b. The administration of hearing screening procedures;
 - c. The interpretation of testing results; and
 - d. Assuring appropriate referral and follow-up of the identified population.

SECTION 4. AMENDMENT. Section 43-37-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-04. Eligibility for licensure. To be eligible for licensure by the board as an audiologist or speech-language pathologist, a person shall:

1. Be of good moral character;
2. Possess at least a master's degree or its equivalent in the area of speech-language pathology or audiology from an educational institution recognized by the board;
3. Submit evidence of the completion of educational, clinical experience, and employment requirements based on appropriate national standards and prescribed by rules and regulations adopted pursuant to this chapter showing qualifications prescribed by rules of the board;
4. Pass an examination approved by the board, which may be taken either before or after the completion of the employment requirements of subsection 3 and pay the prescribed fee. The board may waive the examination requirement if the applicant presents proof of licensure in another state which has professional standards equivalent to those required by the board.

SECTION 5. AMENDMENT. Section 43-37-05 of the 1981 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-05. Board of examiners on audiology and speech-language pathology.

1. The board of examiners on audiology and speech-language pathology is hereby established.
2. The board shall be ~~emprised~~ composed of seven members who shall be appointed by the governor. Appointees shall be residents of this state for at least one year immediately preceding their appointment, and, except for the consumer member, shall be engaged in rendering services to the public, in teaching, or in research in audiology or speech-language pathology for at least three years preceding their appointment. Two board members shall be audiologists, two shall be speech-language pathologists, one shall be an otolaryngologist, one shall be a hearing aid specialist, and one member who shall be a consumer.
3. The governor shall, within sixty days after July 1, 1975, appoint the members of the board. He shall appoint two speech pathologists and two audiologists for a term of three years, and the remaining members for a term of two years. Thereafter, the governor shall appoint such members to the board as vacancies occur. Each board member shall hold office for three years and until a successor is appointed and qualified. The terms shall be

arranged so that no more than three terms expire on July first of each year. The governor shall fill vacancies for an unexpired term. No person may serve more than two successive terms.

4. The board shall meet during the first month of at least twice each calendar year to select a chairman and for other appropriate purposes. At least one additional meeting shall be held during each calendar year. Special meetings may be convened at the call of the chairman or at the written request of any three board members. All meetings shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade, or administer examinations, or to prepare a response indicating any reason for an applicant's failure upon the written request of such applicant.
5. Four members of the board shall constitute a quorum. When an application for licensure is received, one member of the quorum must be engaged in the profession for which a license is sought.

SECTION 6. AMENDMENT. Section 43-37-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-06. Powers and duties of the board.

- 1- The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and supervise the examinations of applications for licensure under this chapter, and may issue subpoenas, examine witnesses, and administer oaths, and shall, at its discretion, investigate allegations of practices violating the provisions of this chapter.
- 2- The board shall adopt rules and regulations relating to professional conduct commensurate with the policy of this chapter, including but not limited to regulations which establish ethical standards of practice and for other purposes, and may amend or repeal the same in accordance with chapter 28-32. Following their adoption, such rules and regulations shall govern and control the professional conduct of every person who holds a license to practice audiology or speech pathology in this state. The rules and regulations adopted by the board may relate to professional conduct and may establish ethical standards for dispensing of hearing aids by licensed audiologists but shall not restrict the dispensing of hearing aids by licensed audiologists.
- 3- The board shall conduct such hearings and keep such records and minutes as are necessary to orderly dispatch of its functions. The board shall provide adequate notice of all hearings authorized by this subsection.

- 4- The conferral or enumeration of specific powers elsewhere in this chapter shall not be construed as a limitation of the general functions conferred by this section-

The board, pursuant to chapter 28-32, may adopt rules for:

1. Licensing.
2. Licensing fees not to exceed one hundred dollars per year.
3. Ethical standards of conduct.
4. Continuing competency and education.
5. Grievances.
6. License suspension or revocation.
7. Employee duties and conduct.
8. Recordkeeping and fiscal control.
9. Carrying out the purposes of this Act.

SECTION 7. AMENDMENT. Section 43-37-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-08. Compensation of board members. Board members shall receive no salary for their services, but shall receive per diem compensation and all mileage and travel expenses for attendance at such board meetings at the same rate as state employees.

SECTION 8. AMENDMENT. Section 43-37-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-09. Licensure - Application for examination License examination.

1. A separate examination shall be required for licensure in speech-language pathology or audiology. Any person may be licensed in both areas if he that person meets the respective qualifications of each area.
2. Any person eligible for licensure under section 43-37-04 may make application for examination to the board at least thirty days prior to the date of examination upon a form and in such a manner as the board shall prescribe-
- 3- Any application shall be accompanied by the fee prescribed by section 43-37-15-. Such fee shall not be refunded-
- 4- An applicant who shall fail an examination may apply for reexamination in the manner prescribed by this section-

The examination may be taken only three times within a three-year period.

The speech-language pathology examination and the audiology examination are the national examinations as established by the American speech-language hearing association. The board shall maintain proof that all licensees have passed the required examination. The examination is not required for renewal of licenses except as required by board rules.

- 5- 3. The board may issue a temporary permit license to practice activities regulated by this chapter to any person who furnishes satisfactory evidence of his qualifications to the board. A temporary permit shall license may be issued for no longer than one year.

SECTION 9. AMENDMENT. Section 43-37-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-13. Suspension and revocation of license.

1. The board may refuse to issue or renew a license, or may suspend or revoke a license where the licensee or applicant for license has engaged in unprofessional conduct. Such unprofessional conduct may include:
 - a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts;
 - b. Engaging in unprofessional conduct, as defined by the rules established by the board, or violating the code of ethics adopted and published by the board;
 - c. Conviction of an offense ~~in any court of the United States or any state thereof~~, if the acts for which he that person is convicted are determined by the board to have a direct bearing on such applicant's or licensee's ability to serve the public in the capacity of a speech-language pathologist or audiologist; or the board determines that such applicant or licensee, following conviction of any other offense, is not sufficiently rehabilitated under section 12.1-33-02.1;
 - d. Violation of any ~~lawful order, or rule, or regulation rendered or~~ adopted by the board; or
 - e. Violation of any ~~provision of~~ this chapter.
2. The board may deny any application for an application for, or suspend, revoke, or impose probationary conditions upon any licensee after a hearing, as provided by this chapter.

- 3- One year from the date of revocation of any a license under this section, the licensee may make application to the board for reinstatement. The board shall have discretion to may accept or reject an application for reinstatement and or may require an examination for such reinstatement.
- 4- A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is a conviction within the meaning of this section. At the direction of the board, and after due notice and hearing in accordance with the provisions of chapter 28-32, the license of the person so convicted shall be suspended or revoked or the board shall decline to issue a license when:
- a- The time for appeal has elapsed;
 - b- The judgment of conviction has been affirmed on appeal; or
 - c- An order granting probation has been made suspending the imposition of sentence.

SECTION 10. AMENDMENT. Section 43-37-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-37-18. Penalties Penalty. Any person who shall violate any provision of violates this chapter shall be is guilty of a class A misdemeanor. Nothing contained in this chapter shall be construed to prevent or impair the administration or enforcement of any other provisions of the laws of this state.

SECTION 11. REPEAL. Sections 43-37-07, 43-37-10, 43-37-11, 43-37-12, 43-37-14, 43-37-15, 43-37-16, and 43-37-17 are hereby repealed.

Approved March 10, 1983

CHAPTER 490

HOUSE BILL NO. 1270
(Representatives L. Hanson, G. Martin, Moore)
(Senators Matchie, Stenehjem)

NORTH DAKOTA ATHLETIC TRAINERS ACT

AN ACT to provide for a North Dakota Athletic Trainers Act, defining terms, requiring a license for certain athletic trainer activities, granting the state board of medical examiners certain authority relating to such licensing, providing for a North Dakota board of athletic trainers, providing for license terms and fees, providing for the authorization, denial, suspension, or revocation of licenses; and to provide a penalty.

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

SECTION 1. Short title. This Act shall be known and may be cited as the North Dakota Athletic Trainers Act.

SECTION 2. Definitions.

1. "Athletic trainer" means a person with specific qualifications set forth in section 5 of this Act, who is furnishing an educational institution, organized amateur athletic association, or similar organization with athletic training as defined in this Act.
2. "Athletic training" means the practice of prevention, recognition, evaluation, management, disposition, and therapy service of athletic injuries, with the last being under the written authorization of a licensed physician. Athletic training also includes organization and administration of educational programs, athletic facilities and the education and counseling of the public.
3. "Board" means the North Dakota board of athletic trainers established in section 3 of this Act.
4. "Physician" means a doctor of medicine licensed to practice under chapter 43-17.

SECTION 3. Board of athletic trainers.

1. The North Dakota board of athletic trainers shall consist of five members, comprising one licensed physician, one layperson, and three athletic trainers. Each member shall be appointed by the governor. The members, other than the layperson, shall be appointed from lists submitted to the governor by the North Dakota athletic trainers association for those members who are athletic trainers and from the North Dakota medical association for the member who is a physician, for terms as provided in this section. Each member of the board, except for the layperson, shall be licensed in his profession in this state and a resident of this state, shall have not less than two years' experience as a physician or athletic trainer immediately preceding his appointment, and shall be actively employed in his profession during his tenure on the board. The layperson shall not be licensed in any health care field.
2. Members shall be appointed to serve four-year staggered terms to commence on July first in the respective years of appointment and shall continue to serve until their successors are appointed. If a vacancy occurs during a term, the governor shall appoint a successor for the remainder of the unexpired term. No member may serve for more than two successive four-year terms. On the initial board, one physician and one athletic trainer shall be appointed for a one-year term; the laymember and one athletic trainer shall be appointed for a two-year term; and one athletic trainer shall be appointed for a three-year term. Thereafter, their successors shall be appointed for four-year terms.
3. The board each year shall elect one of its members as chairman and one as secretary-treasurer to the board. The board may make rules, in accordance with chapter 28-32 and not inconsistent with law, which may be necessary for the performance of its duties. The board may prescribe reasonable fees for application and examinations and for certificates of licensure. License fees shall be used for the purpose of paying the costs of per diem compensation and travel reimbursement to the board. In addition, fees and other moneys collected and received by the board shall be used for the purpose of implementing this Act and may be used for continuing education purposes. The financial records of the board shall be audited annually. The audit is to be paid for out of the funds of the board.
4. The board shall meet at least once each year. Additional meetings may be held on the call of the chairman or at the written request of any three members of the board. Three members shall constitute a quorum of the board. No action by the board or its members has any effect unless a quorum of the board is present.

5. The athletic trainer members of the initial board shall not be required to be licensed for the first one hundred eighty days of their membership on the board.

SECTION 4. Records. The board shall keep a record of its proceedings under this Act and a record of all persons licensed by the board. The record shall show the name of every living licensee and his last known place of employment and last known place of residence and the date and number of his license certificate. Any interested person in the state is entitled to a printed copy of that record on application to the board and payment of such reasonable charge as may be fixed by the board based on the cost involved.

SECTION 5. Qualifications. To be eligible for an athletic trainer license, an applicant must meet all the requirements of certification established by the national athletic trainers association.

SECTION 6. Examination required. All license applicants must pass an examination prescribed by the board unless they show proof of passage of a board-approved equivalent examination. The athletic trainer's examination shall embrace such criteria as may be determined by the board.

SECTION 7. Grounds for denial, suspension, or revocation of license.

1. The board may refuse to issue a license to an applicant or may suspend or revoke the license of a licensee if the applicant or licensee:
 - a. Has been convicted of a felony or misdemeanor involving moral turpitude, the record of a conviction being conclusive evidence of conviction.
 - b. Uses alcohol or narcotic drugs to the extent that the use affects his professional competency.
 - c. Has obtained or attempted to obtain a license by fraud, deceit, or material misrepresentation.
 - d. Is guilty of treating or undertaking to treat ailments of human beings except as authorized pursuant to this Act, or undertaking to practice independent of the written authorization of a licensed physician, or is guilty of any act derogatory to the dignity and morals of the profession of athletic training.
2. Nothing in this Act shall be construed to authorize the practice of medicine by any person. The provisions of this Act do not apply to physicians licensed by the North Dakota state board of medical examiners; to dentists, duly qualified and registered under the laws of this state who confine their practice strictly to dentistry; nor to licensed optometrists who confine their practice strictly

to optometry as defined by law; nor to licensed chiropractors who confine their practice strictly to chiropractic as defined by law; nor to occupational therapists who confine their practice to occupational therapy; nor to nurses who practice nursing only; nor to duly licensed chiropodists or podiatrists who confine their practice strictly to chiropody or podiatry as defined by law; nor to registered physical therapists; nor to masseurs or masseuses in their particular sphere of labor; nor to commissioned or contract physicians or physical therapists or physical therapists' assistants in the United States army, navy, air force, marine corps, and public health and marine health service.

3. The provisions of this Act shall not apply to persons coming into this state for a specific athletic event or series of athletic events with an individual or group not based in this state.
4. Nothing in this Act shall be construed to prevent schools, Y.M.C.A. organizations, athletic clubs, and similar organizations from furnishing athletic training services to their students, players, or members.

SECTION 8. Issuance of licenses.

1. An applicant for an athletic trainer license must submit an application to the board on forms prescribed by the board and submit the application fee required.
2. An applicant is entitled to an athletic trainer license if he possesses the qualifications set forth in this Act, satisfactorily meets approval by the board of athletic trainers, pays the license fee, and has not committed an act which constitutes grounds for denial of a license.

SECTION 9. License renewal.

1. A license issued pursuant to this Act expires one year from the date of issuance.
2. Licenses shall be renewed according to the procedures established by the board.
3. A previously licensed person who leaves his or her position of employment as an athletic trainer for any reason for one year or more and has requested license renewal must show continued education credits as established and approved by the board.

SECTION 10. Unlawful practice.

1. No person shall practice or hold himself out as being able to practice athletic training in this state unless he is licensed in accordance with this Act.
2. No person shall consult, teach, or supervise or hold himself out as being able to consult, teach, or supervise athletic training curricular courses in this state unless he is licensed in accordance with this Act or chapter 43-17.
3. No person shall represent himself as being a licensed athletic trainer or use in connection with his name any letters, words, or insignia indicating or implying that he is a licensed athletic trainer unless he is licensed in accordance with this Act.
4. No person shall engage in the private practice of athletic training open to the public for a fee.

SECTION 11. Initial license. Any person furnishing athletic training services as an athletic trainer on the effective date of this Act shall be issued a license if he submits proof of experience and credentials during the previous twelve months satisfactory to the initial board of athletic trainers and pays the license fee required by this Act. For the purposes of this section, a person is furnishing athletic training services as an athletic trainer if he serves as athletic trainer of an interscholastic, intercollegiate, or professional or amateur team for the length of the institution's school year, or the length of the athletic season, and performs duties involving responsibilities as an athletic trainer, or meets equivalent criteria as determined by the initial board. Application for an initial license under this section must be submitted within one year of the effective date of this Act.

SECTION 12. Penalty. Any person violating any of the provisions of this Act is guilty of a class B misdemeanor.

Approved March 11, 1983

CHAPTER 491

HOUSE BILL NO. 1404
(Representatives Hamerlik, DeMers, Moore)
(Senator Fritzell)

OCCUPATIONAL THERAPIST LICENSURE

AN ACT to provide for the licensure of occupational therapists and occupational therapy assistants; and to provide a penalty.

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

SECTION 1. Definitions. As used in this Act, unless the context or subject matter otherwise requires:

1. "Association" means the North Dakota occupational therapy association.
2. "Board" means the board of occupational therapy practice.
3. "Occupational therapist" means a person licensed to practice occupational therapy under this Act.
4. "Occupational therapist assistant" means a person licensed to assist in the practice of occupational therapy, under this Act, who works under the supervision of an occupational therapist.
5. "Occupational therapy" means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, poverty and cultural differences, or the aging process in order to maximize independence, prevent disability, and maintain health. The therapy encompasses evaluation, treatment, and consultation. Specific occupational therapy services include teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing play skills and prevocational and leisure capacities; designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment; using specifically designed crafts and exercises to enhance functional performance; administering and interpreting tests such as manual muscle and range of

motion; and adapting environments for the handicapped. The therapy may be provided individually, in groups, or through social systems.

6. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Implementation of direct occupational therapy to individuals for specific medical conditions, in an acute care hospital, skilled care facility, or rehabilitation facility, shall be based on an order from a licensed physician.
7. "Occupational therapy aide" means a person who assists in the practice of occupational therapy under the direct supervision of an occupational therapist or occupational therapy assistant and whose activities require an understanding of occupational therapy but do not require professional or advance training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

SECTION 2. License required - Title - Abbreviation. A person may not practice occupational therapy or hold oneself out as an occupational therapist, or as being able to practice occupational therapy, or to render occupational therapy services in this state unless that person is licensed under this Act. Only individuals may be licensed under this Act. An individual licensed under this Act as an occupational therapist may use the title "occupational therapist" and the abbreviation "O.T.R.". An individual licensed under this Act as an occupational therapy assistant may use the title "occupational therapy assistant" and the abbreviation "C.O.T.A.". No other individual may use these names or abbreviations.

SECTION 3. Persons and practices not affected by Act. This Act does not prevent or restrict the practice, services, or activities of:

1. Any person licensed in this state to engage in the profession or occupation for which licensed.
2. Any person employed as an occupational therapist or occupational therapy assistant by the United States or any agency of it, if the person provides occupational therapy solely under the direction or control of the organization by which employed.
3. Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, if the person is designated by a title which clearly indicates that person's status as a student or trainee.

4. Any person fulfilling the supervised fieldwork experience requirements of subsection 3 of section 8, if the experience constitutes a part of the experience necessary to meet the requirement of that section.
5. Any person performing occupational therapy services in this state, if these services are performed for no more than ninety days in a calendar year in association with an occupational therapist licensed under this Act, if:
 - a. The person is licensed under the law of another state which has licensure requirements at least as stringent as the requirements of this Act; or
 - b. The person meets the requirements for certification as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.), established by the American occupational therapy association.
6. Any person employed as an occupational therapy aide.

SECTION 4. Board of occupational therapy practice - Appointment - Meetings.

1. There is established a board of occupational therapy practice. The board shall consist of five members appointed by the governor, four of whom shall be appointed from a list of names submitted by the North Dakota occupational therapy association, all of whom shall be residents of this state at the time of their appointment. The persons appointed from the list submitted by the association must have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least three years immediately preceding their appointments. Three board members must be licensed occupational therapists. One member must be an occupational therapy assistant. The members of the first board need not be licensed for appointment to the board but they must fulfill the requirements for licensure under this Act. One member must represent the public with an interest in the rights of the consumers of health services.
2. The governor, prior to September 1, 1983, shall appoint two board members for a term of one year, two for a term of two years, and one for a term of three years. Appointments made thereafter shall be for three-year terms, but no person may be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are

appointed, before commencing the terms prescribed by this section.

3. Prior to August 1, 1983, and annually thereafter, the association may submit at least three and not more than five names for each of the five board positions under subsection 2. If a vacancy in one of the positions exists, the association may recommend as soon as practical, at least two and not more than three persons to fill that vacancy. The governor shall appoint, as soon as practical, one of these persons to fill the unexpired term. If the association does not provide a recommendation, the governor shall appoint a person to the unexpired term.
4. The board shall meet during the first month of each calendar year to select a chairman and for other purposes. At least one additional meeting must be held before the end of each calendar year. Other meetings may be convened at the call of the chairman or the written request of any two board members. All meetings of the board are open to the public, except that the board may hold closed sessions to approve examinations, or upon request of an applicant who fails an examination, to prepare a response indicating any reason for the applicant's failure.
5. Members of the board may receive no compensation for their services, but are entitled to reasonable travel and other expenses incurred in the execution of their powers and duties, as set by the board.

SECTION 5. Board powers, duties, and authority. The board shall administer, coordinate, and enforce the provisions of this Act, evaluate the qualifications, and approve the examinations for licensure under this Act. The board shall keep any records and minutes as are necessary to carry out its functions. The board may:

1. Issue subpoenas, examine witnesses, and administer oaths, and may investigate allegations of practices violating the provisions of this Act.
2. Adopt rules pursuant to chapter 28-32, relating to professional conduct to carry out the policy of this Act, including rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this state.

SECTION 6. Board administrative authority and requirements.

1. The board may employ an executive secretary and other officers and employees it deems necessary.

2. The board shall adopt a seal by which it authenticates its proceedings.
3. All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.
4. The executive secretary shall pay upon approval of the board all appropriate expenses incurred by the board in the administration of this Act.

SECTION 7. Fees. The board shall prescribe by rule the fee for application for examination, the initial license fee, the renewal of license fee, the late renewal fee, and the limited permit fee. These fees shall be set in such an amount as to reimburse the board, to the extent feasible, for the cost of the services rendered.

SECTION 8. Requirements for licensure. An applicant applying for a license as an occupational therapist or as an occupational therapy assistant shall file a written application provided by the board, showing to the satisfaction of the board that the applicant:

1. Is of good moral character.
2. Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.
 - a. The occupational therapy educational program must be accredited by the committee on allied health education and accreditation/American medical association in collaboration with the American occupational therapy association.
 - b. The occupational therapy assistant educational program must be approved by the American occupational therapy association.
3. Has successfully completed a period of supervised fieldwork experience arranged by the recognized educational institution where the applicant met the academic requirements required by the nationally recognized professional association.
 - a. For an occupational therapist, a minimum of six months of supervised fieldwork experience is required.
 - b. For an occupational therapy assistant, a minimum of two months of supervised fieldwork experience is required.
4. Has passed an examination as provided for in section 10.

SECTION 9. Occupational therapy assistant licensure as occupational therapist. An applicant may be licensed as an occupational therapist if the applicant has practiced as an occupational therapy assistant for four years, has completed the requirements of subdivision a of subsection 3 of section 8 before January 1, 1988, and has passed the examination for occupational therapists.

SECTION 10. Foreign-trained applicants. Foreign-trained occupational therapists and occupational therapy assistants shall satisfy the examination requirements of subsection 4 of section 8. Foreign-trained applicants shall furnish to the board proof of good moral character and completion of educational and supervised fieldwork requirements substantially equal to those contained in section 8 before taking the examination.

SECTION 11. Examination for licensure.

1. Only a person satisfying the requirements of subsections 1 through 3 of section 8 may apply for examination in the manner the board prescribes. The application must be accompanied by the nonrefundable fee prescribed under section 7. A person who fails an examination may apply for reexamination upon payment of the prescribed fee.
2. Each applicant for licensure shall be examined by written examination as established by the American occupational therapy association to test the applicant's knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and such other subjects as the board may require to determine the applicant's fitness to practice. The board shall approve an examination for occupational therapists and an examination for occupational therapy assistants and establish standards for acceptable performance.
3. Applicants for licensure shall be examined at a time and place and under such supervision as the board may require. Examinations shall be given at least twice each year at such places as the board may determine. The board shall give reasonable public notice of the examination times and places.
4. Applicants may obtain their examination scores and may review their papers in accordance with any rules established by the board.

SECTION 12. Waiver of requirements for licensure.

1. The board shall grant a license to any person certified prior to July 1, 1983, as an occupational therapist registered (O.T.R.) or a certified occupational therapy assistant (C.O.T.A.) by the American occupational therapy association. The board may waive the examination, education, or experience requirements and grant a license

to any person certified by the American occupational therapy association after July 1, 1983, if the board determines the requirements for such certification are equivalent to the requirements for licensure in this Act.

2. The board may waive the examination, education, or experience requirements and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state which requires standards for licensure considered by the board to be equivalent to the requirements for licensure of this Act.

SECTION 13. Limited permit. The board may grant a limited permit to a person who has completed the education and experience requirements of this Act. This permit allows the person to practice occupational therapy in association with a licensed occupational therapist. This permit is valid until the person is issued a license under section 14 or until the results of the examination taken by the person are available to the board. This limited permit may be renewed one time if the person has failed the examination.

SECTION 14. Issuance of license. The board shall issue a license to any person who meets the requirements of this Act upon payment of the prescribed license fee.

SECTION 15. Renewal of license.

1. Any license issued under this Act is subject to annual renewal and expires unless renewed in the manner prescribed by the rules of the board, upon the payment of a renewal fee. The board may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules, but no late renewal of a license may be granted more than five years after its expiration.
2. Upon request, the board shall grant inactive status to a licensee who (a) does not practice as an occupational therapist or an occupational therapy assistant, (b) does not hold oneself out as an occupational therapist or an occupational therapy assistant, and (c) maintains any continuing competency requirements established by the board. The board may establish additional requirements for license renewal which provide evidence of continuing competency.

SECTION 16. Suspension and revocation of license - Refusal to renew.

1. The board may deny a license, refuse to renew a license, suspend a license, or revoke a license, or may impose probationary conditions if the licensee or applicant for license has been found guilty of unprofessional conduct which has endangered or is likely to endanger the health,

welfare, or safety of the public. Unprofessional conduct includes:

- a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.
 - b. Being guilty of unprofessional conduct as defined by the rules adopted by the board, or violating any code of ethics adopted by the American occupational therapy association.
 - c. Being convicted of an offense, as defined by section 12.1-01-04, that the board determines has a direct bearing upon a person's ability to serve the public as an occupational therapist or an occupational therapy assistant or, following conviction of any offense, the board determines that the person is not sufficiently rehabilitated under section 12.1-32-02.1.
 - d. Violating any lawful order or rule rendered or adopted by the board.
 - e. Violating this Act.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license, may be ordered by the board after a hearing in the manner provided by rules adopted by the board. An application for reinstatement may be made to the board one year from the date of the revocation of a license. The board may accept or reject an application for reinstatement, and may hold a hearing to consider such reinstatement.

SECTION 17. Penalty. Any person who violates section 2 and subsection 1 of section 16 is guilty of a class B misdemeanor.

Approved April 5, 1983

CHAPTER 492

HOUSE BILL NO. 1528
(Representatives G. Pomeroy, R. Meiers, Swiontek)
(Senators Stenehjem, J. Meyer)

SOCIAL WORKER LICENSURE

AN ACT to provide for the licensing and regulation of persons engaged in the practice of social work and the creation of a state board of social work examiners; to provide a penalty; and to provide an effective date.

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

SECTION 1. Definitions. In this Act, unless the context or subject matter otherwise requires:

1. "Board" means the North Dakota board of social work examiners.
2. "Licensed certified social worker" means an individual who has a doctorate or master's degree in social work from a college or university accredited by the council on social work education and who has fulfilled the requirements for licensure.
3. "Licensed social worker" means an individual who has a baccalaureate degree in social work from a college or university accredited by the council on social work education and who has fulfilled the requirements for licensure.
4. "Private practice of social work" means the independent practice of social work by a qualified individual who is self-employed on a full- or part-time basis and is responsible for that independent practice. Consultation services provided to an organization or an agency are not considered to be the private practice of social work.
5. Social work practice consists of the professional application of social work values, principles, and techniques in: helping people obtain tangible services; counseling; psychotherapy with individual, families, and groups; helping communities or groups to improve social

and health services; providing social casework; administration of a social work program; social work education; social work research; or any combination of these. The practice of social work requires knowledge of human development and behavior, of social, economic, and cultural institutions, and of the interaction of all of these factors.

SECTION 2. Social work practice - Exceptions.

1. Nothing in this Act shall be construed to prevent licensed physicians, surgeons, nurses, psychologists, psychotherapists, attorneys, court employees, marriage counselors, family counselors, child counselors, or members of the clergy from doing work within the standards and ethics of their professions and callings, provided they do not hold themselves out to the public by title or description of services as being engaged in social work practice.
2. Nothing in this Act shall be construed to prevent students who are enrolled in programs of study leading to social work degrees from interning with a licensed social worker or a licensed certified social worker.
3. Nothing in this Act shall prevent the employment of, or volunteering by, individuals in nonprofit agencies or community organizations provided these persons do not hold themselves out to the public as being social workers.
4. Nothing in this Act shall prevent the employment of social work designees by hospitals, intermediate care facilities, or nursing homes provided these persons work under the direction of a social worker or social work consultant licensed under this Act.

SECTION 3. Representation to the public.

1. Only those persons licensed to practice under this Act may use the title "licensed social worker" and the initials "l.s.w." after the person's name, or the title "licensed certified social worker" and the initials "l.c.s.w." after the person's name.
2. The license issued by the board under the provisions of this Act shall be prominently displayed at the principal place of business where the social worker practices.

SECTION 4. Licenses.

1. Except as otherwise provided in this Act, no person shall engage in social work practice in this state unless that person is a licensed social worker or a licensed certified social worker.

2. The board shall issue a license as a licensed social worker to an applicant who:
 - a. Has a baccalaureate degree in a social work or social welfare program approved by the board from a college or university accredited by the council on social work education.
 - b. Has passed an examination approved by the board for this purpose.
 - c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.
3. The board shall issue a license as a licensed certified social worker to an applicant who:
 - a. Has a doctorate or master's degree from a school of social work accredited by the council on social work education.
 - b. Has passed an examination approved by the board for this purpose.
 - c. Has satisfied the board that the applicant agrees to adhere to the code of social work ethics adopted by the board.

SECTION 5. Private practice of social work. No person may engage in the private practice of social work unless that person:

1. Is licensed under this Act as a licensed certified social worker.
2. Has had three years of post master's experience under the supervision of a licensed certified social worker.
3. Is registered with the board as eligible for private practice.

SECTION 6. Waiver of requirements.

1. From July 1, 1983, to July 1, 1985, an applicant shall be excused from the examination requirement upon satisfactory proof to the board that the applicant is, and has been, engaged in the practice of social work for at least two of the three years prior to making the application. Failure to provide satisfactory proof of practice will require taking and passing the examination required by this Act.
2. From July 1, 1983, to July 1, 1985, an applicant for a licensed social worker license shall be excused from the requirement that the applicant have a baccalaureate degree

in social work or social welfare and may have a baccalaureate or master's degree in another discipline upon satisfactory proof to the board that the applicant is, and has been, engaged in the practice of social work for at least two of the three years prior to making the application.

SECTION 7. Reciprocity. An applicant may be granted reciprocity upon satisfactory proof to the board that the applicant is licensed under the laws of a state or territory of the United States that imposes substantially the same requirements as this Act. Failure to provide satisfactory proof will require taking and passing the examination required by this Act.

SECTION 8. Board of social work examiners - Qualifications - Appointment - Term of office - Compensation.

1. The governor shall appoint the North Dakota board of social work examiners which shall consist of six members, two of whom must be licensed social workers, two of whom must be licensed certified social workers, and two of whom must be lay persons. Board members must demonstrate no conflict of interest. The professional members comprising the first appointed board shall be persons who are eligible for licensing as social worker and certified social worker.
2. The term of office of each board member shall be for three years, provided that of the members first appointed, two shall be appointed for a term of one year, two shall be appointed for a term of two years, and two shall be appointed for a term of three years. No member shall serve more than two consecutive terms.
3. The governor may remove any board member for good cause after giving that member a written statement of the reasons for removal and after that member has had an opportunity for a hearing.
4. Each board member shall serve without compensation but shall receive expenses as provided in section 54-06-09 and per diem as shall be fixed by the board.
5. Board members shall, at the first regular meeting after July 1, 1983, and annually thereafter, elect by a majority vote of the board, a chairperson who shall preside at meetings of the board and a vice chairperson who shall preside at meetings of the board in the chairperson's absence. A majority of the members of the board shall constitute a quorum.

SECTION 9. Duties and responsibilities of board. In addition to the duties set forth elsewhere in this Act, the board shall:

1. Adopt rules and regulations to administer and carry out the provisions of this Act.
2. Publish an annual list of the names and addresses of all persons licensed under this Act and make the list available upon request.
3. Publish an annual list of the names and addresses of persons registered as private practitioners and make the list available upon request.
4. At its discretion, appoint a secretary, who need not be a member of the board, and fix that person's compensation.
5. Approve and administer an examination for licensing social workers.
6. Collect a fee not to exceed one hundred dollars on the filing of each application for a license as a licensed social worker or a licensed certified social worker, and a fee not to exceed twenty dollars for the renewal of a license.
7. Deposit and disburse all fees and moneys collected by the board in accordance with section 54-44-12.
8. Recommend prosecution for violations of this Act to the appropriate state's attorney.
9. Recommend that the attorney general bring civil actions to seek injunctive and other relief against violations of this Act.
10. Establish continuing education requirements for license renewal.
11. Adopt a code of social work ethics.
12. Publish an annual report of board activities.
13. Issue provisional or probationary licenses.

SECTION 10. Grounds for disciplinary proceedings. The board may deny, refuse to renew, suspend, or revoke any license issued under this Act on proof at a hearing that the applicant or licensed person:

1. Has been convicted of an offense determined by the board to have a direct bearing upon that individual's ability to practice social work and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.

2. Is addicted to the habitual use of alcoholic beverages, narcotics, or stimulants to such an extent as to incapacitate that individual from the practice of social work.
3. Has been grossly negligent in the practice of social work.
4. Has violated one or more of the rules and regulations of the board.
5. Has violated the code of social work ethics adopted by the board.

SECTION 11. Hearings and disciplinary proceedings - Appeals.

1. Hearings and disciplinary proceedings are to be conducted by a three-member panel appointed and empowered by the board, with a majority vote to determine the recommended decision.
2. The aggrieved party may receive a hearing before the full board if the decision of the panel is not acceptable. An appeal from the board's final decision may be taken in accordance with the provisions of section 28-32-15.

SECTION 12. Renewal of licenses.

1. All licenses are effective when issued by the board.
2. All licenses of licensed social workers and licensed certified social workers expire on December 31, 1985, and on December thirty-first every two years thereafter.
3. A license may be renewed by payment of the renewal fee set by the board, provided the applicant's license is not currently revoked or suspended.
4. If the application for renewal is not received within six months of the expiration date, the board shall require reexamination.
5. At the time of renewal the board shall require each applicant to present satisfactory evidence that the applicant has completed the continuing education requirements specified by the board.

SECTION 13. Bribery - False statements. It is a class B misdemeanor to:

1. Obtain or attempt to obtain a license or renewal thereof of a license by bribery.
2. Knowingly make a false statement in connection with the application of any provisions of this Act.

3. Knowingly make a false statement on any form adopted by the board in accordance with this Act or in accordance with the rules and regulations adopted under this Act.

SECTION 14. Penalty. Any person who violates any provision of this Act is guilty of a class B misdemeanor.

SECTION 15. EFFECTIVE DATE. Sections 2, 3, and 5 of this Act shall become effective on July 1, 1985.

Approved April 20, 1983