

OCCUPATIONS AND PROFESSIONS

CHAPTER 301

S. B. No. 98

(Lips)

ACCOUNTANTS' EXAMINATION AND QUALIFICATION

AN ACT

To amend and reenact sections 43-02-04, 43-02-07, 43-02-10, 43-02-11, and 43-02-14 of the North Dakota Century Code, relating to accountants.

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

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

43-02-04. Travel Expense Allowed to Board Members.) A member of the board shall receive twenty-five dollars for each day or portion thereof spent in the discharge of his duties, such mileage as is provided by section 54-06-09, and shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties.

§ 2. **Amendment.)** Section 43-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-07. Funds of Board Held by Treasurer — How Disbursed.) Moneys collected for the board under the provisions of this chapter shall be kept by the treasurer and disbursed by him in the manner prescribed by the state board of accountancy. At the end of his term, the treasurer shall account to his successor for any moneys remaining in his hands.

§ 3. **Amendment.)** Section 43-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-10. Qualifications for Certificate to Practice as Certified Public Accountant.) The board shall issue a certificate to practice as a certified public accountant to any person who:

1. Is, or in good faith has declared his intention to become, a citizen of the United States;
2. Has been a resident of North Dakota since one year prior to his application for examination;
3. Is twenty-one years of age or over;
4. Is of good moral character;

5. Has had at least four years of public accounting experience on his own account or in the office of a certified public accountant in active practice, or is a graduate of a college or university of recognized standing; and
6. Has passed a satisfactory examination.

§ 4. **Amendment.**) Section 43-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-11. Examination—When Not Necessary.) The board, upon application in writing, may waive the examination and issue a certificate to practice as a certified public accountant to a person who is not a resident of this state, if he:

1. Has the other qualifications required by section 43-02-10;
2. Holds a certificate to practice as a certified public accountant in another state where the standards, in the opinion of the board, are equivalent to the standards maintained in this state, provided, however, that the other state extends reciprocity to the certificate holders of this state; and
3. Has remitted his fee of forty dollars.

The applicant for a certificate without examination shall submit to the board such evidence as to qualifications as it may require.

§ 5. **Amendment.**) Section 43-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-02-14. Fee for Examination — Failure to Pass Examination — Re-Examination.) At the time of filing his application, each applicant for examination for a certificate to practice as a certified public accountant shall pay to the board a fee not to exceed fifty dollars. In case the applicant is not approved for examination due to the failure of the applicant to qualify under one or more of subsections 1, 2, 3, 4, or 5 of section 43-02-10, twenty dollars of such fee shall be returned to the applicant. If the the applicant passes accounting practice or any other two subjects covered by the examination, but shall fail to pass the examination as a whole, he shall be entitled to re-examination on the subjects in which he has failed. Such re-examination may be taken only at the next five examinations held and each applicant shall pay to the board a fee of twenty dollars for each re-examination in accounting practice and a fee of ten dollars for each re-examination in any other subject.

Approved March 18, 1963.

CHAPTER 302

H. B. No. 647

(Brown, Maragos, Johnston, Wagner)

CHIROPODISTS, DEFINITIONS

AN ACT

To amend and reenact section 43-05-01 of the North Dakota Century Code, relating to "chiropractists" or those engaged in practicing chiropody.

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

§ 1. **Amendment.)** Section 43-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. A "chiropractist" may be referred to as a "podiatrist" and shall mean one who examines, diagnoses, and treats abnormal nail conditions, excrescences occurring on the feet, including corns, warts, callosities, bunions, and arch disorders or who treats the human foot medically, mechanically, or by physiotherapy in a chiropodic manner; a "doctor of surgical chiropody" is a chiropodist who has a degree from an accredited college of chiropody. A doctor of surgical chiropody in addition to the aforementioned privileges of practice is hereby permitted to practice minor foot surgery and to administer local anesthetics. Minor foot surgery shall consist only of any surgical procedure of the foot, except amputation of the foot, that can be done under a local anesthetic.
2. "Board" shall mean the board of registry in chiropody. The board of registry in chiropody may be referred to as "the board of registry in podiatry".
3. For all purposes of this Act the words chiropody and chiropodist shall be synonymous with the words podiatry and podiatrist and the degree of doctor of surgical chiropody synonymous with any degree given by the accredited colleges of podiatry.

Approved March 5, 1963.

CHAPTER 303

H. B. No. 868

(Lowe, Johnston, Maragos, Baldwin)

CHIROPODY LICENSE FEE

AN ACT

To amend and reenact section 43-05-15 of the North Dakota Century Code, authorizing the board of registry in chiropody to establish the annual license fee for the practice of chiropody.

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

§ 1. **Amendment.**) Section 43-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-05-15. Renewal of License—Fee—Established by Board—Failure to Pay—Reinstatement.) Each licensed and practicing chiropodist in this state shall pay an annual renewal uniform license fee to be established by the board, but not to exceed one hundred dollars on or before the first day of June of each year and shall be entitled to an annual certificate or license upon payment of said fee. If the renewal fee is not paid within three months after June first of each year, the license of the delinquent licensee shall be revoked and shall not be reissued except upon a new application and the payment of a sum equal to such fee as established by the board plus twenty dollars.

Approved March 13, 1963.

CHAPTER 304

S. B. No. 37

(Holand, Baeverstad, Luick, Becker, Reichert)
(From LRC Study)

LICENSING AND BONDING OF CONTRACTORS

AN ACT

To create and enact section 43-07-19 and to amend and reenact sections 43-07-01, 43-07-02, 43-07-04, 43-07-05, 43-07-08, 43-07-09, 43-07-10, 43-07-11, 43-07-14, 43-07-15, 43-07-17, 43-07-18, subsection 1 of section 57-40-05, and subsections 1 and 2 of section 57-40-06 of the North Dakota Century Code, relating to the licensing and bonding of contractors and the collection of taxes therefrom, and to repeal section 43-07-16 of the North Dakota Century Code, relating to appeals from the cancellation of a license.

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

§ 1. **Amendment.)** Section 43-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. The word "registrar" as used herein is the secretary of state of the state of North Dakota;
2. The word "person" includes any individual, firm, co-partnership, association, corporation, or other group or combination thereof acting as a unit, and the plural as well as the singular number, unless the intent to give a more limited meaning is disclosed clearly by the context thereof;
3. A "contractor" is any person, as hereinbefore defined, engaged in the business of construction, repair, alteration, dismantling, or demolition of bridges, highways, roads, streets, buildings, airports, dams, drainage or irrigation ditches, sewers, water or gas mains, water filters, tanks, towers, oil, gas, or water pipelines, and every other type of structure, project, development or improvement coming within the definition of real or personal property, including the construction, alteration, or repair of property to be held either for sale or rental, and shall include subcontractor, public contractor, and nonresident contractor;
4. A "public contract" is a contract with the state of North Dakota or any board, commission, or department thereof, or with any board of county commissioners, or with any

city council or board of city commissioners, board of village trustees, board of township supervisors, school board, or with any state or municipal agency, or with any other public board, body, commission, or agency authorized to let or award contracts for the construction or reconstruction of public work when the contract cost, value, or price exceeds the sum of five hundred dollars and includes subcontracts undertaken to perform work covered by the original contract or any part thereof when the contract cost, value, or price of the work included in such subcontract exceeds the sum of five hundred dollars; and

5. The term "nonresident contractor" denotes and applies to any contractor who has not an established and maintained place of business within this state, or who has not made reports to the North Dakota workmen's compensation bureau within the previous year of employees within this state, and who has not made contribution to the North Dakota workmen's compensation fund accordingly, or who, during a like period has not made an income tax return in this state.

§ 2. **Amendment.)** Section 43-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-02. License Required.) No person shall engage in the business nor act in the capacity of a contractor within this state when the original contract or subcontract cost, value or price exceeds the sum of five hundred dollars without first having a license as provided in this chapter.

§ 3. **Amendment.)** Section 43-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-04. License — How Obtained.) To obtain a license under this chapter, an applicant shall submit, on such forms as the registrar shall prescribe, an application under oath containing a statement of the applicant's experience and qualifications as a contractor, and the value and character of the contract work completed by him during the one year preceding the date of such application, and the names of the persons for whom such work was done. The applicant shall obtain a use tax account number from the office of the state tax commissioner and report such number on the application. A bond, as hereinafter prescribed, shall be filed with the application along with such other information as may be required by the registrar to assist him in determining the applicant's fitness to act in the capacity of a contractor. The

application shall contain a statement that the applicant desires the issuance of a license under the terms of this chapter, and shall specify the class of license sought. Any person refused a license by the registrar shall have a right of appeal from such refusal to the district court of Burleigh County, North Dakota if a nonresident, or to the district court of the county of his residence, if a resident of North Dakota.

§ 4. Amendment.) Section 43-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-05. Classes of Licenses.) Four classes of licenses shall be issued under the provisions of this chapter, which shall be designated as class A, B, C, and D licenses. The holders of such licenses shall be entitled to engage in the contracting business within this state subject to the following limitations:

1. The holder of a class A license shall be subject to no limitation as to the value of any single contract project;
2. The holder of a class B license shall not be entitled to engage in the construction of any single contract project of a value in excess of one hundred twenty-five thousand dollars;
3. The holder of a class C license shall not be entitled to engage in the construction of any single contract project of a value in excess of sixty thousand dollars; and
4. The holder of a class D license shall not be entitled to engage in the construction of any single contract project of a value in excess of twenty-five thousand dollars.

§ 5. Amendment.) Section 43-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-08. Exceptions.) This chapter shall not apply to:

1. Any authorized representative or representatives of the United States Government, the state of North Dakota, or any county, municipality, irrigation district, reclamation district or other political corporation; or
2. Any person who furnishes any fabricated or finished product, material or article of merchandise which is not incorporated into or attached to real property by such person so as to become affixed thereto.
3. Any person who contracts to furnish labor only and for an amount not in excess of \$5,000.00.

§ 6. Amendment.) Section 43-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-09. Duty of Registrar—Expiration of License.) The registrar shall investigate and determine each applicant's fitness to act in the capacity of contractor as defined in this chapter, and no license shall be issued to such applicant until the expiration of ten days from and after the filing of the application. The license issued on an original application shall entitle the licensee to act as a contractor within this state, subject to the limitations of such license, until the expiration of the then current calendar year.

§ 7. Amendment.) Section 43-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

§ 8. Amendment.) Section 43-07-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

43-07-11. Contractor's Bond — Requirements.) Every contractor as hereinbefore defined shall be required to execute and file with the application for license required by this chapter a good and valid bond issued by a surety company authorized to do business in this state or, in the case of class D contractors only, a personal bond with two sureties who are acceptable to the registrar and who are residents of the state of North Dakota. Every such bond for a class A contractor shall be written in the amount of two thousand dollars; bonds for class B, C, and D contractors shall be in the amount of one thousand dollars, each running to the state of North Dakota and conditioned upon the payment of all taxes, including the premiums under the workmen's compensation law and contributions due under the unemployment compensation law of the state of North Dakota, all use taxes required to be paid by the contractor to the state of North Dakota and all income taxes withheld or required to be withheld from employees pursuant to chapter 57-38, which may accrue to the state of North Dakota or the political subdivisions thereof on account of the execution and performance of the construction contract or subcontract; provided that any bond required by this section shall be in addition to any bond required by the provisions of section 48-01-05 and shall also be in addition to the obligation imposed by the provisions of section 57-40-17 upon a surety company to the state of North Dakota.

§ 9. Amendment.) Section 43-07-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-14. Complaint for License Cancellation.) Any person may file a duly verified complaint with the registrar charging that the licensee is guilty of one or more of the following acts or omissions:

1. Abandonment of any contract without legal excuse;
2. Diversion of funds or property received under express agreement for the prosecution or completion of a specific contract under this chapter, or for a specified purpose in the prosecution or completion of any contract, and their application or use for any other contract obligation or purpose to defraud or deceive creditors or the owner;
3. The doing of any willful fraudulent act by the licensee as a contractor in consequence of which another is injured substantially;
4. The making of any false statement in any application for a license or renewal thereof.

§ 10. Amendment.) Section 43-07-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-15. Cancellation of License — Appeal — Procedure.)

Upon the filing of such complaint, the registrar shall follow the procedures prescribed by chapter 28-32. If the registrar determines that the licensee has been guilty of any of the acts or omissions charged, he shall cancel or suspend the contractor's license. A contractor aggrieved by a decision of the registrar in suspending or canceling his license may appeal such decision to the district court of his county of residence or Burleigh County. The provisions of chapter 28-32 shall govern such appeal and proceedings thereunder.

§ 11. **Amendment.)** Section 43-07-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-17. Cancellation of License—Relicensing.) A licensee whose license has been canceled shall not be relicensed during the current calendar year in which he has committed the offense for which such cancellation was ordered, unless the registrar has ordered suspension of the license for a specific period of time.

§ 12. **Amendment.)** Section 43-07-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-18. Penalty.) Any person acting in the capacity of a contractor within the meaning of this chapter without a license as herein provided is guilty of a misdemeanor and, if a person, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months or by both such fine and imprisonment. The same penalties shall apply to any member of a copartnership or to any construction, managing, or directing officer of any corporation or other organization consenting to, participating in, or aiding or abetting, any such violation of this chapter.

§ 13.) Section 43-07-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

43-07-19. Nonresident Contractors — Agent for Service of Process.) Every applicant for a contractor's license who is not a resident of the state of North Dakota shall furnish to the secretary of state of the state of North Dakota a written appointment by which such applicant appoints the secretary of state of the state of North Dakota as his true and lawful agent upon whom may be served all lawful process in any action or proceeding against such nonresident contractor. Such appointment in writing shall be evidence of said contractor's consent that any such process against him which is so served upon the secretary of state shall be of the same legal force and

effect as if served upon him personally within this state. Within ten days after service of the summons upon the secretary of state, notice of such service together with the summons and complaint in the action shall be sent to the defendant contractor at his last known address by registered or certified mail with return receipt requested and proof of such mailing shall be attached to the summons. The secretary of state shall keep a record of all process served upon him under the provisions of this section. Such record shall show the day and hour of service. Whenever service of process shall have been made as provided in this section, the court, before entering a default judgment, or at any stage of the proceeding, may order such continuance as may be necessary to afford the defendant contractor reasonable opportunity to defend any action pending against him.

§ 14. Amendment.) Subsection 1 of section 57-40-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The tax upon tangible personal property which is sold by a retailer maintaining a place of business in this state, or by such other retailer as the tax commissioner shall authorize pursuant to subsection 2 of section 57-40-06, shall be collected by the retailer and remitted to the commissioner as provided by section 57-40-06, provided, that any such retailer shall not collect the tax on any purchases made by a contractor who furnishes to the retailer a certificate which includes the contractor's license number assigned to him under the provisions of chapter 43-07 and the use tax account number assigned to him by the tax commissioner pursuant to section 43-07-04; such certificate shall be in the form prescribed by the tax commissioner and shall be furnished by the contractor to the retailer each calendar year prior to the making of any purchases during such calendar year from the retailer without liability for paying the tax to the retailer;

§ 15. Amendment.) Subsections 1* and 2 of section 57-40-06 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Every retailer maintaining a place of business in this state and making sales of tangible personal property for use in this state, not exempted under the provisions of section 57-40-03, before making any sales shall obtain a permit from the commissioner to collect the tax

***Note:** Subsection 1 of section 57-40-06 was amended also by section 6, chapter 400, 1963 S.L. The wording, however, is identical in both amendments.

imposed by this chapter, which permit shall be subject to all of the requirements, conditions and fees for its issuance that apply with respect to a retail sales tax permit, and at the time of making such sales, whether within or without the state, shall, except as otherwise provided in subsection 1 of section 57-40-05, collect the tax imposed by this chapter from the purchaser, and give to the purchaser a receipt therefor in the manner and form prescribed by the tax commissioner, if the commissioner, by regulation, shall require such receipt. Each such retailer shall list with the tax commissioner the name and address of all his agents operating in this state, and the location of each of his distribution or sales houses or offices or other places of business in this state;

2. The tax commissioner, upon application, may authorize the collection of the tax imposed by section 57-40-02 by any retailer not maintaining a place of business within the state, who, to the satisfaction of the commissioner, furnishes adequate security to insure collections and payment of the tax. To such retailer shall be issued a permit to collect the tax in such manner and subject to such regulations and agreements as the commissioner shall prescribe. When so authorized, such retailer shall, except as otherwise provided in subsection 1 of section 57-40-05, collect the tax upon all tangible property sold to his knowledge for use within this state, as a retailer maintaining a place of business within this state collects such tax. Such authority and permit may be canceled at any time, if the commissioner considers the security inadequate, or believes that such tax can be collected more effectively from the person using such property in this state;

§ 16. Repeal.) Section 43-07-16 of the North Dakota Century Code is hereby repealed.

Approved March 21, 1963.

CHAPTER 305

H. B. No. 574
(Fitch)

LICENSING FUNERAL ESTABLISHMENTS

AN ACT

Providing for the licensing and regulation of funeral establishments, and providing a penalty.

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

§ 1. Definition.) As used in this Act, the term "funeral establishment" shall mean a place of business situated at a specific street address or location, and used in the care and preparation for burial, transportation, or other disposition of dead human bodies, or used for the purpose of conducting funeral services, but shall not include a branch establishment used only for layouts or funerals.

§ 2. Licensure of Funeral Establishments.) After January 1, 1964, no person shall operate or manage, for himself or others, a funeral establishment without a funeral establishment license issued by the state board of embalmers for each such place of business. No funeral establishment shall be located on tax-exempt property. Any person desiring to operate a funeral establishment shall submit an application for an annual license for each funeral establishment to the secretary of the state board of embalmers accompanied by a license fee of twenty-five dollars. Thereafter each person operating or managing a funeral establishment shall annually, on or before January first, submit an application for renewal of such license together with a renewal fee of ten dollars. Such licenses shall be valid until the following January first, unless sooner revoked as hereinafter provided. All applications must show that the funeral establishment sought to be licensed has complied with all rules and regulations promulgated by the board in regard to safety and sanitation and will be under the supervision of a North Dakota licensed embalmer. Any applicant who has met these standards shall be issued a license. In case of the death of an owner of a funeral establishment who leaves an established business as part or all of his estate, the said board may issue a special renewable temporary license to the legal representative of such deceased person for the duration of the administration of the estate, but which shall in no instance exceed two years. The fee for such temporary license shall be the same as required for regular licenses. Any person operating a funeral establishment as defined in section

1, who is engaged in business at a fixed location in North Dakota on the date of approval of this Act may apply for and be entitled to a funeral establishment license on the same basis as would a currently licensed embalmer.

§ 3. Inspections—Hearings—Revocations—Appeal.) The funeral establishment or that part thereof in which is conducted or intended to be conducted any funeral service business, shall be open at all times for inspection by the board or the state department of health. The board or agents employed by it and the state department of health shall have the power to make such inspections as are necessary of facilities and equipment of funeral establishments to insure compliance with safety and sanitary regulations promulgated by the board of embalmers whenever either deems the same advisable. If, upon inspection, it is found that such regulations are not complied with, the board shall give notice to the holder of the funeral establishment license and hold hearings in the manner provided in sections 43-10-17, 43-10-18, and 43-10-19. The board may subpoena witnesses, administer oaths and take testimony. All proceedings hereunder shall be conducted in accordance with the provisions of chapter 28-32. The board may, after such hearing, revoke, suspend, or refuse to issue or renew any such license upon good cause. Any person aggrieved by the action of said board may appeal to the district court of the county in which he resides or the district court of Burleigh County in accordance with the provisions of chapter 28-32.

§ 4. Penalty.) Any person violating any of the provisions of this Act shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars.

Approved March 5, 1963.

CHAPTER 306

H. B. No. 812

(Powers, Fitch, Stallman, Lindberg, Lowe, Haugland)

LICENSING OF HAIRDRESSERS AND COSMETOLOGISTS

AN ACT

To amend and reenact sections 43-11-02 and 43-11-16, subsection 3 of section 43-11-19, subsection 4 of section 43-11-21, and subdivision (c) of subsection 1 of section 43-11-27 of the North Dakota Century Code, relating to the requirements and qualifications of state licensed schools for hairdressers and cosmetologists and the educational requirements of students of such schools.

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

§ 1. **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 chapter shall not apply to services:

1. In case of emergency;
2. In case of domestic administration without compensation;
3. By persons authorized under the laws of this state to practice medicine, surgery, dentistry, chiropody, osteopathy, or chiropractic;
4. By barbers, nurses, undertakers, and morticians lawfully engaged in the performance of the usual and ordinary duties of their vocation;
5. This section shall not be construed as applying to the 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 section 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.

§ 2. **Amendment.**) Section 43-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-16. Registered Schools — Qualifications for Registration.) A certificate of registration shall be granted to a school

for hairdressers and cosmetologists upon an application to the board and the payment of the annual registration fee, if the school:

1. Is operated and maintained in premises entirely distinct and permanently separated from any hairdressing, beauty, or cosmetologist shop;
2. No school of cosmetology shall be granted a certificate of registration unless it shall require one thousand five hundred hours of training and instruction in cosmetology, and unless it shall attach to its staff as a lecturer and consultant a person licensed by this state to practice an unlimited or limited branch of medicine and employ 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 school's enrollment has reached fifty students; shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student which shall not be in excess of eight hours per day; maintain regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audio-visual 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. No school may conduct a clinical department for fees after registration by the board, until such school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter. No student shall be permitted to practice on any person not an instructor or registered student of such school until such student has completed at least twenty percent of the total hours of instruction required by this chapter. No school shall compensate any of its basic students in any way, nor shall they make appointments for clinical services or advertise the fees charged for clinical service. Each school, at the time of application for its license and upon the renewal of such license, shall furnish to the board, and maintain in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. Such 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 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 such student's tuition fee upon default. Any such school that shall enroll 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 school.

§ 3. Amendment.) Subsection 3 of section 43-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have educational qualifications equivalent to completion of two years of high school;

§ 4. Amendment.) Subsection 4 of section 43-11-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Satisfactory proof that the applicant has the required training in a registered school which shall not be less than one thousand five hundred hours for hairdressers and cosmetologists.

§ 5. Amendment.) Subdivision (c) of subsection 1 of section 43-11-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (c) Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology in this state for at least five years immediately prior to such person's application for an instructor's license. 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.

Approved March 7, 1963.

CHAPTER 307

H. B. No. 551

(Brown, Baldwin, Mueller, Maragos, Wagner, Knudsen)
(Haugland, Johnson)

PROFESSIONAL NURSES' LICENSING

AN ACT

To amend and reenact sections 43-12-01, 43-12-02, 43-12-03, 43-12-04, 43-12-05, 43-12-06, 43-12-07, 43-12-08, 43-12-09, 43-12-12, 43-12-13, 43-12-17, 43-12-18, 43-12-19, 43-12-21, 43-12-22, and 43-12-24 of the North Dakota Century Code, relating to the regulation of the practice of professional nursing; to provide for a state board of nursing and to define the powers and duties of the board including licensure of practitioner of nursing and establishment of standards for educational programs preparing for nursing practice, and to prescribe penalties for violations of the provisions of this Act; and to repeal sections 43-12-14, and 43-12-23 of the North Dakota Century Code, relating to meetings of the board and revocation of certificates.

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

§ 1. **Amendment.)** Section 43-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-01. Definitions.) In section 43-12-01 through 43-12-24, unless the context or subject matter otherwise requires:

1. "Board" shall mean the North Dakota state board of nursing;
2. The practice of professional nursing means the performance for compensation of any act in the observation, care and counsel of the ill, injured or infirm, or in the maintenance of health or prevention of illness in others, or in the supervision and teaching of other personnel, or in the administration of medications and treatments as prescribed by a licensed physician or dentist; requiring substantial specialized judgment and skill based on knowledge and applications of the principles of biological, physical and social science. The foregoing shall not be deemed to include acts of diagnosis or prescription of therapeutic or corrective measures;
3. "Professional nurse" or "registered nurse" shall mean one who has met all the legal requirements for licensure in this state, has been registered by the board, and who holds a certificate of licensure for the current year, acquired according to the provisions of sections 43-12-01 through 43-12-24.

§ 2. Amendment.) Section 43-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-02. Persons Exempted.) The provisions of sections 43-12-01 through 43-12-24 shall not apply to:

1. Gratuitous nursing of the sick by friends or members of the family, or to
2. The furnishing of nursing assistance in a natural or manmade disaster; or
3. The practice of nursing which is incidental to their program of study by students enrolled in nursing education programs accredited by the board;
4. The practice by a graduate of a North Dakota accredited school of nursing between the dates of graduation and notification of results of the first licensing examination for which such person is eligible;
5. The practice of any legally licensed nurse who is currently employed by the United States Government or any bureau, division or agency thereof, while in the discharge of his or her official duties.

§ 3. Amendment.) Section 43-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-03. North Dakota State Board of Nursing—Members — Appointment — Terms of Office.) The North Dakota state board of nursing shall consist of five professional nurses, appointed by the governor for terms of five years each, so arranged that one term shall expire on the thirtieth day of June in each year, and in addition for matters pertaining to practical nursing, there shall be two licensed practical nurses appointed by the governor for terms of four years each, so arranged that one term shall expire on the 30th day of June each odd number year. Each member of the board shall hold office until her successor is appointed and qualified. Persons appointed to the board shall take the oath required of civil officers. Vacancies on the board shall be filled by appointment by the governor for the remainder of the unexpired term. No appointee shall serve more than two consecutive terms.

§ 4. Amendment.) Section 43-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-04. Qualifications of Professional Nurse Members of the Board.) No professional nurse shall be appointed as a

member of the board unless such person has the following qualifications:

1. Is recommended by the North Dakota state nurses' association;
2. Is licensed in North Dakota;
3. Has resided at least two years in North Dakota;
4. Is currently engaged in nursing, teaching or administration;
5. Has had at least five years' experience in the nursing profession including teaching, administration or supervision; and
6. Has graduated from an accredited university or college.

At least ten days before an appointment is to be made, the North Dakota state nurses' association shall recommend three persons to the governor for such appointment.

§ 5. **Amendment.)** Section 43-12-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-05. Board—Organization—Meetings—Officers—Bond of Treasurer—Office of Board.) The board shall meet annually at its office in the state capitol for the purpose of organization. At such meeting the members of the board shall elect from their number a president, a vice president, a secretary, and a treasurer. The office of the secretary and treasurer may be held by the same person, if so determined by the board. The treasurer shall be bonded in a penal sum equal at least to the largest amount of money which will come into his or her hands in any one year. The amount of such bond shall be determined by the board and in no event shall be less than two thousand dollars. The bond shall be filed in the office of the secretary of state.

In addition, the board shall hold at least two regular meetings in each year for the examination of applicants for licensure as professional nurses and such additional meetings at such times and places as it may determine.

§ 6. **Amendment.)** Section 43-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-06. Compensation of Members of Board—Expenses—How Paid.) Each member of the board shall receive a per diem fee, not to exceed ten dollars per day and the expenses necessarily incurred while actually engaged in the performance of the duties of his or her office. Such compensation shall be paid from fees received by the board under the provisions of sections 43-12-01 through 43-12-24.

§ 7. **Amendment.)** Section 43-12-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-07. Powers and Duties of Board.) The board may draw up such rules and regulations as are necessary to carry out the provisions of sections 43-12-01 through 43-12-24 and shall:

1. Adopt an official seal which shall remain in the custody of the executive secretary of the board;
2. Maintain a permanent record, wherein the names of the schools of nursing accredited under the provisions of sections 43-12-01 through 43-12-24 are listed;
3. Maintain a permanent register at all times, of the names of all persons to whom licenses to practice professional nursing are issued. Such register at all times shall be open to public inspection;
4. Maintain a roster of nurses who desire to retire temporarily from the practice of nursing in this state;
5. Employ an executive director of nursing education who may also act as executive secretary of the board. The board shall define the duties of such offices and fix the salaries for its officers or employees;
6. Receive all fees and moneys collected under sections 43-12-01 through 43-12-24. Such moneys shall be deposited in a bank as authorized by the board;
7. Pay all necessary expenditures for clerical help, printing, postage, travel, nursing surveys, evaluation and administration of examinations, office equipment and maintenance, attendance at board meetings, and execute any other legitimate project pertaining to nursing education and schools of nursing; and
8. Report all receipts and expenditures of said funds at the close of each fiscal year to the governor and the legislative assembly. Any balance of such fees after payment of such compensation and expenditures by the treasurer of the board shall be held by the board and is to be used only in administering sections 43-12-01 through 43-12-24.

§ 8. **Amendment.)** Section 43-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-08. Accreditation of School of Nursing—Fee—Revocation of Accreditation.) Any school to be accredited under the provisions of sections 43-12-01 through 43-12-24 shall meet the requirements of the board for such a school and shall be

required to pay an annual fee of fifty dollars to the treasurer of the board for the annual survey and necessary consultant services. If such school subsequently becomes disqualified by failure to comply with terms and requirements for accreditation, such school shall pay fifty dollars to the treasurer for a new survey.

§ 9. Amendment.) Section 43-12-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-09. Schools of Nursing—Qualifications of Applicants for Admittance.) Before any school of nursing shall admit a student for a professional nursing course, the student shall present certified evidence that he or she has completed at least sixteen units of high school work, one of which may be one unit of physical education or an equivalent education. An applicant graduating from a non-accredited high school who has taken the state examinations, shall present certified evidence from the superintendent of public instruction to the effect that he or she has earned the prescribed number of units. A student graduating from an accredited high school shall present certified evidence from the superintendent of such school to the effect that he or she has earned the prescribed number of high school units. Applicants from other states or foreign countries shall present certified transcripts of credits to show preliminary education equivalent to that required of North Dakota residents.

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

43-12-12. License Required—Title—Abbreviation.) In order to safeguard life and health, any person before practicing or offering to practice professional nursing in this state for compensation, shall be required to submit evidence that he or she is qualified so to practice, and shall first be licensed as hereinafter provided. After July 1, 1963 it shall be unlawful for any person not licensed under the provisions of sections 43-12-01 through 43-12-24:

1. To practice or offer to practice professional nursing in this state; or
2. To use the title "registered nurse", the abbreviation "R.N.", or any other sign, card or device to indicate that such person is a professional registered nurse.

§ 11. Amendment.) Section 43-12-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-13. Examination Required — Application — Fee for Examination — Qualifications for Examination.) Any person who desires to practice professional nursing in this state shall pass the examination given by the board before a certificate of licensure shall be issued. Such person shall make an application for licensure to the executive secretary of the board at least three weeks prior to the date set for the examination and shall pay to the treasurer of the board at the time of making such application the sum of twenty dollars. Enclosed with such application, proof shall be submitted that the applicant has the following qualifications:

1. Is at least twenty years of age;
2. Is a citizen of the United States provided, however, that if the applicant is not at the time a citizen of the United States, he or she shall be permitted to write the examination and upon passing may be granted a temporary license valid for not to exceed six years. Such license may be converted by the board into a permanent license only upon his or her acquiring full United States citizenship before the expiration of such period and only if, during the entire period from the issuance of such license until the acquisition of citizenship, he or she has practiced the profession of nursing, and has resided continuously within this state;
3. Is of good moral character;
4. Has received the preliminary education required in section 43-12-09 for admission to a school of nursing; and
5. Has successfully completed the required accredited professional nursing education programs.

§ 12. **Amendment.)** Section 43-12-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-17. Re-Examination — Fees for Re-Examination — Qualifications for Examination.) The board may make such rules and regulations as it deems necessary for the re-examination of applicants who fail to pass a regular examination. A fee of five dollars is required for the rewriting of each subject failed.

§ 13. **Amendment.)** Section 43-12-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-18. Certificate of Licensure Issued to Applicant Licensed in Another State—Examination Not Required.) The board may issue a certificate of licensure to practice professional nursing in this state to an applicant who has not taken the examination if he or she:

1. Produces satisfactory evidence of having been duly licensed by another state or a foreign country to practice therein as a professional nurse;
2. Meets the qualification requirements for nurse licensure in this state;
3. Is a citizen of the United States or meets the qualifications of the North Dakota Licensure Act as stated in section 43-12-13; and
4. Pays a twenty dollar licensure fee.

Upon receipt of the application for license and payment of the twenty dollar license fee, and evidence that the applicant shall have met all the requirements of this chapter, the board shall issue the applicant a temporary permit to practice professional nursing in this state until the license has been issued. Such temporary permit shall expire at the end of ninety days and may be renewed only for reasons satisfactory to the board.

§ 14. Amendment.) Section 43-12-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-19. Permit to Practice Nursing Issued to Applicant Who Is Not a Citizen.) The board, in case of an emergency, may issue a temporary permit to practice professional nursing in this state to an applicant who has all the required qualifications for nurse licensure except that of citizenship. The fee for such a permit shall be twenty dollars for the first year and it may be renewed for reasons satisfactory to the board upon the payment of a fee of four dollars per year.

§ 15. Amendment.) Section 43-12-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-21. Renewal of Certificate of Licensure—Fee—Failure to Pay—Relicensure—Roster of Inactive Nurses.) A certificate of licensure issued under the provisions of sections 43-12-01 through 43-12-24 shall be valid for only one year and shall be renewed on or before the thirty-first day of December in each year. The fee for the renewal certificate shall be four dollars. On or before the first day of November in each year the executive director of the board shall mail to all registered nurses an application form for a renewal certificate. The application and fee shall be in the hands of the executive director of the board by the thirty-first day of December in each year. The failure of any person to renew his or her license annually shall suspend his or her right to practice professional nursing in this state, but he or she may be relicensed by paying the required renewal fee of five dollars

for each year it has not been paid but not to exceed twenty-five dollars for failure to complete his or her licensure on time.

A roster, as provided for in subsection 4 of section 43-12-07, shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places his or her name on such roster on or before the first day of January in the year he or she desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a certificate of licensure without incurring any penalty. Nurses who have not placed their names on such roster shall be subject to payment of the required renewal fee for each year it has not been paid as specified.

§ 16. Amendment.) Section 43-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-22. Revocation of—License or Permit—Grounds for—Discipline—Appeal—Board to Furnish List of Persons Having Licenses Revoked to Other States.) The board shall have the power to deny, revoke or suspend any license or permit to practice nursing issued by the board in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:

1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or
2. Is guilty of a crime of moral turpitude; or
3. Becomes unfit or incompetent to practice by reason of gross negligence; or
4. Is habitually intemperate or is addicted to the use of habit-forming drugs; or
5. Is mentally incompetent; or
6. Is guilty of unprofessional conduct; or
7. Has willfully or repeatedly violated any of the provisions of this chapter.

Upon filing of a sworn complaint with the board, charging a person with having been guilty of any of the actions specified as a ground for disciplinary action, the executive officer of the board shall fix a time and place for a hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be served on the accused at least ten days prior thereto. The attendance of witnesses and the production of books, papers, and documents at the hearing may be compelled by subpoenas issued by the board, which shall be served in accordance with the law. At the

hearing the board shall administer such oaths as may be necessary for the proper conduct of the hearings. At the hearing the accused shall have the right to appear either personally or by counsel, or both, to produce witnesses or evidence on his or her own behalf, to cross-examine witnesses and to have subpoenas issued by the board. If the accused is found guilty of the charges the board may refuse to issue a license to the applicant, or may revoke, suspend or reprimand a licensee. A revoked or suspended license may be reissued after one year, in the discretion of the board. The board shall keep a record of all its proceedings in the matter of revoking or suspending licenses or permits, together with the evidence offered. An appeal from the final decision of the board revoking or suspending a license to practice professional nursing in this state may be taken to the district court of Burleigh County in accordance with the provisions of chapter 28-32. The board shall furnish a list of the names and addresses of those whose certificates have been revoked to the boards of nursing, or comparable boards of all other states.

§ 17. **Amendment.)** Section 43-12-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-24. Violation — Penalties.) No person, corporation, association, or individual shall:

1. Sell or fraudulently obtain or furnish any nursing diploma, license, renewal, or record or aid or abet therein; or
2. Practice nursing as defined by this chapter under cover of any diploma, license, or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation; or
3. Practice professional nursing as defined by this chapter unless duly licensed to do so under the provisions of this chapter; or
4. Use in connection with his or her name any designation tending to imply that he or she is a licensed registered nurse unless duly licensed so to practice under the provisions of this chapter; or
5. Practice professional nursing during the time his or her license issued under the provisions of this chapter shall be suspended or revoked; or
6. Conduct a nursing education program for the preparation of professional nurses unless the program has been accredited by the board; or
7. Otherwise violate any provisions of this chapter.

Any violation of this section shall be a misdemeanor and shall be punishable by a fine of not less than ten dollars nor more than one hundred dollars for a first offense. Each subsequent offense shall be punishable by a fine of one hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment.

§ 18. Repeal.) Sections 43-12-14 and 43-12-23 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1963.

CHAPTER 308

H. B. No. 576
(Johnston)

NURSING SCHOLARSHIPS

AN ACT

To amend and reenact subsection 1 of section 43-12-25, sections 43-12-26, 43-12-28, 43-12-29, subsection 3 of section 43-12-30, and section 43-12-31 of the North Dakota Century Code, providing that a requirement in obtaining a nursing scholarship shall be the need of the recipient and that such recipient shall serve in a North Dakota hospital or institution for two years after completion of the nursing education.

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

§ 1. Amendment.) Subsection 1 of section 43-12-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "State board" shall mean the North Dakota state board of nursing and advisory committee hereinafter provided for;

§ 2. Amendment.) Section 43-12-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-26. Advisory Committee.) There shall be an advisory committee composed of three members, to be designated by the North Dakota council on health careers. This advisory committee shall assist the state board in awarding scholarships.

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

43-12-28. Qualifications of Candidates.) A person shall not be selected as a candidate for a scholarship unless such applicant be at least eighteen years of age. In selecting candidates for scholarships, consideration shall be given to:

1. Adaptability to nursing,
2. Health,
3. Character,
4. Person-social characteristics,
5. Record of level of achievement,
6. Capacity and willingness upon graduation to nurse in a hospital or institution in North Dakota for two years, and
7. Financial need for such scholarship in pursuing education in the field of nursing.

§ 4. Amendment.) Section 43-12-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-29. Use of Scholarship.) These scholarships shall be used, first, to pay the tuition and other institutional fees and expenses of the recipient incidental to such nursing education; second, to defray the cost of books and equipment needed by the recipient in pursuit of studies and, third, for partial subsistence of the recipient through facilities operated by the school or college. Scholarships shall be awarded only to students enrolled in an accredited school of nursing; to students enrolled in an approved course for practical nurses; and to professional graduate nurses enrolled in a college or university. Any facilities of the school designed to aid in securing part-time employment for students, to help defray costs of their education shall be made available to a recipient of a scholarship on an equal basis with other students enrolled. Scholarship holders may not continue to hold the scholarship unless they maintain a satisfactory grade average as set by the state board.

§ 5. Amendment.) Subsection 3 of section 43-12-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The fund shall provide for scholarships for professional graduate nurses desiring to take advanced courses in nursing education which further qualifies applicant for a position or leads to a baccalaureate or higher degrees. After one year of such advanced study the recipient shall be required to return to North Dakota for a position to be held for at least two years. The professional graduate nurse shall receive a scholarship not to exceed one thousand two hundred fifty dollars for

advanced study in a college or university which may lead to a degree. The scholarship shall be allotted according to rules and regulations adopted by the state board.

§ 6. Amendment.) Section 43-12-31 of the North Dakota North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-31. Collection and Cancellation.) 1. A rate of six percent per annum will be charged on any portion of the scholarship not repaid upon demand of the state board.

2. If any nurse student scholarship recipient, before the notes provided in section 43-12-25 through 43-12-31 have been called for payment, has satisfactorily completed the required basic course in nursing and has satisfactorily completed two full years of nursing in North Dakota the notes and accrued interest shall be canceled.

3. For the practical nurse student scholarship recipient the note shall bear interest at the rate of three percent per annum and shall become due and payable with accrued interest at the expiration of the one year period. Upon the fulfillment of the requirements herein set forth the note and accrued interest shall be canceled.

4. The note of the professional graduate nurse shall bear interest at the rate of three percent per annum. Upon the fulfillment of the requirements herein set forth the note with accrued interest shall be canceled.

5. Upon satisfactory proof of the requirements herein set forth, the board shall notify the state treasurer to cancel the notes.

Whenever less than two full years of nursing has been completed the notes may be canceled in the order of execution corresponding with the months of nursing which are completed. In the event of death or total disability of the recipient the notes and accrued interest shall be canceled.

Approved March 13, 1963.

CHAPTER 309

H. B. No. 561
(Wagner)

PHARMACISTS' QUALIFICATIONS

AN ACT

To amend and reenact subsection 4 of section 43-15-15 of the North Dakota Century Code, relating to the qualifications of a registered pharmacist and the practical experience required prior to registration.

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

§ 1. Amendment.) Subsection 4 of section 43-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Before a certificate will be granted by the North Dakota board of pharmacy, the applicant must have at least one year of practical experience in a retail pharmacy under the supervision of a registered pharmacist, which experience shall be predominantly work directly relating to selling drugs and poisons, compounding of pharmaceutical preparations and physicians' prescriptions, keeping records, and making reports required under the state and federal statutes. Any employment of the applicant prior to his completion of the first year of study in a college of pharmacy or its equivalent shall not be applied in computing the fulfillment of this requirement.

Approved February 23, 1963.

CHAPTER 310

H. B. No. 562

(Wagner)

PHARMACISTS' REGISTRATION

AN ACT

To amend and reenact section 43-15-25 of the North Dakota Century Code, relating to the registration of pharmacists and increasing the annual fee charged for the renewal of such registration.

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

§ 1. **Amendment.)** Section 43-15-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-25. Term of Certificate—Renewal—Fee—Where Displayed.) The certificate issued by the board to a pharmacist or assistant pharmacist under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed ten dollars. Upon the payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drug store where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue such registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

Approved February 23, 1963.

CHAPTER 311

S. B. No. 340
(Sinner, Reichert, George)

PHARMACY PERMITS

AN ACT

To amend and reenact section 43-15-35 of the North Dakota Century Code, relating to the requirements for issuance of permits to operate pharmacies.

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

§ 1. Amendment.) Section 43-15-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-35. Requirements for Permit to Operate Pharmacy.)

The board shall issue a permit to operate a pharmacy, or a renewal permit, upon satisfactory proof that:

1. The pharmacy will be conducted in full compliance with existing laws and with the rules and regulations established by the board;
2. The equipment and facilities of the pharmacy are such that prescriptions can be filled accurately and properly, and United States Pharmacopoeia and National Formulary preparations properly compounded and so that it may be operated and maintained in a manner that will not endanger public health and safety;
3. The pharmacy is equipped with proper pharmaceutical and sanitary appliances and kept in a clean, sanitary, and orderly manner;
4. The management of the pharmacy is under the personal charge of a pharmacist duly registered under the laws of this state;
5. The applicant for such permit is qualified to conduct the pharmacy, and is a registered pharmacist in good standing or is a partnership, each active member of which is a registered pharmacist in good standing, or a corporation or association, the majority stock in which is owned by registered pharmacists in good standing, actively and regularly employed in and responsible for the management, supervision, and operation of such pharmacy; and
6. The pharmacy has on file at all times the latest decennial revision of the United States Pharmacopoeia and

the latest edition of the National Formulary, and supplements thereto. These books must be in evidence at all times to the board and its properly authorized agents.

The provision of subsection 5 of this section shall not apply to the holder of a permit on July 1, 1963, if otherwise qualified to conduct the pharmacy, provided that any such permit holder who shall discontinue operations under such permit or fail to renew such permit upon expiration shall not thereafter be exempt from the provisions of such subsection as to such discontinued or lapsed permit. The provisions of subsection 5 of this section shall not apply to hospital pharmacies furnishing service only to patients in such hospital.

Approved March 11, 1963.

CHAPTER 312

H. B. No. 796
(Brown, Wagner)

PLUMBERS' LICENSE FEES

AN ACT

To amend and reenact sections 43-18-13 and 43-18-17 of the North Dakota Century Code, relating to license fees of plumbers.

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

§ 1. Amendment.) Section 43-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-13. License—How Obtained—Fee.) Any person qualified under the rules of the board who desires to take the examination to become a registered and licensed plumber shall make application to the board therefor and pay to the treasurer of the board the examination fee. Such fee shall be sixty dollars for a master plumber's certificate and license and twenty dollars for a journeyman plumber's certificate and license. The applicant shall present himself at the next regular meeting of the board for examination of applicants. If upon examination the applicant is found by the board to be qualified as a master plumber or journeyman plumber, or both, it shall issue to him a certificate of registration and license which shall entitle him to do the work and be a plumber as specified in the license. A master plumber's and

journeyman plumber's license may be issued to one and the same person, and the holder of a master plumber's license may be granted a journeyman plumber's license without the payment of the journeyman's fee. All certificates and licenses shall be numbered consecutively and shall not be transferable, and no person shall work under the license issued to another person.

§ 2. Amendment.) Section 43-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-18-17. Renewal of License—Fee.) A certificate and license issued under the provisions of this chapter shall be valid for only one year and shall expire on the thirty-first day of December of the year in which it was issued. The certificate shall be renewed by the board upon application made within thirty days after the expiration thereof and on the payment of the sum of sixty dollars for a master plumber's certificate and license, and the sum of twenty dollars for a journeyman plumber's certificate and license. The board, when the condition of its fund permits and when in its judgment it is deemed advisable, may reduce the amount of the renewal fees, but it may not increase the same. Any such change shall be adopted by the board to take effect on the first day of January following its action and shall apply to all renewals in the classes specified in the ruling.

Approved March 13, 1963.

CHAPTER 313

H. B. No. 846

(Winge, Johnson, Connolly, Haugland, Schnell)

PRACTICAL NURSES' LICENSING

AN ACT

To amend and reenact sections 43-21-01, 43-21-02, 43-21-03, 43-21-04, 43-21-07, 43-21-08, 43-21-09, and 43-21-11 of the North Dakota Century Code, relating to the regulation of the practice of practical nursing and to provide for examination and licensure of practitioners of practical nursing.

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

§ 1. Amendment.) Section 43-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-01. Definitions.) In this chapter unless the context or subject matter otherwise clearly requires:

1. "The practice of practical nursing" means the performance for compensation of selected acts in the care of the ill, injured, or infirm under the direction of a registered professional nurse or a licensed physician or a licensed dentist; and not requiring the substantial specialized skill, judgment, and knowledge required in professional nursing;
2. "Licensed practical nurse" is a person duly authorized under this Act to practice practical nursing; and
3. "Board" shall mean the North Dakota State Board of Nursing.

§ 2. Amendment.) Section 43-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-02. Persons Exempted from the Provisions of This Chapter.) The provisions of this chapter shall not apply to gratuitous nursing of the sick by friends or members of the family or any person nursing or caring for the sick for hire who does not pretend to be a licensed practical nurse.

§ 3. Amendment.) Section 43-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-03. Examination Required — Application — Fee for Examination — Qualifications for Examination.) Any person who desires to be licensed as a practical nurse by examination in this state shall submit an application, with a fee of fifteen dollars to the executive director of the board at least ten days prior to the date set for the examination. The applicant shall enclose with her application proof that she possesses the following qualifications:

1. Has reached the age of eighteen years;
2. Is of good moral character;
3. Has at least an eighth grade education, or its equivalent, and such other preliminary qualifications as the board, from time to time, by rule and regulation may prescribe;
4. Has successfully completed an accredited course for the preparation of licensed practical nurses; and
5. Is a citizen of the United States, or has declared her intention of becoming a citizen.

§ 4. Amendment.) Section 43-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-04. Examination and Licensing of Practical Nurses—Re-Examination Fee.) The state board shall prescribe rules and regulations consistent with the provisions of this chapter for the examination, licensing, and regulation of practical nurses. Written examinations shall be held at least twice in each year, at a time and place to be designated by the state board. Upon successfully passing the examination as administered by the board, the board shall issue to such applicant a license to practice as a licensed practical nurse. A fee of five dollars shall be required for rewriting each examination failed.

§ 5. Amendment.) Section 43-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-07. Disposition of Fees.) All fees received shall be held subject to the order of the board to be used only for the purpose of meeting necessary expenses incurred in the performance of the duties imposed upon the board by this chapter, and in carrying out the provisions of this chapter.

§ 6. Amendment.) Section 43-21-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-08. Renewal of License—Failure to Renew—Roster.) The license issued under this chapter must be renewed annually and a fee of three dollars shall be submitted with every application for renewal. On or before November first of each year, the executive director of the board shall mail to each licensed practical nurse an application form for renewal of license. Such form must be completed and returned to the executive director of the board together with the renewal fee of three dollars on or before the thirty-first day of December. The failure of any licensee to renew her license annually shall suspend the right of such person to practice in this state as a licensed practical nurse. A penalty fee of one dollar, in addition to the renewal fee, shall be required where the licensee fails to file the renewal application within the time provided for in this section.

A roster shall be compiled by the executive director of the board. Any nurse, upon payment of one dollar, who voluntarily places her name on such roster on or before the first day of January in the year she desires to retire temporarily from the practice of nursing may be relicensed in any subsequent year by paying the current annual fee for a certificate of licensure without incurring any penalty. Nurses who have not placed their name on such roster shall be subject to payment of the required renewal fee as specified.

§ 7. **Amendment.)** Section 43-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-09. Revocation of License—Hearing—Furnishing Information to Other States.) The board may revoke any license issued under the provisions of this chapter for gross incompetency, dishonesty, or any other act which shall constitute just cause for such revocation. Such revocation shall be by a majority vote of the entire board and after a hearing has been held on specific charges filed against such licensee, which charges shall be made in writing under oath and filed by the executive director. A certified copy of the charges and a notice of the hearing before the board shall be served on the licensee whose license is sought to be revoked not less than twenty or more than thirty days prior to the hearing on such charges. The board shall furnish to the boards of nursing of other states, a list of names and addresses of persons whose licenses have been revoked for cause.

§ 8. **Amendment.)** Section 43-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-21-11. Accredited Educational Courses for Practical Nurses.) Any institution, under rules and regulations to be adopted by the board, which shall be qualified to conduct a course for educating practical nurses, shall apply to the board and submit an application giving evidence that it is prepared to give a course of not less than nine months nor more than twelve months for preparing practical nurses, and that such institution further is able to meet standards prescribed by statute and the board for the education of practical nurses. A fee of twenty-five dollars shall accompany such application. Upon receipt of such application and fee, the board shall make a survey of the institution. If, in the opinion of the members of the board, the requirements for an accredited course for educating practical nurses are met by such institution, it shall approve the institution as qualified to give an accredited course for education of practical nurses. It shall further be the duty of the board to survey all schools for the education of practical nurses annually. Written reports of such survey shall be prepared. If the board shall determine, as a result of such survey, that any institution heretofore accredited as a school for education of practical nurses, is not maintaining the standards required by law and by the rules and regulations of the board, notice thereof shall immediately be given to such school. If requirements of the board are not complied with within a reasonable time set by the board in such notice, such school shall be removed from the list of accredited

schools authorized to offer courses for the education of practical nurses within this state.

§ 9.) Two licensed practical nurses, as defined in section 43-21-01, shall be appointed by the governor as representatives on the board of nursing to serve four year terms. Appointments shall be made from a list of three licensed practical nurses submitted by the North Dakota licensed practical nurses association. Appointees shall be present for those sessions of the state board of nursing pertaining to practical nursing. No appointee shall serve for more than two successive terms.

Such person must have the following qualifications:

1. Is licensed in North Dakota;
2. Has resided at least four years in North Dakota;
3. Is currently engaged in practical nursing; and
4. Has had at least five years' experience in practical nursing.

Approved March 16, 1963.

CHAPTER 314

S. B. No. 143
(Brooks, Robinson, Lips)

VETERINARY PRACTICE ACT

AN ACT

Establishing a veterinary practice Act; defining its purposes; providing for the appointment, qualifications and terms of office of the state board of veterinary medical examiners, its officers and meetings of the board, the examination of applicants for license to practice veterinary medicine and the issuance of certificate of qualification to applicants passing examination and temporary permits pending examinations; authorizing the board to make rules and regulations, enter into reciprocal agreements with examining boards of other states and nations, adopt a code of ethics and make inspections of premises; fixing the compensation and expenses of members of the board and officers; prohibiting the practice of veterinary medicine, surgery, or dentistry without a certificate or permit issued by the board and prior graduation from an approved school, college or university; fixing the fees for examination and registration, renewal fees; providing for issuance of certificate of registration, roster of registered veterinarians, change of address, display of certificate and renewal of registration on forfeiture; defining veterinary medicine; stating grounds authorizing board to refuse, suspend or revoke license and certificate of registration and providing for hearing and procedure on charges and appeal to district court; exempting certain practices from Act; fixing penalty for unlawful practice of veterinary medicine; declaring effect of invalidity of part of Act; and repealing chapter 36-02 of the North Dakota Century Code.

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

§ 1. Purpose of the Act.) This Act shall be deemed an exercise of the police powers of the state of North Dakota acting through the legislative assembly to the end that the general welfare of the agricultural public, the livestock industry and the people as a whole will be preserved and enhanced through the control and supervision hereby vested in the North Dakota state board of veterinary medical examiners, in licensing of veterinarians, defining their scope of activity in treatment of livestock, fixing their responsibility in the conduct of their practice, and preventing unqualified persons from engaging in such practice by instituting the necessary legal proceedings for the law's proper enforcement.

§ 2. State Board of Veterinary Medical Examiners—Appointments — Qualifications — Terms — Vacancies.) The state board of veterinary medical examiners shall consist of three members appointed by the governor for terms of three years each, with their terms of office so arranged that one term

and only one shall expire each year. Members of the board shall hold their respective offices until their successors are appointed and qualified. Each member shall be a reputable, practicing and licensed veterinarian in North Dakota for five years immediately prior to the appointment, and shall be the holder of a diploma or degree granted by a veterinary school, or by a college or university recognized by the American veterinary medical association.

The North Dakota veterinary medical association shall, at each annual meeting nominate three veterinarians qualified to serve on the state board of veterinary examiners. Such names shall be certified to the governor by the secretary of such association and the appointment by the governor shall be made from the nominees so submitted.

If any vacancy occurs on the board due to resignation, death, removal from the state, or suspension as herein provided, or for any other reason, the governor shall fill such vacancy from the roster of qualified licensed veterinarians within the state until the next succeeding first day of July.

The governor may, after due notice and hearing, remove any member of the board of veterinary examiners for misconduct, incapacity, or neglect of duty.

§ 3. Officers of Board — Seal — Meetings — Limitations on Meetings—Examinations—Rules and Regulations—Reciprocity—Code of Ethics—Inspections.) The state board of veterinary medical examiners shall elect a president and a secretary. The board shall have a common seal, and the president and the secretary thereof may administer oaths. It shall hold meetings semiannually in the spring and fall of each year for the examination of candidates at a time and place specified by said board. This board may hold such other meetings as it may deem necessary at such time and place as it shall designate. No session of the board shall exceed two days.

A quorum of the board shall consist of two members and such quorum shall be sufficient to conduct the business and proceedings of the board set forth in this Act, except that any changes in the rules and regulations must be taken at a meeting at which all of the members are present.

The board is hereby authorized and empowered to promulgate, revise, alter, amend and enforce reasonable rules, regulations, and orders which it determines in its discretion to be necessary to the performance of its duties and the regulation of the practice of veterinary medicine; to prescribe forms for application for examination; to prepare and supervise examination of applicants for license to practice veterinary

medicine; to obtain the services of professional examination agencies in lieu of its own preparation of such examinations; to issue and revoke licenses as hereinafter provided; and to amend the code of ethics.

The board may, in its discretion, enter into reciprocal agreements with the examining boards of other states and nations, governing the granting of licenses to practice veterinary medicine and surgery in the state of North Dakota without the applicant taking a written examination. Under no circumstances, however, shall any reciprocal agreement be entered into with the board of another state or nation unless the requirements for the granting of licenses in the other state or nation are on an equal or higher standard to the requirements of North Dakota. The board may prescribe by regulation any other terms or conditions to be contained in any such agreements. The fee for license by reciprocity agreement shall be twenty-five dollars.

It shall be the duty of the board of veterinary examiners to adopt as the code of ethics for the practice of the veterinary profession in this state the principles of veterinary medical ethics adopted by the house of delegates of the American veterinary medical association August 13, 1960, and approved by the North Dakota veterinary medical association June 18, 1962, and any amendments or changes thereof.

The board or an authorized representative may at any time inspect the premises in which veterinary medicine, surgery, or dentistry is being practiced.

§ 4. Record of Proceedings of Board—Register of Applicants Kept by Board—Records and Register as Evidence.) The state board of veterinary medical examiners shall keep a record of all its proceedings and also a record or register of applicants for licenses showing as to each such applicant his name, time spent by him in the study and practice of veterinary medicine, surgery, or dentistry, and the name and location of the school, college, or university which granted him a degree or diploma. Such books and records shall be prima facie evidence of the matters recorded therein.

§ 5. Compensation and Expenses of Members of Board.) Each member of the board shall receive the sum of twenty-five dollars for each day actually engaged in attending meetings of the board, and all necessary traveling expenses actually incurred in attending such meetings. The secretary or any member of the board shall receive the sum of twenty-five dollars per day and necessary traveling expenses for each day actually engaged as a witness in cases of prosecution that originate under any provision of this Act.

The secretary of the board shall receive a salary of fifty dollars a month, such compensation to be paid out of the state treasury from the funds received under the provisions of this Act.

Each biennium the secretary must furnish the state budget board with suggested budget requirements for the following two years.

The board may select one of its members to attend the annual meeting of the national organization of state examining boards. The member so selected shall receive his necessary traveling and hotel expenses.

The board shall incur no expense exceeding the sum received as fees, as hereinafter provided.

§ 6. Graduation from Recognized School and Certificate or Permit from Board Required—Application for License.) No person shall practice, or hold himself out as a practitioner in veterinary medicine, surgery, or dentistry, or any department thereof, unless he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the American veterinary medical association, nor unless he possesses a certificate or permit issued by the state board of veterinary medical examiners which is in full force and effect.

Any person qualified under the provisions of this Act, desiring to begin the practice of veterinary medicine or veterinary surgery in the state of North Dakota, shall make application to said board for license to do so. Such application shall be made at least thirty days prior to the meeting of the board. The board shall give public notice of the time and place for the examination.

§ 7. Fees for Examination and Registration—Renewal Fees—Certificate of Registration—Roster of Registered Veterinarians—Change of Address—Display of Certificate—Renewal of Registration Upon Forfeiture.) A person applying for examination and registration under this chapter shall present his diploma or certificate to the board and shall pay in advance to the secretary of the board a fee of twenty-five dollars. Annually thereafter, for such time as he shall continue practice, he shall pay a renewal registration fee of not less than five and not more than ten dollars annually as determined by the board, based on the financial needs of the board. The renewal registration fee shall be paid by all licensed veterinarians.

All veterinarians actually engaged and employed as such by the state, county, city, or by any corporation, firm or

individual are practicing veterinary medicine and shall secure a state license or certificate of qualification issued by the state board of veterinary examiners.

Each person licensed by the state board of examiners shall on or before the first day of July of each calendar year be required to pay the annual registration fee to the secretary. Before the first day of June of each calendar year the secretary of the board shall send a notice to each veterinarian who holds a license to practice veterinary medicine in the state, whether resident or not, at his last address, that his annual registration fee is due on or before the first day of July.

The secretary of the board shall issue a certificate of registration upon the payment of the required fee and publish biennially for proper distribution a roster of all veterinarians registered in the state of North Dakota, as soon as the registration for each two-year period is completed.

Each veterinarian licensed by the board, whether a resident or not, shall notify the secretary of any change in his office address or employment within sixty days after such change has taken place. Any person licensed to practice veterinary medicine after the fifteenth day of April, or any person issued a temporary permit to practice veterinary medicine after that date, is exempt from this requirement to pay the annual registration fee until the first day of July of the year following licensure.

Registration shall be deemed a condition precedent to the practice of veterinary medicine and surgery in this state, and a certificate of registration currently in effect must be on display at all times in the office of each veterinarian engaged in active practice.

Any person registered under this chapter who may have forfeited his registration by nonpayment of fees may renew the same within two years without examination by paying such fees.

The board may by rule waive the payment of the registration fee of a licensed veterinarian during the period when he is on active duty in connection with any branch of the armed forces of the United States.

§ 8. Certificate of Qualification Issued to Applicants Passing Examination—Conclusiveness of Certificate—Re-Examination.) The board shall issue a certificate of qualification to each applicant who passes such examination as the board may require and who is qualified under the provisions of this Act. Such certificate shall be signed by the president and the secretary of the board and shall remain in force upon payment of the renewal registration fee becoming due thereafter, and

so long as the holder complies with the provisions of this chapter. Notwithstanding the payment of such fee, his license may be suspended or revoked as provided hereinafter in this chapter.

Any applicant for license who shall fail to satisfy the board of veterinary medical examiners as to his qualifications may, upon application be re-examined within not less than six months upon payment of an additional fee of twenty-five dollars.

§ 9. Permit to Practice Issued by Secretary of Board.) Any person who desires to practice veterinary medicine, surgery, or dentistry may apply to the secretary of the state board of veterinary medical examiners for a permit to practice if he possesses a degree or diploma showing that he is a graduate of the veterinary course offered in a veterinary school or in a college or university recognized by the American veterinary medical association. Upon the payment of fifteen dollars by the applicant, the secretary, if he is satisfied that the applicant is a qualified and a suitable person, shall issue to him a permit to practice until the next examination is offered by the board. Such permit shall have the same force as a certificate from the board, but shall expire upon the adjournment of the next meeting thereof at which an examination is held.

Senior veterinary students who practice in the office of, and under the direct supervision of, a licensed veterinarian must obtain a temporary permit to practice veterinary medicine in this state. This temporary student permit shall not exceed four months from its date of issuance and will be granted without payment of a fee.

§ 10. Display of License and Certificate.) No person shall practice veterinary medicine in the state of North Dakota without possessing and displaying prominently in his or her principal office a license and a current and valid certificate of renewal issued pursuant to the provisions of this Act.

§ 11. Fees Collected Paid Into General Fund.) All fees collected under this chapter by the state board of veterinary medical examiners shall be paid into and shall become a part of the general fund of this state.

§ 12. Veterinary Medicine Defined.) Any person is conclusively presumed to practice veterinary medicine, surgery, and dentistry, and the various branches thereof when he does any one of the following:

1. Represents himself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches;

2. Diagnoses or prescribes a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals;
3. Administers a drug, medicine, appliance or application or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, or application or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this Act;
4. Performs a surgical operation upon an animal;
5. Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock; or
6. Uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery or veterinary dentistry. Such use shall be prima facie evidence of the intention to represent himself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry.

§ 13. Practices Excepted from Provisions of This Chapter.)

The following persons shall not be considered to be engaging in the practice of veterinary medicine in this state:

1. Those who administer to livestock, the title to which rests in himself, or in his regular employer, or those who perform gratuitous services;
2. Those who conduct experimentation in scientific research in the development of methods, techniques, or treatment, directly or indirectly applicable to the problems of medicine, and who in connection therewith use animals;
3. Those who are regular students in a legally chartered and recognized college of veterinary medicine, while in the performance of studies and acts assigned by their instructors;
4. Those who are licensed in another state or nation when engaged in this state in consultation with veterinarians legally practicing herein, providing such consultation does not exceed thirty days in any one year;
5. Those who are senior students in an approved school of veterinary medicine and who shall obtain from the board a student permit to practice in the office and under the direct supervision of any veterinarian practicing within this state;

6. Those who are employees of the United States of America or the state of North Dakota while in the performance of their duties as such employees; or
7. Those selling drugs, medicine, household remedies, or appliances at wholesale or retail and advising as to the use and purpose of such drugs, medicine, household remedies or appliances.

§ 14. Refusal, Suspension, and Revocation of License and Certificate.) The state board of veterinary medical examiners may either refuse to issue a license or refuse to issue a certificate of registration, or suspend, or revoke a license and certificate of registration upon any of the following grounds:

1. Fraud or deception in procuring the license;
2. The publication or use of any untruthful or improper statement, or representation, with a view of deceiving the public, or any client or customer in connection with the practice of veterinary medicine;
3. Habitual intemperance in the use of intoxicating liquors, or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; or conviction of a violation of any federal or state law relating to narcotic use;
4. Immoral, unprofessional, or dishonorable conduct manifestly disqualifying the licensee from practicing veterinary medicine;
5. Gross malpractice, including failure to furnish to the board, upon written application by it, any report or information relating thereto;
6. The employment of unlicensed persons to perform work which under this chapter can lawfully be done only by persons licensed to practice veterinary medicine;
7. Fraud or dishonest conduct in applying or reporting diagnostic biological tests or in issuing health certificates;
8. Failure of the licensee to keep his premises in a reasonably clean and sanitary condition, and failure to use reasonably sanitary methods in the practice of veterinary medicine; or
9. Violation of the ethics of the profession. The code of ethics adopted by the board shall be the standard of ethics for the licensed veterinarians of this state.

§ 15. Hearing on Charges—Appeal.) Any person may prefer charges on any of the grounds as set forth in subsections 1 to 8 of section 14 by filing with the board in writing a sworn statement setting forth the specific charges upon which complaint is made. Upon receiving any such complaint the board

shall give at least twenty days' notice to the person complained about of the time and place for hearing thereon, together with a copy of the complaint filed, and after hearing all evidence and testimony presented thereon, the board shall have the power to revoke, or suspend for a limited time, the license and registration certificate of any registrant found guilty by the board of improper conduct on any of the grounds as set forth in subsections 1 to 8 of section 14. Any person whose license has been revoked by the board may within thirty days thereafter upon written notice to the board appeal to the district court in the county of his residence for a hearing *de novo* of the charges on which his license was revoked. The registrant shall have the right at any such hearing to be represented by counsel; to call witnesses in his behalf and to cross-examine adverse witnesses.

Any person whose license has been revoked may apply to the board for reinstatement and re-license, and if the board is satisfied that such conduct will be discontinued may re-issue a license to such person.

§ 16. Proceedings on Revocation or Suspension of License.)

All proceedings relative to the revocation or suspension of a license, or relative to re-issuing a license which has been revoked shall only be held when a majority of the members of such board are present at such hearings, and throughout such hearings a stenographer shall be present and take down the testimony and preserve a record of all proceedings at the hearing. The complaint, notice of hearing, proof of service of notice of hearing, which proof shall show that such notice was personally served upon the party against whom the complaint is made, and all other documents in the nature of pleadings and written motions filed in the proceedings, and all written documents presented in evidence, and the transcript of testimony, and the findings of the board on such hearing, shall constitute the record of such proceedings. Either party to the action may require that any of the matters filed with the board be presented to the district court to whom the case is appealed *de novo*.

§ 17. Unlawful Practice of Veterinary Medicine — Misdemeanor—Penalty.) Any person who shall:

1. Practice veterinary medicine, surgery, or dentistry in this state without compliance with the provisions of this chapter; or
2. Willfully and falsely claim or pretend to have or hold a certificate of registration issued by the state board of veterinary medical examiners; or
3. Willfully and falsely, with intent to deceive the public, claim or pretend to be a graduate of, or to hold a degree

or diploma showing the satisfactory completion of a course in veterinary science in a school, college or university recognized by the American veterinary medical association;

shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars and not more than five hundred dollars.

§ 18. Effect of Invalidity of Part of This Act.) If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this Act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this Act so adjudged to be invalid or unconstitutional.

§ 19. Repeal.) Chapter 36-02 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1963.

CHAPTER 315

S. B. No. 156

(Becker, Chesrown, Kautzmann, Sinner)

LICENSING DETECTIVES

AN ACT

To provide for licensing and regulating detectives and detective agencies.

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

§ 1.) The private detective business, as used in this Act, shall consist of the following: The business of making, for hire or reward, an investigation or investigations for the purpose of obtaining information with reference to any of the following matters: Crime against the state or wrongs done or threatened; the habits, conduct, movements, whereabouts, associations, transactions, reputations or character of any person, firm or corporation; the credibility of witnesses or other persons; the location or recovery of lost or stolen property; the causes, origin or responsibility for fires or accidents or injuries to real or personal property; or concerning the truth or falsity of any statement or representation; or the business of securing, for hire or reward, evidence to be used before authorized

investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases; or the business of furnishing for hire or reward guard or guards, or other persons to protect persons or property; or to prevent the theft or the unlawful taking of goods, wares and merchandise, or to prevent the misappropriation or concealment of goods, wares and merchandise, money, bonds, stocks, choses in action, notes or other valuable documents or papers, or the business of performing the service of such guard, or other person for any of said purposes.

A detective agency, as used in this Act, shall mean and include any person, firm or corporation engaged in the private detective business who employs one or more persons in conducting such business.

A private detective, as used in this Act, shall mean and include any person who, singly, conducts a private detective business without the assistance of any employee.

§ 2.) The provisions of this Act shall not apply to any detective or officer employed by or under any contract with the federal government, state or any county, city, town or village thereof, appointed, elected or contracted with, by due authority of law, while engaged in the performance of his official duties; nor to any state's attorney; nor to any attorneys or counselors at law in the regular practice of their profession; nor any person, firm or corporation whose business is the furnishing of information as to the business and financial standing and credit of persons, firms or corporation; nor to any person making any investigation of any matter in which such person or the person, firm or corporation by whom such person is solely employed is interested or involved, nor to any person making any investigation for any person, firm or corporation engaged in the business of transporting persons or property in interstate commerce, nor to any adjuster or investigator representing an insurance company or companies.

§ 3.) It shall be unlawful for any person to engage in or attempt to engage in the private detective business without a license as a private detective issued by the attorney general of the state.

§ 3a.) It shall be unlawful for any person, firm or corporation to conduct a detective agency without a license issued by the attorney general of the state.

§ 4.) The attorney general of the state shall exercise, but subject to the provisions of this Act, the following functions, powers and duties:

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

§ 5.) A person is qualified to receive a license as a private detective:

- (a) Who is at least twenty-one years of age.
- (b) Who is a citizen of the United States.
- (c) Who establishes, to the satisfaction of the attorney general, that he is a person of honesty, truthfulness and integrity.
- (d) Who has not been convicted of a felony.
- (e) Who has filed with the attorney general a bond executed by the applicant and by a reputable surety company to be approved by the attorney general in the penal sum of two thousand five hundred dollars conditioned for the faithful and honest conduct of the business of such applicant, which bond shall be in the form prescribed by the attorney general and shall be taken in the name of the People of the state of North Dakota and shall provide that any person injured by the breach of the conditions of such bond may bring an action on said bond in the name of the People of the state of North Dakota for the use of such person so injured to recover legal damages suffered by reason of such breach; provided, however, that the aggregate liability of the surety for all such damages shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving 30 days' notice in writing to the attorney general and thereafter shall be relieved of liability for any breach of condition occurring after the effective date of said cancellation.

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

§ 6.) Every person who desires to obtain a license shall apply therefor to the attorney general in writing on applications prepared and furnished by said attorney general. Each application shall contain proof of the particular qualifications required of the applicant, shall be verified by the applicant under oath, and shall be accompanied by the required fee.

§ 7.) Whenever the provisions of this Act have been complied with, the attorney general shall issue a license as a private detective. This license shall show the name and the business location of each license holder, the date on which it is issued and the date of expiration, and shall have imprinted thereon the seal of the attorney general and such other matter as shall be prescribed by the attorney general.

Each applicant shall furnish to the attorney general, in conjunction with his application for a license or for a duplicate license or for a renewal, restoration or extension of a license a signed photograph of said applicant taken not more than three years prior to the date of said application, the dimensions of which shall be prescribed by the attorney general, which photograph shall be affixed to the license issued to such applicant.

It shall be the duty of each license holder to conspicuously display his license at all times in his place of business.

Notice in writing shall be given to the attorney general by such license holder of any change of principal business location whereupon the attorney general shall issue a new license for the unexpired period without charge. A change of business location without notification to the attorney general and without the issuance by him of a new license shall automatically cancel the license theretofore issued.

The attorney general shall prepare and deliver to each license holder an identification card, the dimensions of which shall be prescribed by the attorney general, which card shall contain the name and address of the license holder, the imprint of the seal of the attorney general, and shall certify that the person whose name appears thereon is a private detective and shall contain such additional matter as shall be prescribed by the attorney general.

§ 8.) If a loss of a license is shown to the satisfaction of the attorney general, a duplicate thereof shall be issued by the attorney general upon payment of the required fee.

§ 9.) Upon payment of the required fee, the attorney general shall grant, without examination, a license to conduct a detective agency to any of the following:

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

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

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

§ 10.) Any person who violates any provision of this Act or any person who falsely states or represents that he has been or is a detective or employed by a detective agency shall be guilty of a misdemeanor or upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or imprisonment in the county jail for a term of not to exceed six months, or both.

§ 11.) Every holder of a license as a private detective or of a license to conduct a detective agency who continues in active practice shall annually on or before the first day of January of each year renew his license and pay the required renewal fee. Every license which has not been renewed during the month of January in any year shall expire on the first day of February in that year. Every holder of a license as a

private detective or a license to conduct a detective agency whose license has expired may have the same restored immediately upon payment of all lapsed renewal fees and of the required restoration fee, provided, however, that not more than one year has elapsed since the date of expiration, provided, however, that nothing herein contained shall relieve any person from criminal prosecution for engaging in practice without a license as required in this Act.

§ 12.) The attorney general may either refuse to renew or may suspend or may revoke a license for any one or any combination of the following causes:

- (a) Fraud in obtaining a license.
- (b) Violation of any of the terms and provisions of this Act.
- (c) If the holder of any license or a member of any co-partnership or an officer of any corporation has been adjudged guilty of the commission of a crime involving moral turpitude.
- (d) If the license holder is found guilty of willful betrayal of a professional secret or secrets.
- (e) Upon the disqualification or insolvency of the surety of the license holder's bond unless such license holder files a new bond with sufficient surety within thirty days after notice from the attorney general.

§ 13.) The attorney general may, upon his own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for refusal, suspension or revocation, as herein set forth, investigate the actions of any person holding or claiming to hold a license. The attorney general shall, before refusing to issue, suspending or revoking any license, at least ten days prior to the date set for the hearing notify in writing the applicant or holder of such license of any charges made and shall afford such accused person an opportunity to be heard in person or by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the accused person, or by mailing the same by registered mail to the place of business last theretofore specified by the accused person in his last notification to the attorney general. At the time and place fixed in the notice, the attorney general shall proceed to hearing of the charges and both the accused person and the complainant shall be accorded ample opportunity to present in person or by counsel, such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The attorney general may continue such hearing from time to time.

§ 14.) The attorney general shall have power to subpoena and bring before it any person in this state and to take

testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed by law in judicial procedure in civil cases in courts of this state.

§ 15.) The district court of the county wherein the accused person resides shall have power to review any order of revocation or suspension and all questions of law and fact thereon provided application therefor is made by either party within thirty days from the date of service of such order.

§ 16.) The fee to be paid by an applicant for an examination to determine his fitness to receive a license as a private detective is twenty dollars.

The fee to be paid by an applicant for the issuance of a license as a private detective is fifty dollars.

The fee to be paid by an applicant for a license to conduct a detective agency is fifty dollars, provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, a license shall be issued to such partnership or corporation without additional charge.

The fee to be paid by an applicant for the renewal of a license to conduct a detective agency is twenty-five dollars, provided, however, that if two or more of the members of a partnership or the officers of a corporation are the holders of licenses as private detectives, a license shall be issued to such partnership or corporation without additional charge.

The fee to be paid by an applicant for the renewal of a license as a private detective is twenty-five dollars.

The fee to be paid for the restoration of an expired license is ten dollars.

The fee to be paid for the issuance of a duplicate license is ten dollars.

Approved March 7, 1963.