

# OCCUPATIONS AND PROFESSIONS

## CHAPTER 474

HOUSE BILL NO. 1311  
(Representative Unhjem)

### ABSTRACTERS' BOARD OF EXAMINERS

AN ACT to amend and reenact sections 43-01-04, 43-01-07, 43-01-10, 43-01-11, and 43-01-14 of the North Dakota Century Code, relating to the abstracters' board of examiners.

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

SECTION 1. AMENDMENT. Section 43-01-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-04. Compensation. A member of the board ~~shall receive thirty dollars~~ is entitled to receive compensation in an amount fixed by the board for each day he or portion of a day the member is actually engaged in the performance of the official duties of his office and such mileage reimbursement as is provided for in section 54-06-09. In addition thereto, ~~he shall receive for the member is entitled to reimbursement for actual and necessary expenses in the amounts provided by law for state officers in section 44-08-04.~~ All funds collected or received by the board shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 2. AMENDMENT. Section 43-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-07. Moneys of board - How disbursed. Moneys collected for the board under ~~the provisions of~~ this chapter shall be kept by the secretary-treasurer and disbursed only on warrants signed by the president and the secretary-treasurer. All expenses incident to the examinations required under this chapter, the expenses of preparing and issuing certificates and licenses, the reimbursement of board members' expenses, and stationery, printing, clerk hire, and incidental office expenses must be paid by the board from the fees collected by it, and no expense incurred under this chapter may be a charge against the funds of this state. No part of the funds administered by the board revert to the general fund of this state. At the end of his term, the secretary-treasurer shall account to his successor for any moneys remaining in his hands.

**SECTION 3. AMENDMENT.** Section 43-01-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-01-10. Certificate of registration - Application - Examination - Fee.**

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

1. Registered abstracters, within the meaning of the chapter, shall comprise all persons who shall, upon the passage of this chapter, be in charge, either individually or jointly with other persons, of the abstract office which is the holder of a valid and subsisting certificate of authority as provided by this chapter and who shall obtain a certificate of registration as hereinafter provided, or persons who shall be granted certificates of registration by the board after passage of this chapter.
2. Any person desiring to obtain a certificate of registration under this chapter shall make application to the board and shall pay to the secretary-treasurer of the board an examination fee of forty fixed by the board not exceeding one hundred dollars except as hereinafter provided. Such application shall be upon a form to be prepared by the board and to contain such information as may be desired by it. Thereupon the board shall fix a date and place for the examination of such applicant, of which notice shall be given to applicant by mail, who shall present himself at such meeting. Whereupon the board shall proceed to examine such applicant or applicants under such rules and regulations as may be adopted by the board.
3. Any person, who, upon the effective date of this chapter, is in charge, either individually or jointly with other persons, of an abstract office which is the holder of a valid and subsisting certificate of authority provided by subsection 2 of section 43-01-09 and who shall make application to the board prior to the expiration of said certificate of authority shall upon the payment of a fee of five fixed by the board not exceeding one hundred dollars be issued a certificate of registration, without

- examination, under such rules as may be provided by said board.
4. The certificate of registration issued by said board under the provisions hereof shall recite, among other things, that the holder thereof has complied with the provisions of this chapter relating to examination or otherwise, and shall entitle the holder of such certificate of registration to take charge of any abstract office in any county in this state holding a certificate of authority, under the provisions of this chapter. Certificates of registration shall be issued upon the payment of a ~~five dollar~~ five dollar fee fixed by the board not exceeding one hundred dollars and shall be valid for one year from the date thereof but shall be renewed annually by said board upon application within thirty days prior to the expiration thereof upon a payment of ~~five~~ a fee fixed by the board not exceeding one hundred dollars to the secretary-treasurer of the board. The board may issue temporary certificates of registration in its discretion.
  5. Said board shall keep a register, wherein it shall enter the names of all applications for registration, and for certificates of authority, with their place of business and such other information as may be deemed appropriate, including the action taken by said board thereon, and the dates upon which certificates of registration and certificates of authority are issued.

**SECTION 4. AMENDMENT.** Section 43-01-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-01-11. Bonds or liability policy - Deductible policy permitted.** Before a certificate of authority shall be issued, the applicant therefor shall file with the secretary-treasurer of the board a surety bond in favor of the state, or an abstractor's liability policy to be approved by the board as to form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state, in a penal sum or limit of liability equal to ten thousand dollars for each ten thousand inhabitants, or major fraction thereof, residing in the county in which the applicant's office is maintained, as shown by the last official federal or state census preceding the filing of the bond or abstractor's liability policy. Such bond, or abstractor's liability policy, however, shall not be less than one hundred thousand dollars. The bond or liability policy shall be conditioned for the payment by the abstractor of any liability imposed upon him by law for damages arising from any claim against him that may be sustained by or that shall accrue to any person by reason or on account of any negligent act, error or omission in any abstract or certificate of title, or continuation thereof, made and issued by the abstractor. ~~The board shall file all~~ All surety bonds in the office of the county auditor of the county in which the applicant has his place of business,

liability policies, and evidence of annual renewal of the bonds and policies must be filed with the secretary-treasurer of the board. All abstracters' liability policies shall be endorsed to provide that cancellation cannot be effected by either the abstractor or the insurance company without ten days' written notice to the abstracters' board of examiners, ~~who shall file said endorsed policy or a certificate thereof in the office of the county auditor of the county in which the applicant has his place of business.~~ It shall be permissible under this section to file an abstractor's liability policy in the deductible form, provided that the deductible provision shall not exceed one thousand dollars.

**SECTION 5. AMENDMENT.** Section 43-01-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-01-14. Certification of authority - Fee - Renewal.** A certificate of authority shall be issued to an applicant who successfully passes the examination of the board and complies with the other provisions of this chapter, upon the payment of the registration fee ~~of forty~~ fixed by the board not exceeding one hundred dollars which shall be in addition to the examination fee. A certificate shall be valid for five years after the date thereof. A certificate shall be renewed by the board upon application, made within thirty days prior to the expiration date, accompanied by ~~the sum payment of twenty-five~~ a fee fixed by the board not exceeding one hundred dollars and an affidavit that the applicant has for use in his business a complete set of abstract books or records of all instruments of record in the office of the register of deeds in and for the county in which the applicant has his place of business or has been engaged in good faith in the preparation of such books or records for not less than six months.

Approved March 1, 1985

## CHAPTER 475

HOUSE BILL NO. 1278  
(Representatives Martinson, Unhjem, Nicholas)

## ABSTRACTERS' FEES

AN ACT to amend and reenact sections 43-01-15.1 and 43-01-18 of the North Dakota Century Code, relating to fees chargeable by abstracters.

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

SECTION 1. AMENDMENT. Section 43-01-15.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-15.1. Surface abstracts and mineral abstracts to be furnished upon request. An abstracter shall furnish an abstract of title to the surface of any tract of land, when requested to do so, omitting therefrom all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests except instruments which sever mineral rights or royalties from surface rights. In addition to such surface abstract, an abstracter shall, when requested to do so, furnish a list showing the names of the grantor and grantee and the recording data of all instruments in the chains of title which transfer or convey mineral rights, royalties, or other mineral interests and which are not included in the surface abstract. For each instrument searched and listed, but not included in the surface abstract, an abstracter may charge a fee of ~~twenty-five cents~~ one dollar, and no more. When requested to do so, an abstracter shall furnish a mineral abstract of any chain of title to the minerals of any tract of land which shall consist of the instrument severing the mineral rights or royalties from the surface rights and include all instruments of transfer or conveyance of mineral rights, royalties, and other mineral interests. If requested, such mineral abstract may be combined with a surface abstract of all instruments affecting title to the tract of land to and including the instrument severing the mineral rights, royalties, or other mineral interests being abstracted.

SECTION 2. AMENDMENT. Section 43-01-18 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-01-18. Fees chargeable by abstractor. An abstractor may charge the following fees, and no more for making and certifying to an abstract:

1. For each entry on an abstract or continuation thereof, ~~three~~ four dollars.
2. For a complete certification covering the records of the several county offices, ~~forty~~ fifty dollars.
3. For a certification covering lands in excess of one quarter section [64.75 hectares] in the same abstract of title an additional fee of seven dollars and fifty cents, for each quarter section [64.75 hectares] or portion thereof in excess of one, may be charged.
4. For a certification covering premises in more than one block in any subdivision in the same abstract of title, an additional fee of seven dollars and fifty cents, for such premises in each additional block in excess of one, may be charged.
5. For each name searched for judgments, real estate taxes, bankruptcy proceedings, federal tax liens, state tax liens, mechanics' liens and mechanics' lien notices, ~~one dollar and fifty cents~~ two dollars.
6. For all miscellaneous instruments, one dollar and fifty cents for the first one hundred words, and one dollar for each additional hundred words or fraction thereof.
7. Such fees as may be fixed by special statute.

Approved March 1, 1985

# CHAPTER 476

HOUSE BILL NO. 1118  
(Committee on Industry, Business and Labor)  
(At the request of the Electrical Board)

## ELECTRICAL WIRING AND EQUIPMENT STANDARDS

AN ACT to amend and reenact section 43-09-21 of the North Dakota Century Code, relating to standards for electrical wiring and equipment.

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

SECTION 1. AMENDMENT. Section 43-09-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-21. Standards for electrical wiring and equipment. All electrical wiring, apparatus, or equipment shall comply with the rules and regulations of the board, the public service commission, the commissioner of insurance, and the state fire marshal made under authority of the laws of this state and in conformity with the approved methods of construction for safety to life and property. The regulations laid down in the national electrical code and the national electrical safety code as approved by the American engineering national standards committee institute shall be prima facie evidence of such approved methods. Any municipality may make more stringent requirements. No electrical installation shall be connected for use until proof has been furnished to the person, firm, or corporation supplying electrical energy that such regulations have been complied with.

Approved March 14, 1985

## CHAPTER 477

SENATE BILL NO. 2330  
(Holmberg)

## COSMETOLOGY REGULATION AND PRACTICE

AN ACT to amend and reenact subsection 8 of section 15-20.4-02, and sections 43-11-01, 43-11-02, 43-11-03, 43-11-04, 43-11-05, 43-11-06, 43-11-07, 43-11-08, 43-11-10, 43-11-11, 43-11-12, 43-11-13, 43-11-14, 43-11-15, 43-11-16, 43-11-17, 43-11-18, 43-11-19, 43-11-20, 43-11-20.1, 43-11-20.2, 43-11-20.3, 43-11-20.4, 43-11-21, 43-11-22, 43-11-23, 43-11-24, 43-11-25, 43-11-26, 43-11-27, 43-11-28, 43-11-29, 43-11-30, 43-11-31, 43-11-33, 43-11-34, and 43-11-35 of the North Dakota Century Code, relating to the regulation of cosmetology; and to provide a penalty.

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

SECTION 1. AMENDMENT. Subsection 8 of section 15-20.4-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. Schools for hairdressers and cosmetologists of cosmetology regulated under chapter 43-11.

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

43-11-01. Definitions. In this chapter, unless the context or subject matter thereof otherwise requires:

1. "Cosmetology" means any one or combination of practices generally and usually heretofore and hereafter performed by and known as the occupation of beauty culturists or cosmeticians or cosmetologists or hairdressers, or of any other person holding him or herself out as practicing cosmetology by whatever designation and within the meaning of this chapter and in and upon whatever place or premises; and in particular cosmetology shall be defined and shall include, but otherwise not be limited thereby, the following or any one or a combination of practices: arranging, dressing, curling, waving, cleansing, cutting,

- singeing, bleaching, coloring, or similar work, upon the hair of any person by any means or with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions, creams, or otherwise, massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work on the scalp, face, neck, arms, hands, bust or upper part of the body, or manicuring the nails of any person.
2. "Student" shall mean means any person who is engaged in the learning or acquiring of any or all the practices of cosmetology and while so learning, performs or assists in any of the practices of cosmetology in any school registered or licensed and under the immediate supervision of an instructor licensed as such under this chapter.
  3. "Operator" shall mean means a person, not a student, who is licensed under the provisions of this chapter to engage in and follow any of the practices of a hairdresser or cosmetologist.
  4. "Hairdresser and cosmetologist shop" shall include "Cosmetology salon" includes that part of any building wherein the occupation of a hairdresser or cosmetologist is practiced.
  5. "Student instructor" shall mean means a cosmetologist who is receiving instruction in teacher's training in a duly registered school of cosmetology.
  6. "Instructor" shall mean means any person of the age of eighteen years or more, who is a licensed cosmetologist and, who teaches cosmetology or any practices taught in a duly registered school of cosmetology, and who has met the requirements of section 43-11-27 and has applied for and received an instructor's license.
  7. "Manager-operator" shall mean means any person of the age of twenty-one years or more who has been a licensed cosmetologist for at least one year and who manages or conducts a beauty shop who has met the requirements of section 43-11-26 and has applied for and received a managing cosmetologist license.
  8. "Board" shall mean means the state board of hairdressers and cosmetologists cosmetology.
  9. "Demonstrator" shall mean means any person who possesses the qualifications of a cosmetologist but who limits his practice to the performing of cosmetological operations upon persons provided for the purpose of being subjects or models upon whom demonstrations are to be performed before groups of students, operators, managers, instructors, or

demonstrators as defined in this section or shopowners or school owners and who is granted permission to promote a product or technique in this state for a limited time in accordance with rules adopted by the board.

10. "School of cosmetology" means an establishment operated for the purpose of teaching cosmetology.

SECTION 3. AMENDMENT. Section 43-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-02. Exemptions from provisions of chapter. ~~The provisions of this~~ This chapter ~~shall~~ does not apply to:

1. Services in case of emergency.
2. Services in case of domestic administration without compensation provided by persons practicing cosmetology upon members of their immediate families.
3. Services by persons authorized under the laws of this state to practice medicine, surgery, dentistry, podiatry, osteopathy, or chiropractic.
4. Services by ~~barbers~~, nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation; or by a licensed cosmetologist engaged in manicuring the nails of any person in a licensed barbershop.
5. Educational activities conducted in connection with any regularly scheduled meeting or any educational activities of any bona fide association of licensed cosmetologists, from which the general public is excluded. For purposes of this subsection a "bona fide association of cosmetologists" shall mean any organization whose constitution, bylaws, or membership rules establish within said organization a class of membership consisting of licensed cosmetologists.

SECTION 4. AMENDMENT. Section 43-11-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-03. State board of hairdressers and cosmetologists ~~cosmetology~~ - Appointment - Term. The state board of ~~hairdressers and cosmetologists shall consist~~ cosmetology consists of three members appointed by the governor for three years each, with their terms of office so arranged that one term ~~only shall expire~~ expires on June thirtieth of each year. Each member of the board shall qualify by taking the oath required of civil officers and shall hold ~~her~~ office until ~~her~~ a successor is appointed and qualified. A vacancy on the board shall be filled by appointment by the governor for the unexpired term.

SECTION 5. AMENDMENT. Section 43-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-04. **Members of board - Qualifications.** Each member of the board shall be a citizen of this state and a licensed ~~hairdresser or~~ a cosmetologist who has had at least three years practical experience in ~~her~~ the occupation. No two members of the board shall be members of or affiliated with any school ~~teaching hairdressing or~~ of cosmetology, nor shall any two members of the board be graduates of the same school of ~~hairdressers or esmeteologists~~ cosmetology.

SECTION 6. AMENDMENT. Section 43-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-05. **Officers of board - Powers - Rulemaking.** The members of the board annually shall elect a president and a secretary from ~~their own number~~ the members of the board. The president and the secretary may administer oaths. The board may adopt rules necessary to implement this chapter.

SECTION 7. AMENDMENT. Section 43-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-06. **Compensation of members of board - How paid.** Each member of the board ~~shall~~ is entitled to receive ~~thirty-five dollars~~ compensation of fifty dollars for each day employed in the actual discharge of official duties and necessary expenses so incurred, as determined by the board. The secretary of the board shall receive an annual salary of not more than ~~seven thirteen thousand eight hundred~~ dollars to be fixed by the board, and necessary expenses actually incurred in the performance of official duties. Expenses incurred by a board member in the performance of an official function are payable by the board pursuant to sections 44-08-04 and 54-06-09. The compensation and expenses of all members of the board shall be paid from the ~~fund in the state treasury to the use of the board on requisition signed by the president and the secretary~~ license fees and other sources of income of the board and the warrant of the state auditor.

SECTION 8. AMENDMENT. Section 43-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-07. **Bond of secretary.** Before entering upon the discharge of ~~the duties of her office,~~ the secretary of the board shall be bonded for the faithful discharge of ~~her~~ duties in the ~~penal sum~~ amount of five thousand dollars, and the premium for ~~sueh~~ such the bond shall be paid ~~from the state hairdressers' fund out of the funds~~ received by the board. The bond and oath of office ~~endorsed thereon~~ shall must be deposited with the secretary of state and kept in ~~his~~ office.

SECTION 9. AMENDMENT. Section 43-11-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-08. Meetings of the board --~~Quorum---Rules---Seal~~. The board shall meet twice each year in the capitol of the state on the ~~second on the third~~ Tuesday in January and July and at such other times and places as the board may direct. The majority of the members of the board shall constitute a quorum for the transaction of business. The board shall prescribe rules for its government and have a seal with which to authenticate its acts. The board may meet at such other times and places as is necessary to conduct the official business of the board.

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

43-11-10. Records of board - Fees - Expenses - How paid. The secretary of the board shall keep a record of its the board's proceedings and a register of applicants for certificates licensure showing the name of the applicant, the name and location of her the applicant's place of occupation or business, and whether the applicant was granted or refused a certificate license. The books and records of the board shall be prima facie evidence of matters therein contained and shall constitute public records. All fees and payments required to be paid by applicants for examinations or licenses must be deposited with the secretary of the board. The secretary shall pay all expenses incurred in the operation of maintaining an office for the purpose of carrying out this chapter from fees and other income.

SECTION 11. AMENDMENT. Section 43-11-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-11. Sanitary rules - Practice outside salon. The board, with the approval of the state department of health, shall adopt these sanitary rules it deems necessary to prevent the creating and spreading of infectious and contagious diseases. The board shall adopt other rules consistent with and necessary to carry out the provisions of this chapter. A hairdressing or cosmetician shop shall cosmetology salon must be at a fixed location and must be separate from all other businesses and establishments and shall may not be used for living or sleeping quarters. An operator may practice outside of the establishment under the direction and control of an owner or manager thereof under rules promulgated adopted by the board.

SECTION 12. AMENDMENT. Section 43-11-12 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-12. Persons called to aid of board. The board may call to its aid employ or receive services from any person of established reputation and known ability knowledgeable in hairdressing and cosmetology for the purpose of conducting examinations, inspections, and investigations of any or all persons, firms, or corporations affected regulated by this chapter. The person shall not be

connected with any school teaching any of the occupations under this chapter. Any person called employed by the board to its aid shall be entitled to receive for these services not more than thirty-five fifty dollars for each day employed in the actual discharge of official duties, and actual and necessary expenses to be paid in the same manner as the compensation and expenses of members of the board are paid in the amounts payable under sections 44-08-04 and 54-06-09.

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

43-11-13. Certificate of registration License required. No person in this state shall engage in, follow, or attempt to engage in or follow the occupation of a hairdresser or cosmetologist cosmetology, nor conduct a hairdressing or cosmetologist establishment cosmetology salon or school of cosmetology, unless she having first has obtained a certificate of registration license.

SECTION 14. AMENDMENT. Section 43-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-14. Certificates Licenses - Board to issue - Form - Displayed. The board shall may issue all certificates, including these of operators, instructors, and manager-operators licenses provided for in this chapter. Each certificate license issued shall must be signed by the president and the secretary of the board and attested by the seal of said the board. A certificate shall be license is evidence that the person to whom it is issued is entitled to follow all of the practices or occupations referred to therein in the license. A certificate shall license must be displayed conspicuously in the principal office, place of business, or place of employment of the certificate holder licenseholder.

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

43-11-15. Who may operate and own a hairdressing or cosmetologist shop Cosmetology salon ownership and operation. A hairdressing or cosmetologist shop cosmetology salon may be owned, operated, conducted, and managed by a licensed manager-operator or any other person if she does not instruct in or practice hairdressing or cosmetology but employs one or more manager-operators in the shop to operate, conduct, and manage the same by any person authorized to do business in this state. A cosmetology salon must be operated and supervised by a manager-operator.

SECTION 16. AMENDMENT. Section 43-11-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-16. Registered schools Schools of cosmetology - Qualifications for registration licensure. A certificate of registration license shall be granted to a school for hairdressers

and ~~cosmetologists~~ of cosmetology upon an application to the board and the payment of the annual registration license fee, if the school:

1. Is operated and maintained in premises entirely distinct and permanently separated separate from any hairdressing, beauty, or cosmetologist shop cosmetology salon;
2. Requires one thousand eight hundred hours of training and instruction in cosmetology not to exceed eight hours per day;
3. ~~Repealed by S-L- 1975, ch. 402, § 3,~~
- 4- 4. Employs at least two full-time licensed instructors for the first twenty-five students enrolled and one additional instructor for each additional twenty-five students enrolled or fraction thereof after such the school's enrollment has reached fifty students;
- 5- 4. Possesses apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum;
- 6- 5. ~~Keeps~~ Maintains a daily record of the attendance and performance of each student ~~which shall not be in excess of eight hours per day~~;
- 7- 6. Maintains regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audiovisual aids, and studies in sanitation, sterilization, and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology ~~or any practice thereof as provided in this chapter~~;
- 8- 7. Agrees not to:
  - a. Conduct a clinical department for fees after registration licensure by the board, until such the school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter;
  - b. Permit any student to practice on any person not an instructor or registered student of such the school until such the student has completed at least twenty percent of the total hours of instruction required by this chapter;
  - c. Compensate any of its basic students in any way; and

9- 8. At the time of application for ~~its license~~ licensure and upon the renewal of ~~such a~~ license, furnishes to the board, and maintains in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. ~~Such~~ The bond shall run in favor of the board, as agent of the state, and shall be furnished by a surety company authorized to do business in this state. It shall be conditioned upon ~~such the~~ the bonded school's providing its registered students with the full course of instruction required under the provisions of this chapter and shall provide for a refund of a proportionate amount of each student's tuition fee upon default.

Any ~~such~~ school that ~~shall enroll~~ enrolls student instructors shall set up an adequate course of training as such, with the approval of the board, and shall not have at any one time more than one ~~such~~ student instructor for each licensed instructor actively engaged in ~~such the~~ the school.

SECTION 17. AMENDMENT. Section 43-11-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-17. Certificate of registration Licenses issued for schools of hairdressing, cosmetology, and shops cosmetology salons - Fee for annual registration. The board may issue an annual certificate of registration license for a school giving instruction in hairdressing and of cosmetology. The annual registration fee for a school shall be determined annually by the board, but shall not exceed the sum of one hundred dollars as set forth in section 43-11-28. The board shall, after inspection and approval, issue a shop registration certificate salon license, the annual fee for which shall be determined annually by the board, but shall not exceed fifty dollars for new registrations and twenty-five dollars for shops previously registered as set forth in section 43-11-28.

SECTION 18. AMENDMENT. Section 43-11-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-18. School advertising must disclose work done by students - Violation - Certificate canceled Cancellation of license. No person, firm, or corporation operating or conducting a school of hairdressing and cosmetology under a certificate of registration, shall may advertise, in any manner whatsoever, to perform any of the practices referred to in this chapter of cosmetology without disclosing that the practice offered is to be performed by students under the supervision of a licensed instructor. If any school violates this section, the board, after notice and hearing and a determination of the violation, shall cancel the certificate license granted to the school.

SECTION 19. AMENDMENT. Section 43-11-19 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-19. Students - Registration. A student hairdresser and cosmetologist shall be registered with the board, but to be registered as a student one shall have the following qualifications must:

1. Be at least seventeen years of age-;
2. Be of good moral character-;
3. Have educational qualifications equivalent to completion of two years of high school-; and
4. Have matriculated enrolled in a registered school of cosmetology and complied with the preliminary requirements thereof.

The names and qualifications of all students shall be certified to the board by each registered school of cosmetology. The certification of the names and qualifications of the students registered at each school shall must be accompanied by a processing fee for each student in an amount as may be fixed by the board, not to exceed five dollars under section 43-11-28.

SECTION 20. AMENDMENT. Section 43-11-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20. Student operator---When she may practice. A student registered certified under the provisions of this chapter, while attending a hairdressing and cosmetologist school of cosmetology, may assist in any of the practices of a hairdresser or cosmetologist cosmetology if under the immediate direction and supervision of a licensed instructor.

SECTION 21. AMENDMENT. Section 43-11-20.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20.1. Refund of student tuition fees upon cancellation of course. Schools of hairdressing and cosmetology shall refund tuition and other charges paid by or on behalf of a student when written notice of cancellation is given by the student. Refunds shall be made in accordance with the following schedule:

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

- 3- When notice is received upon or after completion of one-fourth of the course, but prior to the completion of one-half of the course, all tuition and other charges except fifty percent thereof shall be refunded to the student.
- 4- When notice is received upon or after the completion of fifty percent of the course, no tuition or other charges shall be refunded to the student.

<u>Term Completed</u>	<u>Tuition Retained By School</u>
0.0% - 4.9%	20%
5% - 9.9%	30%
10% - 14.9%	40%
15% - 24.9%	45%
25% - 49.9%	70%
Over 50%	100%

Notice of the provisions of this section, and of the provisions of sections 43-11-20.2 and 43-11-20.3, shall be posted in a conspicuous place in each school of hairdressing and cosmetology. The notice shall be in such a form and shall contain such information as shall be prescribed by the board. The board shall take such action as may be necessary to enforce the provisions of this section and sections 43-11-20.2 and 43-11-20.3, including revocation of the certificate of registration license issued pursuant to section 43-11-17. The provisions of this section shall does not prejudice the right of any student to recovery in an commence a civil action against any school of hairdressing and cosmetology for breach of contract or fraud.

SECTION 22. AMENDMENT. Section 43-11-20.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20.2. Negotiation of promissory instruments. No school of hairdressing and cosmetology shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the course of instruction offered by the school.

SECTION 23. AMENDMENT. Section 43-11-20.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20.3. Cancellation of contract for instruction. Any person shall have the unrestricted right to rescind, revoke, or cancel a contract for a course of instruction at any school of hairdressing and cosmetology after entering into such the contract without incurring any tort or contract liability. In such event, the school of hairdressing and cosmetology may retain the amount of tuition and other charges as set forth in section 43-11-20-1-

SECTION 24. AMENDMENT. Section 42-11-20.4 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-20.4. Exemption from postsecondary license requirement - Solicitor's permit required. Schools of hairdressing and cosmetology licensed under the provisions of this chapter shall be exempt from the license requirement of chapter 15-20.4, but all. All persons who solicit business for a school of hairdressing and cosmetology, or who sell any course or courses of instruction, shall secure a solicitor's permit and bond as required by chapter 15-20.4 in an amount and under conditions as established by the board.

SECTION 25. AMENDMENT. Section 43-11-21 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-21. Operator's license - Examination required - Application - Examination - Fee Fees. Each person who desires to secure an operator's certificate of registration license shall file with the secretary of the board a written application under oath on a form prescribed and supplied by the board. The application shall be accompanied by the following:

1. A health certificate issued by a regularly licensed physician;
2. Satisfactory proof of the educational and moral qualifications required of a student;
3. An examination fee and kit rental fee as may be fixed by the board not to exceed twenty dollars, pursuant to section 43-11-28;
4. Satisfactory proof that the applicant has completed the required training in a registered school which shall not be less than one thousand eight hundred hours for hairdressers and cosmetologists of cosmetology; and
5. A fee for original licensure as required by section 43-11-28.

SECTION 26. AMENDMENT. Section 43-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-22. Board to determine qualifications of applicants - Delegation of power. The sufficiency of the qualifications of applicants for admission to examination for hairdressers and cosmetologists, for registration as such, and for license certification or licensure to practice hairdressing and cosmetology under this chapter shall be determined by the board but it may delegate such authority to the secretary, subject to such provision as the board may make for appeal to it. The board may delegate authority under this section to the secretary.

SECTION 27. AMENDMENT. Section 43-11-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-23. Examination. The examination of applicants for certificates license to practice under this chapter shall be conducted under rules prescribed by the board and shall include both practical demonstrations and written or oral tests in reference to the practices for which a certificate license is desired and in reference to such related studies or subjects as the board may determine necessary for the proper and efficient performance of such practices a practice. The examination shall not be confined to any specific system or method and shall be consistent with the practical and theoretical requirements of hairstressers and esmetologists cosmetology.

SECTION 28. AMENDMENT. Section 43-11-24 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-24. Operator's certificate license - When issued - Failure to pass examination - Reexamination - Retraining. An operator's certificate license shall be issued to any person who has:

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

If the applicant fails to pass the examination, the examination fee shall not be returned, but within. Within one year after such failing to pass an examination, the applicant may be examined again with the payment of an additional examination a reexamination fee and kit rental fee as may be fixed by the board, not to exceed twenty dollars set forth in section 43-11-28. Anyone who fails to pass the reexamination must complete an additional one hundred sixty hours of training at a school of cosmetology prior to reapplying for examination.

SECTION 29. AMENDMENT. Section 43-11-25 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-25. Certificate License issued without examination - Conditions. The board may dispense with the examination of applicants for certificates licenses to practice hairstressing and cosmetology and may grant certificates of registration licenses upon the payment of a fee as may be fixed by the board, not to exceed forty dollars, for original licensure and the reciprocity fee provided in section 43-11-28 if:

1. The applicant has complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the

requirements are equal substantially to those in force in this state at the time the application for the certificate license is filed; or and

2. Due proof is furnished that for at least three years immediately prior to the application the applicant has practiced continuously the occupation for which a certificate is desired in the District of Columbia, or another state, territory, foreign country, or province. The applicant passes to the satisfaction of the board an examination on sanitary practices and cosmetology law in this state.

SECTION 30. AMENDMENT. Section 43-11-26 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-26. Manager-operator - License - Qualifications. A person may obtain a manager-operator's license if she complies with all of the following requirements upon:

1. Furnishes Furnishing to the board evidence of-
  - a- Having being at least eighteen years of age and having practiced as a licensed operator in this state for at least two hundred fifty days; and
  - b- Having attained the age of eighteen years one hundred twenty-five days.
2. Pays a fee as may be fixed by the board, not to exceed twenty dollars. Paying an original licensure fee and examination fee as set forth in section 43-11-28;
3. Passing an examination conducted by the board to determine fitness to practice as a manager-operator; and
4. Complies with the other requirements of this chapter applicable to a manager-operator.

SECTION 31. AMENDMENT. Section 43-11-27 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-27. Instructor's license - Student instructor's license - Demonstrator's license - Registration - Qualifications.

1. No person may be licensed as an instructor in any practice; or any combination of the practices, of cosmetology unless the person shall furnish furnishes the board the examination fee set forth in section 43-11-28 and evidence of having attained the age of eighteen years and having a general education equivalent to the completion of four years in high school and shall pay the

examination fee as fixed by the board, not to exceed twenty dollars and shall hold a license as a cosmetologist issued pursuant to section 43-11-21, and in addition. An applicant:

- a. Shall have at least nine hundred sixty hours teacher's instructor's training in cosmetology in a registered school of cosmetology. In no event shall more than one thousand one hundred hours teacher's instructor's training be required for admission to examination; or
  - b. Shall have at least one year's experience as an active practicing cosmetologist, supplemented by not less than four hundred eighty hours teacher's instructor's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's instructor's training be requisite for admission for examination under this subdivision; or
  - c. Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to application for an instructor's license supplemented by not less than one hundred sixty hours teacher's instructor's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's instructor's training be requisite for admission for examination under this subdivision. No instructor or student instructor shall be permitted to practice cosmetology on a patron other than that part of practical work which shall pertain directly to the teaching of practical operations to students.
2. Student instructors in cosmetology shall be registered upon enrollment in a registered school of cosmetology and upon certification by the school to the board of the name, age, and qualifications of the student instructor which shall be recorded in a register kept for that purpose. A student instructor shall, at the time of enrollment, possess a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, the student instructor shall make application on a form provided by the board and pay a fee of twenty dollars as provided in section 43-11-28. The board shall thereupon cause the applicant to be examined for an instructor's certificate license. The examination shall be given by a special examining committee comprised of the board, assisted by one person designated by the board; who shall possess at least possessing the minimum qualifications entitling him the person to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only. Upon successfully

passing the examination the board shall issue an instructor's certificate license to the applicant.

3. No person may be licensed as a demonstrator unless the person is a licensed cosmetologist or shall file proof with the board of continuously practicing in another state as a cosmetologist for a period of at least two years prior to the date of the application for license as a demonstrator and shall pay an original license fee of fifteen dollars as set forth in section 43-11-28.
4. No person shall be entitled to renew an instructor's certificate after December 31, 1973, license unless such person shall furnish the instructor has furnished to the board evidence that she has attended of attendance at an approved seminar pursuant to requirements prescribed by the board.

SECTION 32. AMENDMENT. Section 43-11-28 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

1. Fees to be paid by applicants for original registrations, original licenses, annual renewals, licenses issued upon reciprocity, and examinations as required under this chapter may not exceed the following amounts:

a. Original registrations, licenses, and annual renewals:	MAXIMUM FEE:
(1) Cosmetology salons, original registration	\$ 75.00
(2) Cosmetology salons, annual renewal	\$ 25.00
(3) School of cosmetology, original registration	\$500.00
(4) School of cosmetology, annual renewal	\$200.00
(5) Operator, original license	\$ 10.00
(6) Operator, annual renewal	\$ 10.00
(7) Manager-operator, original license	\$ 20.00
(8) Manager-operator, annual renewal	\$ 15.00
(9) Instructor, original license	\$ 30.00
(10) Instructor, annual renewal	\$ 15.00

(11)	Demonstrators, original license	\$ 25.00
(12)	Demonstrators, annual renewal	\$ 15.00
(13)	Reciprocity license fee	\$100.00
(14)	Registration fee for student instructor	\$ 10.00
(15)	Duplicate license	\$ 5.00
(16)	Penalty fee for late renewal	\$ 10.00
(17)	Certification fee	\$ 15.00

b. Examinations:

(1)	Operator	\$ 20.00
(2)	Operator's kit rental fee	\$ 45.00
(3)	Manager-operator	\$ 20.00
(4)	Instructors	\$ 50.00
(5)	Instructor's kit rental fee	\$100.00
(6)	Reexamination fee, operator's	
	(a) Practical	\$ 25.00
	(b) Written	\$ 15.00
(7)	Reexamination fee, manager-operator	\$ 20.00
(8)	Reexamination fee, instructors	
	(a) Practical	\$ 50.00
	(b) Written	\$ 20.00

2. Fees are not prorated or returnable. The board may charge a ten dollar penalty for license renewal applications received after December thirty-first. The board may reduce a renewal fee from the maximum amount only if it applies an equal percentage of reduction to all renewal fees. The board shall sponsor an educational program for certificate holders licenseholders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled operators, manager-operators, and instructors. The board is directed to use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 33. AMENDMENT. Section 43-11-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-29. Failure to renew certificate license at end of year - When it may be renewed. A certificate of registration license issued by the board under the provisions of this chapter, which has not been renewed prior to the thirty-first day of December in any year, shall expire on the thirty-first day of December in that year. The holder of an expired certificate license, within one year from and after the date of its expiration, may obtain a certificate license upon the payment of a the required fee of five dollars in addition to the current renewal fee and upon furnishing to the board satisfactory proof of her the person's qualifications to resume practice. If a certificate license is not renewed within one year from the date it expired, the applicant for reinstatement shall take and pass the examination that is required of new applicants.

SECTION 34. AMENDMENT. Section 43-11-30 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-30. Revocation or suspension of certificate license. The board may revoke and suspend ~~certificates of registration a license~~ upon proof of the violation of the provisions of this chapter or rules ~~promulgated~~ adopted by the board.

SECTION 35. AMENDMENT. Section 43-11-31 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-31. Certificate of registration License - Refusal to grant - Grounds. The board may refuse to grant a certificate of registration license which may be issued under the provisions of this chapter to any person who:

1. Is guilty of fraud in passing the examination;
2. Is guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a ~~hairstresser~~ or cosmetologist, or who, following conviction of any offense, the board determines is not sufficiently rehabilitated under section 12.1-33-02.1;
3. Is guilty of grossly unprofessional or dishonest conduct;
4. Is addicted to the use of intoxicating liquor or drugs to such an extent as to render her unfit to practice ~~hairstressing and~~ cosmetology;
5. Advertises by means of knowingly false or deceptive statements;
6. Fails to display the certificate license as provided in this chapter; or
7. Violates the provisions of this chapter or the rules ~~promulgated~~ adopted by the board.

SECTION 36. AMENDMENT. Section 43-11-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-33. Hearings - Board may subpoena witnesses - Fees - How paid. The board may require the attendance of witnesses and the production of ~~such~~ books, records, and papers ~~as it may desire~~ at any hearing or with reference to any matter which it has authority to investigate, and for that purpose may require the secretary to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, or papers. The subpoena shall be directed to the sheriff of the county where the witness resides or is found, and shall be served and returned in the same manner as a subpoena in a criminal case ~~is served and returned~~. The fees and

mileage of the sheriff and witnesses shall be the same as may be allowed in the court in criminal cases. Fees and mileage ~~shall~~ must be paid ~~from the state hairdressers' fund~~ in the same manner as ~~other~~ expenses of the said board are paid.

SECTION 37. AMENDMENT. Section 43-11-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-34. Appeal from actions of the board. An appeal may be taken from an action of the board under this chapter in refusing to grant, or in suspending or revoking a certificcate license, to the district court of the county in which of residence of the person who has been refused a certificcate license or whose certificcate license has been suspended or revoked ~~resides~~.

SECTION 38. AMENDMENT. Section 43-11-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-35. Penalty. Any person who, without a certificcate license, shall practice any of the occupations, maintain a school, or act in any capacity, wherein a certificcate license is required by ~~the provisions of~~ this chapter, ~~shall~~ be is guilty of a class B misdemeanor.

Approved March 27, 1985

## CHAPTER 478

HOUSE BILL NO. 1346  
(Representative Moore)  
(Senator Peterson)

## OPTOMETRISTS CONTINUING EDUCATION

AN ACT to amend and reenact sections 43-13-17 and 43-13-20 of the North Dakota Century Code, relating to education and continuing education requirements for optometrists.

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

SECTION 1. AMENDMENT. Section 43-13-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Is at least eighteen years of age;
2. Has attended high school for four years or has the equivalent of such an education; and
3. Is a graduate of a class "A" an optometry school or college accredited by the council on optometric education of the American optometric association.

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

SECTION 2. AMENDMENT. Section 43-13-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-13-20. Term of certificate - Renewal - Annual license fee - Continuing educational requirements. A certificate of registration to practice optometry in the state shall be issued for one year only, but may be

renewed by paying to the secretary of the board, during the month of January of each year, the license fee for that year, and as of January 1, 1974, by submitting satisfactory proof to the board that within the preceding three-year period the applicant has attended optometric educational programs as required by the board. The board shall grant an applicant an additional year in which to attend such education programs if an applicant furnishes the board with sufficient proof that he has been unable to attend such education programs during a year, which proof shall include a physician's certificate stating that the applicant was ill and that it would have been hazardous to the applicant's health to attend such educational programs. The license fee for each year shall be determined annually by the North Dakota state board of optometry and shall not exceed one hundred dollars. The board shall adopt reasonable rules and regulations which shall state the type of optometric educational programs which are approved. The board shall also designate the number of classroom hours which must be attended, which shall not exceed ~~eighteen~~ thirty-six within each three-year period. Any person who does not meet these requirements by February first of the year in which the license fee becomes due and payable shall be in default and may be reinstated by the board upon the payment of an additional sum of twenty-five dollars, and upon the acceptance by the board of satisfactory evidence that the person has sufficiently attended approved optometric educational programs, and upon the compliance with other reasonable conditions the board may impose. Nothing contained herein shall require an applicant to become a member of the North Dakota optometric association or any other association of optometrists.

Approved March 14, 1985

## CHAPTER 479

HOUSE BILL NO. 1181  
(Committee on Industry, Business and Labor)  
(At the request of the Board of Pharmacy)

### BOARD OF PHARMACY POWERS

AN ACT to create and enact three new subsections to section 43-15-10 of the North Dakota Century Code, relating to the powers of the board of pharmacy.

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

SECTION 1. Three new subsections to section 43-15-10 of the 1983 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

The board or its authorized representatives may investigate and gather evidence concerning alleged violations of the provisions of chapter 43-15, chapter 19-02.1 that pertain to drugs, chapter 19-03.1, or of the rules of the board.

In addition to other remedies, the board may apply to the district court in the jurisdiction of an alleged violation, and that court has jurisdiction upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of chapter 43-15, chapter 19-02.1 pertaining to drugs, and chapter 19-03.1, whether or not there exists an adequate remedy at law. Whenever a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated, misbranded, mislabeled, or improperly identified, within the meaning of chapter 19-02.1, the representative shall affix to that drug or device a tag or other appropriate marking giving notice that the article is or is suspected of being adulterated, misbranded, mislabeled, or improperly identified, has been detained or embargoed and warning all persons not to remove or dispose of such article by sale or otherwise until provision for removal or disposal is given by the board, its agents or the court. No person shall remove or dispose of such

embargoed drug or device by sale or otherwise without the permission of the board or its agent, or, after summary proceedings have been instituted, without permission from the court.

When a drug or device detained or embargoed has been declared by such representative to be adulterated, misbranded, mislabeled, or improperly identified, the board shall, as soon as practical thereafter, petition the district court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. If the judge determines that the drug or device so detained or embargoed is not adulterated, misbranded, mislabeled, or improperly identified, the board shall direct the immediate removal of the tag or other marking. If the court finds the detained or embargoed drug or device is adulterated, misbranded, mislabeled, or improperly identified, such drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of a board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of such drug or device. When the adulteration, misbranding, mislabeling, or improper identification, can be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond has been posted, may direct that such drug or device be delivered to the owner for labeling or processing under the supervision of a board representative. Expense of supervision shall be paid by the owner. Bond posted shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid. Nothing in this section shall be construed to require the board to report violations whenever the board believes the public's interest will be adequately served in the circumstances by a suitable written notice or warning.

Approved March 14, 1985

## CHAPTER 480

HOUSE BILL NO. 1164  
(Committee on Industry, Business and Labor)  
(At the request of the Board of Pharmacy)

### PHARMACISTS CONTINUING EDUCATION

AN ACT to create and enact a new section to chapter 43-15 of the North Dakota Century Code, relating to continuing pharmaceutical education.

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

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

#### Continuing pharmaceutical education.

1. Findings and declarations. The legislative assembly makes the following findings and declarations:
  - a. Because of the continuous introduction of new therapeutic and diagnostic agents and the changing concepts in the delivery of health care services in the practice of pharmacy, it is essential that a pharmacist undertake a continuing education program in order to maintain professional competency and improve professional skills.
  - b. To assure the continued competency of the pharmacist and to maintain uniform qualifications for registration and licensure in the profession for the protection of the health and welfare of its citizens, the legislative assembly of North Dakota deems it in the public interest to adopt a continuous professional education program.
2. Renewal certification. Commencing March 1, 1987, no annual renewal of a certificate of registration shall be issued to a pharmacist until such pharmacist has satisfactorily completed an accredited program of continuing professional education, all of which may be home self-study, during the previous two years to help assure the pharmacist's continued competence to engage in

the practice of pharmacy. The board from time to time shall determine the amount of continuing education to be required, not to exceed thirty hours in each biennium period. Upon request of the board, proof of compliance shall be furnished to the board.

3. Rules. The board shall adopt rules necessary to carry out the stated objectives and purposes and to enforce the provisions of this section, which shall include the methods of determining accredited programs, methods of determining compliancy, any fees, and such other rules consistent with this section as the board shall determine. This section and all rules adopted hereunder shall be uniformly applied by the board.

Approved March 14, 1985

## CHAPTER 481

HOUSE BILL NO. 1284  
(Rydell)

## PHYSICIANS LICENSE QUALIFICATIONS

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

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

SECTION 1. AMENDMENT. Section 43-17-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-18. Qualifications of applicant for examination. An applicant for a license to practice medicine shall present evidence satisfactory to the board ~~that he has~~ of the following qualifications:

1. ~~That he~~ The applicant is at least eighteen years of age.
2. ~~That he~~ The applicant is a graduate of ~~some~~ a reputable medical or osteopathic college approved by the board.
3. ~~That he~~ The applicant has satisfactorily completed a one-year ~~internship~~ residency in a hospital approved by the board, ~~or,~~ at the discretion of the board ~~that he,~~ has completed ~~such other~~ postgraduate training or ~~such~~ approved hospital residency training, ~~or any combination thereof,~~ as the board deems equivalent ~~thereto~~ to the residency.
4. An applicant who is a graduate of a medical or osteopathic school located outside the United States must have a certificate issued by the educational council for foreign medical graduates and must pass an examination or examinations given or approved by the board to establish proficiency in writing and speaking English. If the foreign medical or osteopathic school is not approved by the board, the successful completion of three years of residency training in an approved hospital and a passing grade on the federation of state medical boards of the United States licensing examination are required of the

applicant in lieu of approval by the board of the medical or osteopathic college from which the applicant graduated.

Approved March 27, 1985

## CHAPTER 482

HOUSE BILL NO. 1104  
(Shaw)

### PHYSICIAN LICENSE SUSPENSION

AN ACT to create and enact a new section to chapter 43-17 of the North Dakota Century Code, relating to the authority of the board of medical examiners to suspend a physician's license for up to sixty days in an ex parte proceeding based on a finding of immediate and present danger of harm to the public.

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

SECTION 1. A new section to chapter 43-17 of the North Dakota Century Code is hereby created and enacted to read as follows:

#### Temporary suspension - Appeal.

1. Where the board has verified evidence that probable cause requires the suspension of a physician's license and where harm to the public is so imminent and critical that substantial harm would likely result if the physician's license is not suspended prior to a hearing, the board may order a temporary suspension ex parte.
2. An ex parte temporary suspension remains in effect for not more than sixty days, unless otherwise terminated by the board.
3. The board must set the date of a full hearing for suspension or revocation of the physician's license for not later than sixty days from the issuance of the ex parte temporary suspension order. Within three days after the issuance of the ex parte suspension order the board shall serve the physician with a copy of the order along with a copy of the complaint and notice of the date set for the full hearing.
4. The physician may appeal the ex parte temporary suspension order prior to the full hearing. For purposes of appeal, the district court shall decide whether probable cause reasonably requires the temporary suspension to adequately protect the public interest. The court shall give priority to the appeal for prompt disposition thereof.

Approved March 27, 1985

## CHAPTER 483

SENATE BILL NO. 2185  
(W. Meyer)

### PHYSICIAN LICENSE REINSTATEMENT

AN ACT to amend and reenact section 43-17-30 of the North Dakota Century Code, relating to reinstatement of physicians delinquent in the payment of registration fees.

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

SECTION 1. AMENDMENT. Section 43-17-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-17-30. Payment of delinquent registration fee - Reinstatement. Any practitioner of medicine and surgery who has been licensed to practice in this state by the board, and who has been suspended from practice and ~~has had his~~ whose license has been revoked because of ~~his~~ failure to pay the annual registration fee, shall may, at the discretion of the board, be reinstated, ~~his~~ and have the suspension revoked, and ~~his~~ the license renewed by ~~his~~ paying to the secretary-treasurer of the board the amount of the registration fee ~~in~~ which ~~he~~ is then in default.

Approved March 22, 1985

## CHAPTER 484

HOUSE BILL NO. 1536  
(Unhjem)

## DENTAL HYGIENISTS LICENSURE

AN ACT to create and enact a new section to chapter 43-20 of the North Dakota Century Code, relating to notice for address changes of dental hygienists; and to amend and reenact sections 43-20-06, 43-20-07, 43-20-10, and 43-20-12 of the North Dakota Century Code, relating to fees, reciprocity, board member compensation, and dental auxiliary supervision.

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

SECTION 1. AMENDMENT. Section 43-20-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 2. AMENDMENT. Section 43-20-07 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-07. Dental hygienists from other states. Any dental hygienist duly licensed to practice as such in another state, and who is of good moral character and desirous of removing to this state, and deposits with the board of dental examiners a license from the examining board of the state in which ~~he~~ the dental hygienist is licensed, certifying to the fact of his being licensed, and a letter from the secretary of the state dental association, or the secretary of the state dental hygienists association or organization, of such state, certifying that ~~he~~ the dental hygienist is of good moral

character and professional attainments, may upon the payment of a fee of forty dollars, in the discretion of the board, and upon the satisfactory passing of such examinations as the said board shall deem necessary and proper, be granted a license to practice in this state. The board may, however, dispense with examining such an applicant if the state in which the applicant was previously licensed grants reciprocity to dental hygienists licensed in the has a reciprocal agreement with this state of North Dakota.

**SECTION 3. AMENDMENT.** Section 43-20-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-20-10. State board of dental examiners - Authority - Duty --Compensation.** The North Dakota state board of dental examiners shall have the power and it shall be its duty to enforce the provisions of this chapter. The board shall have the power to make such rules and regulations, not inconsistent with this chapter, as may, in its judgment, be necessary for the proper enforcement of this chapter, and the examination of dental hygienists for their conduct and practice. Each member of the board shall receive as compensation for his services hereunder, the sum of five dollars for each applicant examined, and such compensation shall be in addition to any compensation received under the provisions of chapter 43-28.

**SECTION 4. AMENDMENT.** Section 43-20-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-20-12. Dental hygienists - Auxiliary personnel - Distinction.**

1. A legally licensed and registered dentist may delegate to competent dental auxiliary personnel those procedures over which the dentist exercises direct supervision and full responsibility, except those procedures which require professional judgment and skill such as diagnosis and treatment planning, the cutting of hard or soft tissue, or any intraoral procedure which would lead to the fabrication of an any appliance which, when worn by the patient, would come in direct contact with hard or soft tissue and which could result in tissue irritation or injury.
2. Except as provided in this subsection, dental auxiliary personnel may perform delegated procedures only under direct supervision of a dentist licensed in this state. The board of dental examiners may, where the board finds it appropriate, authorize the performance of delegated procedures under indirect or general supervision in hospitals, long-term care facilities, and state institutions upon application by a dentist licensed in this state. Any authority granted under this subsection is valid for one year, and upon application by a licensed dentist for renewal of the authority, must be reviewed in full by the board prior to the granting of renewal of the authority.

SECTION 5. A new section to chapter 43-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notice to board of change of address. A licensed dental hygienist shall notify the secretary-treasurer of the board of dental examiners of any new business address within thirty days of the address change. A licensed dental hygienist may not practice in this state for more than thirty days after the change of business address without complying with this section.

Approved March 31, 1985

## CHAPTER 485

HOUSE BILL NO. 1183  
(Committee on Industry, Business and Labor)  
(At the request of the Real Estate Commission)

### REAL ESTATE BROKERS AND SALESMEN CONTINUING EDUCATION

AN ACT to amend and reenact section 43-23-08.2 of the North Dakota Century Code, relating to continuing education requirements for North Dakota real estate brokers and salesmen.

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

SECTION 1. AMENDMENT. Section 43-23-08.2 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-23-08.2. License renewal - Continuing education required. Commencing January 1, 1984, and every three years thereafter, each applicant for renewal of a broker's or salesman's license shall, in addition to the requirements of section 43-23-08, submit proof of participation in not less than twenty-four hours of approved continuing education. If a broker or salesman will not have been licensed three years on the date he or she is required to certify continuing education hours, the number of required hours may be reduced in accordance with rules promulgated by the commission. The commission shall set standards for the approval of lectures, seminars, courses of instruction, and correspondence courses that qualify for satisfaction of this requirement, and shall maintain a current list of lectures, seminars, courses of instruction, and correspondence courses so approved. Lectures, seminars, courses of instruction, and correspondence courses shall not require passing of a test to qualify for satisfaction of this requirement. Licensees shall have the option of attending an approved course of instruction in person or taking an approved correspondence course. Attendance at a course or the completion of a correspondence course shall be documented in accordance with procedures established by the commission. The commission may adopt rules concerning implementation of this section pursuant to chapter 28-32.

No license shall be renewed by the commission unless the proper certification showing fulfillment of the continuing education requirements of this section and the appropriate licensing fees are submitted to the commission on or before the thirty-first day of

December immediately preceding the year for which the license is issued. Any licensee failing to comply with this section shall not engage in any activity for which a license is required under this chapter, and any license not renewed by the thirty-first day of March of the year for which the license is issued shall be declared forfeit and canceled by the commission. The forfeiture and cancellation shall be performed without any notice to the licensee or any opportunity for hearing. Any person whose license has been forfeited and canceled and who desires relicensure shall be required to satisfy the application and examination requirements for prospective licensees in accordance with this chapter and rules and regulations of the commission.

The commission may exempt licensees from the continuing education requirements of this section for reasons relating to the licensee's health, military service, or for other good cause. Licensees who have held a real estate license for fifteen continuous years on January 1, 1984, shall be exempt from the requirements of this section.

Approved March 14, 1985

## CHAPTER 486

SENATE BILL NO. 2378  
(Senator Peterson)  
(Representative Moore)

### WATCHMAKER REGULATION

AN ACT to repeal chapter 43-27 of the North Dakota Century Code, relating to the board of examiners in watchmaking and the regulation of watchmakers.

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

SECTION 1. REPEAL. Chapter 43-27 of the North Dakota Century Code is hereby repealed.

Approved March 22, 1985

## CHAPTER 487

HOUSE BILL NO. 1537  
(Unhjem)

## DENTISTS LICENSURE

AN ACT to amend and reenact subsection 5 of section 43-28-06, and sections 43-28-11, 43-28-12, 43-28-12.1, 43-28-14, 43-28-16, 43-28-17, 43-28-20, 43-28-21, and 43-28-23 of the North Dakota Century Code, relating to powers of the state board of dental examiners, and to applications, examinations, fees, admissions, disciplinary actions, and costs.

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

SECTION 1. AMENDMENT. Subsection 5 of section 43-28-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To employ and compensate attorneys, investigative staff, and clerical assistants and to perform such other duties as are imposed upon the board by this chapter.

SECTION 2. AMENDMENT. Section 43-28-11 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-28-11. Examination required - Application - Qualifications - Fees.**  
Any person who desires to obtain a license to practice dentistry in this state shall make application to the secretary-treasurer of the board on such forms as it may provide and shall submit to an examination by the board. The application shall be verified under oath to the effect that all of the statements contained therein are true of applicant's own knowledge, and must be received by the secretary-treasurer of the board at least thirty days prior to the date of the examination. ~~Applicant~~ The applicant shall enclose with ~~his~~ the application a recent autographed picture of ~~himself~~ the applicant and the sum of one hundred fifty dollars. Additional costs of simultaneous examination as set out in section 43-28-12.1 and chargeable under section 43-28-05 as board member compensation may be assessed against the applicant or applicants. The applicant must show proof that ~~he has the following qualifications~~ applicant:

1. Is a graduate of a dental college recognized by the board.
2. Is a person of good moral character.

SECTION 3. AMENDMENT. Section 43-28-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-12. Examination - Subjects covered. At the next regular meeting of the board held after an application for a license and a certificate of registration to practice dentistry in this state is made the applicant shall ~~present himself to appear before~~ the board, which shall give him an examination to test ~~his the applicant for~~ fitness ~~for the to practice of~~ dentistry. The board may require the applicant to supply the board with the results of ~~his the applicant's~~ national board examination which may at the discretion of the board be considered determinative of the applicant's theoretical knowledge and scholastic fitness for the practice of dentistry. ~~The examination may include the following subjects:~~

- 1- Anatomy-
- 2- Physiology-
- 3- Oral Surgery-
- 4- Chemistry-
- 5- Materia medica-
- 6- Therapeutics-
- 7- Metallurgy-
- 8- Histology-
- 9- Pathology-
- 10- Bacteriology-
- 11- Orthodontics-
- 12- Prosthetic dentistry-
- 13- Crown and bridge, X-ray, operative, surgical and mechanical dentistry-
- 14- Such other subjects which the board, at the time the examination is given, may deem necessary-

SECTION 4. AMENDMENT. Section 43-28-12.1 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-12.1. Simultaneous examination. The results of an examination given in another state by that state's equivalent to the North Dakota board of dental examiners may be considered by this state's board as an example of the applicant's fitness to practice dentistry in this state, if that licensing body is officially recognized by the board. The other state examination must be observed by a member of this state's board, or by a designee of the board, and the applicant must be found to be of good moral character.

SECTION 5. AMENDMENT. Section 43-28-14 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-14. Reexamination - Fee - Additional education. If an applicant fails to pass the examination given by the board, he the applicant may apply for another examination, and upon the payment of a fee of twenty-five dollars shall be reexamined. The board shall determine the number of times an applicant may be reexamined, provided, that if the applicant fails on three occasions to pass the examination given by the board or an equivalent examination under section 43-28-12.1, the applicant shall provide evidence of additional education as required by the board prior to applying for another examination in this state.

SECTION 6. AMENDMENT. Section 43-28-16 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-16. Certificate - Term - Displayed in place of business - Renewal - Fee. A certificate of registration issued under the provisions of this chapter shall be valid for only one year and shall be renewed on or before the first day of January in each year. The fee for renewal of the certificate shall not exceed seventy-five dollars and must be submitted prior to January first. The holder of a license and certificate of registration shall display the same conspicuously in his the holder's place of business. The certificate of registration or the renewal thereof, shall be prima facie evidence of the right of the holder to practice dentistry in this state during the time for which it is issued. All fees provided for in this chapter may be collected by the board in a civil action.

SECTION 7. AMENDMENT. Section 43-28-17 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-17. Failure to pay annual fee - Revocation of license. Whenever a licensed dentist fails to pay the annual fee for the renewal of his the certificate of registration prior to January first, after thirty days' written notice of such default without proper payment, the board may revoke his the license to practice dentistry forthwith and notify such the dentist thereof of the revocation. The payment of the annual fee within the thirty-day period, with an additional sum of fifty dollars, will excuse the default.

**SECTION 8. AMENDMENT.** Section 43-28-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-28-20. Plea - Answer - Trial of issues - Witnesses and cost.** A dentist served with a complaint and order shall appear before the board at the time appointed for such hearing and shall either plead to or answer the charge made against him the dentist. The dentist may admit the truth of the charge prior to the hearing and waive any right to a hearing. If he the dentist admits the truth of the charge then the board shall make appropriate findings of fact and conclusions of law and order the suspension or revocation of his the dentist's license and certificate, or any other disciplinary action the board finds appropriate without any further proceedings. But if the accused fails to appear or admit the truth of the charge prior to the hearing, or if he the dentist appears and denies the charge then the issues presented by the pleadings shall be heard, tried and determined upon the merits in accordance with the procedure prescribed by chapter 28-32. The board and the accused may be represented by licensed attorneys. Witnesses may be subpoenaed, examined and cross-examined, depositions may be taken, filed and introduced in evidence in the manner provided for the production and examination of witnesses and the taking of depositions in civil actions in the district court. The hearing for good cause shown, may be continued from time to time until the trial has been completed. The board shall make a full and complete written record of all the testimony and exhibits offered and received in evidence and of all proceedings had before it at such hearing. A transcript of the evidence and of all proceedings had and made a matter of record shall be furnished to the accused upon written request therefor upon payment of a reasonable fee to be fixed by the board.

**SECTION 9. AMENDMENT.** Section 43-28-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-28-21. Determination - Order - Appeal and review.**

1. If the board finds and determines, after due hearing, that the accusations contained in the complaint have been established by substantial evidence, the board shall make its findings of fact, conclusions of law, and issue its order suspending or revoking the license and certificate of registration, or take any other disciplinary action the board finds appropriate, or order the dismissal of the proceedings upon the merits, for failure of proof. If the dentist did not admit the truth of the charge prior to the hearing, and the board determines the accusations contained in the charge were established by substantial evidence, the board may assess the dentist for the board's costs, disbursements, and attorneys' fees incurred for the hearing. The original order shall be filed with the secretary and a copy thereof shall be served upon the respondent by certified mail within ten days from the entry thereof.

2. If the accused feels aggrieved by or dissatisfied with the order of the board ~~he~~ the accused shall have the right to appeal therefrom to the district court of the county wherein such proceedings were tried and determined for a review thereof in said court within the time and in the manner prescribed by law for appeals to the district court from orders issued by administrative agencies. If the court does not reverse the order of the board, the dentist may be assessed the costs, disbursements, and attorneys' fees incurred by the board for the appeal.

SECTION 10. AMENDMENT. Section 43-28-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-23. Notice to board of change of address. Within ~~ten~~ thirty days after a licensed and registered dentist changes ~~his~~ the dentist's place of business, ~~he~~ the dentist shall notify the secretary-treasurer of the board of ~~his~~ the new address. The notice shall be given by certified mail and return receipt requested. Such licensed and registered dentist shall not practice dentistry in ~~his~~ the state for more than ~~ten~~ thirty days after such removal without giving such notice.

Approved March 31, 1985

## CHAPTER 488

SENATE BILL NO. 2479  
(Senator W. Meyer)  
(Representative R. Berg)

### PRIVATE SECURITY SERVICES

AN ACT to amend and reenact subsection 2 of section 43-30-01, and sections 43-30-04, 43-30-15, and 43-30-16 of the North Dakota Century Code, relating to the definition of private security service, rules adopted by the attorney general concerning the regulation of private investigative and security services, appeals to the private investigative and security board, and examination and license fees.

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

SECTION 1. AMENDMENT. Subsection 2 of section 43-30-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Private security service" means furnishing for hire 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, merchandise, money, bonds, stocks, choses in action, notes, or other valuable documents or papers, or the business of performing the service of such security officer or other person for any of these purposes, ~~including any investigative service required in carrying out these duties.~~

SECTION 2. AMENDMENT. Section 43-30-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-30-04. Powers of attorney general. The attorney general shall establish by rule the procedures for classifying, qualifying, licensing, bonding, and regulating persons providing private investigative and security 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 3. AMENDMENT.** Section 43-30-15 of the 1983 Supplement to 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. 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 4. AMENDMENT.** Section 43-30-16 of the 1983 Supplement to 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 the applicant's fitness to receive a license as a private investigator or a license to provide private security services is fifty dollars.
2. The fee to be paid by an applicant for the initial issuance or the renewal of a license as a private investigator or a license to provide private security services is one hundred dollars.
3. The fee to be paid by an applicant to apply for a license to conduct a private security or detective agency is fifty dollars. The fee for the issuance or the renewal of a license to conduct a private security or detective agency is two hundred dollars.
4. The one-time fee to be paid by an applicant for the issuance of a private security training certificate is five dollars.
5. The annual fee to be paid by an applicant for the issuance of an armed private security certificate is five dollars.
6. ~~The fee to be paid for 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.

Approved March 30, 1985

## CHAPTER 489

HOUSE BILL NO. 1535  
(Unhjem)

## HEARING AID DEALER LICENSURE

AN ACT to amend and reenact section 43-33-04, subsection 4 of section 43-33-07, and subdivision g of subsection 2 of section 43-33-12 of the North Dakota Century Code, relating to the licensure of hearing aid dealers.

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

SECTION 1. AMENDMENT. Section 43-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-33-04. Persons and practices not affected.

- 1- This chapter is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided this person or organization employing such person does not sell hearing aids or accessories thereto.
- 2- ~~This chapter does not apply to a person who is a licensed physician and surgeon or osteopath.~~

SECTION 2. AMENDMENT. Subsection 4 of section 43-33-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. In addition to all other fees, the fee for an examination to determine qualifications for license is thirty dollars shall be set by the board.

SECTION 3. AMENDMENT. Subdivision g of subsection 2 of section 43-33-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- g. The fitting and sale of a hearing aid to any person fourteen eighteen years of age or younger unless within ninety days six months prior to the fitting the person to be fitted has been examined by a physician and audiologist to determine whether or not there exist any physical deficiencies that would prohibit the effective use of a hearing aid.

Approved March 27, 1985

## CHAPTER 490

HOUSE BILL NO. 1592  
(Representatives Gullickson, Keller, Vander Vorst)  
(Senator W. Meyer)

## WATER WELL PUMP AND PITLESS UNIT INSTALLERS CERTIFICATION

AN ACT to create and enact three new sections to chapter 43-35 of the North Dakota Century Code, relating to the certification of water well pump and pitless unit installers; and to amend and reenact sections 43-35-03, 43-35-11, 43-35-12, 43-35-13, 43-35-14, 43-35-16, 43-35-20, 43-35-21, and 43-35-22 of the North Dakota Century Code, relating to the certification of water well pump and pitless unit installers.

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

SECTION 1. AMENDMENT. Section 43-35-03 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-03. State board of water well contractors - Members' appointment - Qualification. The state board of water well contractors shall consist of the state engineer and the state health officer, or their duly authorized designees, and two water well contractors appointed by the governor, and one water well pump and pitless unit installer appointed by the governor, and one member appointed at large by the governor.

SECTION 2. AMENDMENT. Section 43-35-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-11. Certificate required. After the first day of January 1972 no No person, partnership, firm, or corporation shall engage in the business of water well contracting or water well pump and pitless unit installation unless certified to do so by the board of water well contractors.

SECTION 3. AMENDMENT. Section 43-35-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-12. Examination - When held - Notice. The board shall hold meetings at such times and such places as it shall designate for the purpose of administering an examination to those persons desiring to

become certified as water well contractors or water well pump and pitless unit installers. The board shall give no less than ten days' written notice to each applicant of the time and place of such examination. The board shall develop separate examinations for the certification of water well contractors and for the certification of water well pump and pitless unit installers.

SECTION 4. AMENDMENT. Section 43-35-13 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-13. Certificate - How obtained - Fee - Bond. Any person desiring to take the examination to become a certified water well contractor shall first have completed a minimum of one year apprenticeship or experience in water well drilling and construction under the direct supervision of a certified water well contractor or have completed a vocational school program of at least one year in water well construction and shall make application to the board and. Any person desiring to take the examination to become a certified water well pump and pitless unit installer shall first have completed a minimum of one-year apprenticeship or experience in water well pump and pitless unit installation under the direct supervision of a certified water well pump and pitless unit installer or have completed a vocational school program of at least one year in water well pump and pitless unit installation. A person applying to take a certification examination shall pay to the board treasurer a nonrefundable examination fee in the amount of ten dollars. If upon examination the applicant is found to be qualified as a water well contractor or a water well pump and pitless unit installer, the board shall issue to him a that person an appropriate certificate upon the applicant's executing and filing with the board a bond as required in this chapter. Such certificate shall The board may offer a combined examination for certification of a person as a water well contractor and a water well pump and pitless unit installer and may issue a single certificate for successful completion of the combined examination. Certificates issued under this chapter are not be transferable.

SECTION 5. AMENDMENT. Section 43-35-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

Certification of persons engaged in installation of water well pumps and pitless units prior to certification requirement. Upon

application and sworn affidavit and the payment of a registration fee of not more than fifty dollars, as set by the board, the board shall issue an appropriate certificate, without examination, to any person who has been engaged in the business of water well pump and pitless unit installation as an occupation for at least one year prior to July 1, 1985, if the application is made prior to July 1, 1986. A person certified as a water well contractor under this chapter before July 1, 1985, is deemed to be properly certified as a water well pump and pitless unit installer under this chapter subject to the renewal provisions of section 43-35-17 and is not required to apply for and receive a separate certificate under this section.

SECTION 7. AMENDMENT. Section 43-35-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-16. Display of certification. The board shall furnish each certified water well contractor a decal for each drill rig the contractor owns or leases. Such decal shall be displayed in a conspicuous place on the drill rig.

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

Firm engaged in installation of water well pump and pitless units to employ certified installer - Exception. No person may engage in the business of installing water well pumps and pitless units in the state after July 1, 1986, unless a certified installer, who is responsible for the proper installation of the pump and pitless unit, is in charge of the installation. This chapter does not prohibit any person from installing water well pumps and pitless units on that person's own premises for that person's own use.

SECTION 9. A new section to chapter 43-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

Standards for installation of water well pumps and pitless units. All installation of water well pumps and pitless units must comply with the rules adopted by the state department of health and the board.

SECTION 10. AMENDMENT. Section 43-35-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-20. Revocation or suspension of certificate - Grounds for - How reinstated. The board may suspend or revoke any certificate issued under the provisions of this chapter if the holder is found guilty by the board of any violation of the rules and regulations established and promulgated adopted by the department of health or the board after a hearing duly held substantially in conformance with the provisions of chapter 28-32. Six months after any certificate has been revoked, an application may be made for another certificate in the same manner as a new certificate is obtained.

SECTION 11. AMENDMENT. Section 43-35-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-21. Certification to nonresidents - Reciprocity. To the extent that other states which provide for the certification of water well contractors or water well pump and pitless unit installers provide for similar action, the state board of water well contractors may grant certification to water well contractors and water well pump and pitless unit installers certified by other states, upon payment by the applicant of the required fee and the furnishing of a bond as provided by section 43-35-14, after being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of such certificates in this state.

SECTION 12. AMENDMENT. Section 43-35-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 27, 1985

## CHAPTER 491

SENATE BILL NO. 2369  
(Senator Matchie)  
(Representative DeMers)

## SOCIAL WORKERS LICENSURE EXEMPTIONS

AN ACT to amend and reenact subsection 1 of section 43-41-02 of the North Dakota Century Code, relating to exemptions from the licensing requirements for social workers.

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

SECTION 1. AMENDMENT. Subsection 1 of section 43-41-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Nothing in this chapter 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~~ any person from doing work within the standards and ethics of ~~their professions that person's profession and callings calling~~, provided they ~~do not hold themselves out that the person does not present to the public, by title or description of services as being engaged, that the person is engaging in social work practice.~~

Approved April 11, 1985

## CHAPTER 492

SENATE BILL NO. 2374  
(Senators Stenehjem, J. Meyer, Holmberg)  
(Representatives DeMers, Cleveland, Unhjem)

## SOCIAL WORKERS LICENSURE, EXCEPTIONS, AND WAIVER

AN ACT to create and enact two new subsections to section 43-41-02 and a new subsection to section 43-41-06 of the North Dakota Century Code, relating to exceptions to the social work practice licensing requirements and the waiver of licensing requirements for certain social workers; and to amend and reenact subsection 5 of section 43-41-01 and section 43-41-05 of the North Dakota Century Code, relating to the definition of social work practice and licensing requirements for the private practice of social work.

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

SECTION 1. AMENDMENT. Subsection 5 of section 43-41-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 individuals, families, and groups; helping communities or groups to improve social and health services; providing social casework; administration of a social work program directly supervising programs providing social work services; 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. Two new subsections to section 43-41-02 of the 1983 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

This chapter does not require public or appointed officials or administrators, acting in that capacity, or any other social or human service administrators who do

not hold themselves out to the public as social workers, by title or description of services, to be licensed or certified under this chapter. However, any individual may be licensed if otherwise qualified under this chapter.

This chapter does not prevent individuals with masters or doctoral degrees in the field of counseling with specialization in mental health from serving as counselors or therapists in mental health in state institutions or regional human service centers, if they do not hold themselves out to the public as social workers.

**SECTION 3. AMENDMENT.** Section 43-41-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-41-05. Private practice of social work.** No person may engage in the private practice of social work unless that person:

1. Is licensed under this chapter 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 or a social worker who is eligible for licensure as a licensed certified social worker.
3. Is registered with the board as eligible for private practice.

**SECTION 4.** A new subsection to section 43-41-06 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

From July 1, 1985, to December 1, 1986, an applicant is excused from the examination and degree requirements if:

- a. The applicant has been engaged in the practice of social work for two of the three years immediately prior to making the application for a license;
- b. The applicant was initially employed in a social work practice position in this state after July 1, 1983, but before December 1, 1984; and
- c. The applicant was employed continuously in a social work practice position in this state during the period of December 1, 1984, to December 1, 1986.

Approved April 11, 1985

## CHAPTER 493

HOUSE BILL NO. 1313  
(Representatives Moore, Goetz, Hill)  
(Senators W. Meyer, Lips, J. Meyer)

### RESPIRATORY CARE PRACTITIONERS

AN ACT to provide for the licensure and regulation of respiratory care practitioners; to establish a North Dakota respiratory care examining board; and to provide a penalty.

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 respiratory care examining board.
2. "Bona fide respiratory care training program" means a program of respiratory care education which is accredited by the American medical association's committee on allied health education and accreditation in collaboration with the joint review committee for respiratory therapy education.
3. "Certification examination" means the examination for respiratory therapy technicians administered by the national board for respiratory care.
4. "Certified respiratory care practitioner" means a person licensed by the board to practice respiratory care under the direction or supervision of a physician or registered respiratory care practitioner.
5. "National board for respiratory care" means the body issuing credentials for the respiratory care profession.
6. "Registered respiratory care practitioner" means a person licensed by the board to practice respiratory care.
7. "Registry examination" means the examination for respiratory therapists administered by the national board for respiratory care.

8. "Respiratory care" means the health specialty involving the treatment, management, control, and care of patients with deficiencies and abnormalities of the cardiorespiratory systems. Respiratory care is implemented on an order from a licensed physician, and includes the use of medical gases, air and oxygen administering apparatuses, environmental control systems, humidification and aerosols, drugs and medications, apparatuses for cardiorespiratory support and control, postural drainage, chest percussion and vibration and breathing exercises, respiratory rehabilitation, assistance with cardiopulmonary resuscitation, maintenance of natural and mechanical airways, and insertion and maintenance of artificial airways. Respiratory care also includes testing techniques to assist in diagnosis, monitoring, treatment, and research, including the measurement of cardiorespiratory volumes, pressures and flows, and the drawing and analyzing of samples of arterial, capillary, and venous blood.
9. "Respiratory care assistant" means any person not licensed to practice respiratory care who assists, under the onsite direction or supervision of a registered respiratory care practitioner or a certified respiratory care practitioner, in the practice of respiratory care and who performs a limited scope of practice commensurate with the assistant's education and training.
10. "Respiratory therapy" means respiratory care.

#### SECTION 2. North Dakota respiratory care examining board.

1. There is created a North Dakota respiratory care examining board. The board is responsible for the enforcement and administration of this Act and for the adoption of any rules necessary to govern the practice of respiratory care in this state.
2. The board consists of seven members appointed by the governor. Two members must be registered respiratory care practitioners and two members must be certified respiratory care practitioners, chosen from a list of four registered respiratory care practitioners and four certified respiratory care practitioners supplied to the governor by the North Dakota chapter of the Dakota society for respiratory therapy. One member must be a physician chosen from a list of two physicians supplied to the governor by the North Dakota medical association. The governor shall appoint two members to be representatives of the general public. Members are appointed for terms of three years, except of those first appointed, two must be appointed for terms of one year, two must be appointed for terms of two years, and three must be appointed for terms of three years. Each member holds office until the

member's successor is duly appointed and qualified. A vacancy in the office of any member may be filled for the unexpired term only. No member may serve more than two successive complete terms.

3. The board shall annually select a chairman from among its members. It must meet at least twice each year and must also meet upon the call of the chairman.
4. The board shall consult with the North Dakota chapter of the Dakota society for respiratory therapy before adopting any rules.

### SECTION 3. Respiratory care practitioner licensing - Fees.

1. The board shall license as a registered respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a registered respiratory care practitioner. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the registry examination. Any respiratory care practitioner who has been registered by the national board for respiratory care prior to July 1, 1985, must, upon application, be granted a license as a registered respiratory care practitioner. The board shall establish fees not in excess of fifty dollars for the issuance and renewal of licenses.
2. The board shall license as a certified respiratory care practitioner any applicant whom the board determines to be qualified to perform the duties of a certified respiratory care practitioner. In making this determination, the board shall require evidence that the applicant has successfully completed a bona fide respiratory care training program and has passed the certification examination. Any respiratory care practitioner who has been certified by the national board for respiratory care prior to July 1, 1985, must, upon application, be granted a license as a certified respiratory care practitioner. The board shall establish fees not in excess of thirty-five dollars for the issuance and renewal of licenses.
3. Upon receipt of evidence showing that a person was employed in the practice of respiratory care before July 1, 1985, and that the person does not meet the criteria established in either subsection 1 or 2, the board shall license a respiratory therapist to continue to practice as a registered respiratory care practitioner, and a respiratory therapy technician to continue to practice as a certified respiratory care practitioner, for a period that expires December 31, 1988. To qualify for

- renewal of the license that person shall, prior to the expiration of the initial license, pass a board-prescribed examination that demonstrates to the board's satisfaction that that person is qualified to perform the duties of a registered respiratory care practitioner or certified respiratory care practitioner.
4. The board shall refuse to license any applicant or shall suspend or revoke any license after proper notice and a hearing, if the applicant:
    - a. Is not qualified or competent to perform the duties of a registered respiratory care practitioner or a certified respiratory care practitioner.
    - b. Has attempted to obtain or has obtained licensure under this Act by fraud or material misrepresentation.
    - c. Has been found guilty by the board of gross negligence as a registered respiratory care practitioner or certified respiratory care practitioner.
    - d. Has engaged in conduct as a registered respiratory care practitioner or certified respiratory care practitioner which is unethical, unprofessional, or detrimental to the benefit of the public.
    - e. Has failed to demonstrate satisfactory completion of such continuing courses of study in respiratory care as the board may require.
    - f. Has been convicted of an offense, as defined by section 12.1-01-04, determined by the board to have a direct bearing upon that individual's ability to practice respiratory care and is not sufficiently rehabilitated as determined by the board in accordance with section 12.1-33-02.1.
    - g. Is habitually drunk or is addicted to the use of a controlled substance as defined in chapter 19-03.1.
    - h. Has been declared mentally incompetent by a court of competent jurisdiction, and who has not thereafter been lawfully declared competent.
  5. Except as provided in subsection 3, licenses issued under this Act expire annually on January thirty-first, but may be renewed upon application to the board and payment of the annual renewal fee established by the board. Licenses which have expired, been suspended, or been revoked may be renewed or reissued upon satisfaction of any conditions that may be established by the board, and after payment of a fee established by the board.

6. The board shall require as a condition of renewal and relicensure that the applicant demonstrate satisfactory completion of continuing courses of study in respiratory care.

**SECTION 4. Respiratory care practice.** The practice of respiratory care may be performed in hospitals, as ambulatory or in-home care, and in other settings where respiratory care is provided in accordance with a prescription of a licensed physician. In addition, respiratory care may be provided during the transportation of a patient, and under any circumstances where an epidemic or public disaster necessitates respiratory care. No person may practice, nor represent oneself as able to practice, as a registered respiratory care practitioner without being licensed as a registered respiratory care practitioner, or as a certified respiratory care practitioner without being licensed as a certified respiratory care practitioner, in accordance with this Act.

**SECTION 5. Application of Act.**

1. This Act does not prohibit a person enrolled in a bona fide respiratory care training program from performing those duties essential for completion of a student's clinical service; provided, that the duties are performed under the supervision or direction of a physician or registered respiratory care practitioner and the person is identified as a "student respiratory care practitioner".
2. A graduate of a bona fide respiratory care training program, who has applied for licensure under this Act may practice respiratory care under the supervision or direction of a physician or a registered or certified respiratory care practitioner; provided, that the graduate is identified as a "respiratory care practitioner applicant". If an applicant fails to pass one of the next three immediately available certification or registry examinations following eligibility, all privileges under this subsection cease; except, that if the applicant has enrolled in a remedial refresher respiratory care course approved by the board, then the privileges provided under this subsection continue until the results of the next available certification or registry examination are made public.
3. If examinations prepared by the national board for respiratory care are no longer available or become unacceptable to the board, the board may develop, approve, and use examinations for the licensure of registered respiratory care practitioners and certified respiratory care practitioners.
4. This Act does not prevent a licensed and qualified member of another health care profession from performing any of the duties of a registered respiratory care practitioner

or a certified respiratory care practitioner that are consistent with the accepted standards of that person's profession, provided the person is not represented as a registered respiratory care practitioner or certified respiratory care practitioner.

5. This Act does not prohibit self-care by a patient or the gratuitous care by a friend or member of the family who does not represent or hold oneself out to be a registered or certified respiratory care practitioner.
6. This Act does not prohibit a registered or certified respiratory care practitioner from performing advances in the art or techniques of respiratory care learned through formal or specialized training.

**SECTION 6. Reciprocity.** An applicant for licensure under this Act may be granted a license upon satisfactory proof to the board that the applicant is licensed to practice respiratory care under the laws of another state which impose substantially the same requirements as this Act.

**SECTION 7. Penalty.** Any person who violates this Act or any rules adopted under this Act is guilty of an infraction.

Approved March 29, 1985

## CHAPTER 494

SENATE BILL NO. 2410  
(Senator Kusler)  
(Representatives Nalewaja, Oban, Gunsch)

## ENVIRONMENTAL HEALTH PRACTITIONERS

AN ACT to provide for licensure of environmental health practitioners; 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. "Advisory board" means the following or their appointed agents: secretary of state as chairperson, the director of the state laboratories department, the state health officer, and the president of the North Dakota environmental health association. The secretary of state shall appoint one agent of a district or local health unit and one consumer.
2. "Environmental health practitioner" means a person who, by environmental health science education and experience, is qualified and licensed under this Act to practice environmental health.
3. "Practice of environmental health" means any service or work, such as consultation, investigation, evaluation, surveys, and inspections in the environmental program areas of food, beverage, housing, and lodging sanitation.

SECTION 2. Licensure required. No person may engage in the practice of environmental health, nor use the title "environmental health practitioner" or the initials "E.H.P." or otherwise hold oneself out as able to engage in the practice of environmental health unless the person is licensed pursuant to this Act.

SECTION 3. Advisory board duties and compensation. The advisory board shall meet at the request of the secretary of state to assist in implementation of duties as defined in section 4. The advisory board shall be reimbursed for any necessary expenses, but shall

serve without further compensation except as may be authorized and fixed by the secretary of state by rule.

**SECTION 4. Powers and duties of secretary of state.** The secretary of state shall adopt rules consistent with and necessary for the implementation and enforcement of this Act, including rules concerning the:

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

**SECTION 5. Exception from requirements.** The secretary of state must license all persons actually engaged in the practice of environmental health in this state upon receipt of proof of a bona fide practice in this state; however, the applicant must file an application and present such proof prior to July 1, 1986, or become subject to licensure requirements of this Act.

**SECTION 6. Environmental health practitioner licensure fee administration fund.** There shall be maintained in the state treasury a special fund to be known as the environmental health practitioner licensure fee administrative fund. All money deposited or paid into this fund shall be continuously available to the secretary of state for reimbursement to the advisory board, and shall not lapse at any time or be transferred to any other fund. The fund shall consist of any money collected by the secretary of state in accordance with section 4 of this Act.

**SECTION 7. Denial, suspension, revocation of license.** The secretary of state may refuse to issue or renew a license or may suspend or revoke a license when the licensee or applicant for license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

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

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

**SECTION 8. Penalty.** Any person who violates this Act is guilty of a class B misdemeanor.

Approved April 15, 1985

## CHAPTER 495

HOUSE BILL NO. 1318  
(Representatives DeMers, Wentz, Schneider)  
(Senators Kusler, Todd)

### DIETITIANS AND NUTRITIONISTS

AN ACT to provide for the licensure of dietitians and nutritionists;  
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 dietetic association.
2. "Board" means the board of dietetic practice.
3. "Dietetics" means the application of principles derived from integrating knowledge of food, nutrition, biochemistry, physiology, management, and behavioral and social science to achieve and maintain the health of people by providing nutrition care services.
4. "Dietitian" includes dietician.
5. "General nutrition services" means the counseling of individuals or groups in the selection of food to meet normal nutritional needs, and the assessment of nutritional needs of individuals or groups by planning, organizing, coordinating, and evaluating the nutritional components of community health services.
6. "Licensed registered dietitian" means a person licensed to practice dietetics as provided in this Act.
7. "Licensed nutritionist" means a person licensed to provide general nutrition services as provided in this Act.
8. "Nutrition assessment" means the screening and evaluation of the nutrition of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data to determine their nutritional needs and

recommend appropriate nutritional intake including enteral and parenteral nutrition.

9. "Nutrition care services" includes:
  - a. Providing nutrition assessment.
  - b. Planning or providing of food appropriate for physical and medical needs.
  - c. Providing nutrition counseling to meet both normal and therapeutic needs.
  - d. Providing general nutrition services and related nutrition activities.

#### SECTION 2. Board of dietetic practice - Membership - Terms - Meetings.

1. A board of dietetic practice is established. The board consists of five members appointed by the governor, all of whom must be residents of the state at the time of their appointment, and four of whom must be appointed from a list of names submitted by the association. The persons appointed from the list submitted by the association must have been engaged in the teaching or rendering of dietetics or general nutrition services to the public, or in research in dietetics or general nutrition services for three years immediately preceding their appointment. Four board members must be licensed registered dietitians or licensed nutritionists, and at least three members must be licensed registered dietitians. The members first appointed to the board need not be licensed under this Act for appointment to their first term on the board, but must possess the qualifications necessary for licensure under this Act. One member must be appointed to represent consumers of health services.
2. The governor, prior to September 1, 1985, 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 are for terms of three years, but no person may be appointed to serve more than two consecutive full or partial terms. Terms begin on the first day of September and end on the last day of August or until successors are appointed. An appointment of any member to serve out the remaining term of any position on the board that becomes vacant must be made in the same manner as the original appointment for that position.
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. The board shall meet during September of each calendar year and select a chairperson. At least one additional meeting must be held before September of the next calendar year. Other meetings may be convened at the call of the chairperson 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 an examination, 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 receive no compensation for their services, but are entitled to mileage and travel expenses as provided in sections 54-06-09 and 44-08-04, and per diem as set by the board.

**SECTION 3. Board powers, duties, and authority.** The board shall administer, coordinate, and enforce this Act, evaluate the qualifications, and approve an examination 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, administer oaths, and investigate allegations of practices violating this Act.
2. Adopt rules pursuant to chapter 28-32, to implement this Act, including rules relating to professional licensure and the establishment of ethical standards of practice for licensed registered dietitians and licensed nutritionists.

**SECTION 4. Board administrative authority and requirements.**

1. The board may employ an executive secretary and other officers and employees it deems necessary.
2. The executive secretary shall pay, upon approval of the board, all appropriate expenses incurred by the board in the administration of this Act.

**SECTION 5. Fees.** The board shall set and collect fees for application, initial license, renewal of license, late renewal, and limited permit. These fees must be set in such an amount as to reimburse the board, to the extent feasible, for the cost of the services rendered.

**SECTION 6. License required - Title - Abbreviation.** No person may practice, nor represent oneself as able to practice, as a licensed registered dietitian or a licensed nutritionist, using the title "licensed nutritionist", "dietitian", "registered dietitian", "licensed dietitian", or "licensed registered dietitian", nor use the abbreviations "LN", "RD", "LD", or "LRD" unless so licensed under this Act. A licensed nutritionist may use the title "licensed nutritionist" and the abbreviation "LN". A licensed registered

dietitian may use the title "licensed registered dietitian" and the abbreviation "LRD".

**SECTION 7. Requirements for licensure - Licensed nutritionist.**

1. An applicant for licensure as a licensed nutritionist must file a written application with the board and:
  - a. Have satisfactorily completed academic requirements required by the board, and have received a baccalaureate degree in the field of dietetics or food and nutrition, as approved by the board, from an accredited college or university; or
  - b. Have received a master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition from an accredited college or university, or have received a master's or doctorate degree in a related field that meets eligibility requirements of the commission on dietetic registration of the American dietetic association; or
  - c. Maintain membership in one of the following organizations: American institute of nutrition, American society for clinical nutrition, or the American board of nutrition; or
  - d. Present evidence to the board regarding employment and competence as a nutritionist before July 1, 1985, and the inability to meet the criteria of subdivision a, b, or c.
2. An applicant for renewal of a license as a licensed nutritionist must:
  - a. Comply with subsection 1.
  - b. Have satisfactorily completed continuing education requirements as specified and approved by the board.

**SECTION 8. Requirements for licensure - Licensed registered dietitian.**

1. Applicants for licensure as a licensed registered dietitian must:
  - a. Comply with subsection 1 of section 7 of this Act.
  - b. Have satisfactorily completed the education and experience requirements for dietitians approved by the commission on dietetic registration of the American dietetic association.

- c. Have satisfactorily completed the examination approved and administered by the commission on dietetic registration of the American dietetic association.
2. Applicants for renewal of licensure as a licensed registered dietitian must:
  - a. Comply with subsection 1.
  - b. Have satisfactorily completed continuing education requirements specified by the commission on dietetic registration of the American dietetic association.

**SECTION 9. Waiver of requirements for licensure of dietitians.** Upon application, the board shall grant a license to any person certified prior to July 1, 1985, as a registered dietitian by the commission on dietetic registration of the American dietetic association. Upon application of any person certified by the commission on dietetic registration of the American dietetic association after July 1, 1985, the board may waive the examination, education, and experience requirements and grant the applicant a license if the board determines that the requirements for certification are equivalent to the related requirements for licensure in this Act.

**SECTION 10. Persons excepted from license requirement.** This Act does not prevent or restrict the practice, services, or activities of:

1. Persons licensed to practice medicine, nursing, pharmacy, or dentistry consistent with the accepted standards of their profession, if the persons do not represent themselves as licensed registered dietitians or licensed nutritionists.
2. Any person pursuing a course of study in an approved program leading to a degree in the field of dietetics from an accredited college or university, if the person is designated by a title which clearly indicates that person's status as a student or trainee.
3. Any person in the process of fulfilling the experience requirements of section 7 or 8 of this Act, if the activities and services constitute a part of the experience necessary to meet the requirements of those sections and the person is designated by a title which clearly indicates that person's status as a student or trainee.
4. Any person who does not meet the requirements of subdivision a, b, or c of subsection 1 of section 7 of this Act, and who provides nutrition care services, including weight control programs, under the supervision of a licensed registered dietitian, a dietitian licensed in another state that has licensure requirements

considered by the board to be at least as stringent as the requirements for licensure under this Act, or a dietitian registered by the commission on dietetic registration of the American dietetic association.

5. A person practicing dietetics or providing general nutrition services as a duty of serving in the armed forces.
6. Any person practicing dietetics in this state for no more than ten days annually, if the person has met the commonly accepted standards for the practice of dietetics specifically defined by the board.
7. Any person practicing dietetics in this state for more than ten days annually who has pending before the board an application for licensure as a licensed registered dietitian under this Act.
8. An educator who is in the employ of a federal, state, county, or municipal agency, or other political subdivision, or an elementary or secondary school, or an accredited institution of higher education insofar as the activities and services are part of the duties of the employee's position; or who is in the employ or service of a nonprofit organization approved by the board.
9. Any person having received a baccalaureate degree in home economics, if the person does not represent that the person is a licensed registered dietitian or licensed nutritionist, insofar as the services and activities are within the scope of that person's education and training.
10. A person who markets or distributes food, food materials, or dietary supplements, or any person who engages in the explanation of the use of those products or the preparation of those products, if that person does not represent that that person is a licensed registered dietitian or licensed nutritionist.

**SECTION 11. Issuance of license.** The board shall issue a license to any person who meets the requirements of this Act upon payment of the prescribed fee.

**SECTION 12. Limited permits.** A limited permit to practice as a licensed registered dietitian shall be issued by the board upon application and submission of evidence of successful completion of the education and experience requirements under subdivision b of subsection 1 of section 8 of this Act. The limited permit expires one year from the date of issuance. The limited permit may be renewed for a period not to exceed six months upon submission to the board of a satisfactory explanation for the applicant's failure to become licensed within the original one-year period.

**SECTION 13. Reciprocity.** The board shall grant a license to any applicant who presents proof of current licensure as a dietitian in another state which has licensure requirements considered by the board to be at least as stringent as the requirements for licensure under this Act.

**SECTION 14. Renewal of license.** Any license issued under this Act expires one year after it is issued unless renewed in the manner prescribed by the rules of the board. 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 one year after its expiration.

**SECTION 15. 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 on a licensee if the licensee or applicant 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 rules adopted by the board, or violating any code of ethics adopted by the American dietetic 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 a licensed registered dietitian or a licensed nutritionist or, following conviction of any offense, the board determines that the person is not sufficiently rehabilitated under section 12.1-33-02.1.
  - d. Violating any lawful order or rule of the board.
  - e. Violating this Act.
2. A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board after a hearing pursuant to 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 at its discretion accept or reject an application to consider such reinstatement.

**SECTION 16. Injunction.** The civil remedy of injunction is available to the board to restrain and enjoin violations of this Act.

**SECTION 17. Penalty.** Any person who violates this Act is guilty of a class B misdemeanor.

Approved April 15, 1985