

NORTH DAKOTA ADMINISTRATIVE CODE

Supplements 68 through 70

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Prepared by the Legislative Council staff
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Administrative Rules Committee

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TITLE 3

Board of Public Accountancy

AUGUST 1984

3-03-01-01. Hours or days required. Each applicant must have completed one hundred and twenty hours or fifteen days of acceptable continuing professional education in the three-year period immediately preceding registration with the board. A minimum of twenty-four credit hours, or three days, must be earned each year. On December 31, 1985, each licensee required to do so must have completed one hundred forty hours of acceptable continuing professional education in the immediate preceding three-and-one-half-year period and have a minimum of thirty-six hours for the period July 1, 1984, to December 31, 1985. All subsequent continuing professional education reporting dates must be on December thirty-first of each year and the hours submitted must be for that previous twelve months, January first through December thirty-first. At the end of the continuing professional education reporting year January 1, 1986, to December 31, 1986, and all subsequent continuing professional education reporting years, each applicant must have completed one hundred twenty hours of acceptable continuing professional education in the immediate preceding three-year period and have completed a minimum of twenty-four credit hours each year. A late filing fee of twenty dollars will be imposed on any licensee whose continuing professional education reports are not received by the date indicated.

History: Amended effective August 1, 1984.

General Authority: NDCC 43-02.1-02(6)(d)

Law Implemented: NDCC 43-02.1-02(6)(d)

3-03-01-03. Effective date. The continuing professional education requirements under North Dakota Century Code chapter 43-02-1 took effect July 1, 1978, or three years after the chapter's effective date. With respect to any individual, the continuing professional education requirements become effective July 1, 1978, or three years

after the individual's registration with the board of public accountancy, whichever is later. The continuing professional education requirements under North Dakota Century Code chapter 43-02.1 took effect July 1, 1978, or three years after the chapter's effective date. With respect to any individual, at the end of the first full continuing professional education reporting year following the individual's initial annual registration with the board of accountancy, the individual needs to meet the twenty-four-hour minimum requirement and will need to meet the one hundred twenty-four over three-year requirement at the end of the third full continuing professional education reporting year.

History: Amended effective August 1, 1984.

General Authority: NDCC 43-02.1-02(6)(d)

Law Implemented: NDCC 43-02.1-02(6)(d)

OCTOBER 1984

3-03-01-01. Hours or days required. On December 31, 1985, each licensee required to do so must have completed one hundred forty hours of acceptable continuing professional education in the immediate preceding three-and-one-half-year period and have a minimum of thirty-six hours for the period July 1, 1984, to December 31, 1985. All subsequent continuing professional education reporting dates must be on December thirty-first of each year and the hours submitted must be for that previous twelve months, January first through December thirty-first. At the end of the continuing professional education reporting year January 1, 1986, to December 31, 1986, and all subsequent continuing professional education reporting years, each applicant must have completed one hundred twenty hours of acceptable continuing professional education in the immediate preceding ~~three-year period~~ three reporting periods and have completed a minimum of twenty-four credit hours each year. A late filing fee of twenty dollars will be imposed on any licensee whose continuing professional education reports are not received by the date indicated.

History: Amended effective August 1, 1984; October 1, 1984.

General Authority: NDCC 43-02.1-02(6)(d)

Law Implemented: NDCC 43-02.1-02(6)(d)

3-03-01-03. Effective date. The continuing professional education requirements under North Dakota Century Code chapter 43-02.1 took effect July 1, 1978, or three years after the chapter's effective date. With respect to any individual, at the end of the first full continuing professional education reporting year period following the individual's initial annual registration with the board of accountancy, the individual needs to meet the twenty-four-hour minimum requirement and will need to meet the one hundred ~~twenty-four~~ twenty-hour over three-year requirement at the end of the third full continuing professional education reporting year period.

History: Amended effective August 1, 1984; October 1, 1984.
General Authority: NDCC 43-02.1-02(6)(d)
Law Implemented: NDCC 43-02.1-02(6)(d)

TITLE 10
Attorney General

AUGUST 1984

STAFF COMMENT: Article 10-10 contains all new material but is not underscored so as to improve readability.

ARTICLE 10-10
TRANSIENT MERCHANTS

Chapter
10-10-01 Transient Merchants

CHAPTER 10-10-01
TRANSIENT MERCHANTS

Section	
10-10-01-01	Transient Merchants to Appoint Resident Agent
10-10-01-02	Who May be Appointed as Agent
10-10-01-03	Exceptions to the Appointment of Resident Agent
10-10-01-04	Warranty Requirements Upon Application for License
10-10-01-05	Sales Tax Permit Required

10-10-01-01. Transient merchants to appoint resident agent. Any transient merchant required to be licensed pursuant to North Dakota Century Code chapter 51-04 is required to appoint a resident agent in this state pursuant to North Dakota Century Code section 51-04-07.

History: Effective August 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 51-04-07

10-10-01-02. Who may be appointed as agent. Agents appointed pursuant to North Dakota Century Code section 51-04-07 must be individual residents of this state, or corporations, partnerships, or other business entities with their principal offices or place of business located within this state.

History: Effective August 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 51-04-07

10-10-01-03. Exceptions to the appointment of resident agent. Notwithstanding section 10-10-01-01, the following categories of transient merchants are not required to appoint a resident agent in this state:

1. Any transient merchant selling merchandise only in flea markets, craft fairs, fairs, carnivals, circuses, or similar activities regulated by city or county governments, fair associations, other political subdivisions of the state, or local trade organizations.
2. Any transient merchant who has been previously licensed by this state, who has been doing business as a licensed transient merchant in North Dakota for a period of time or at least one year, immediately preceding the application pursuant to North Dakota Century Code chapter 51-04, and who has not been the subject of any of the following:
 - a. Suspension or revocation of the transient merchant's license at any time during the sixty-month period immediately preceding the filing of the current transient merchant license application.
 - b. An administrative or judicial proceeding or civil or criminal suit whereby the transient merchant was found guilty, pleaded guilty or failed to appear in regard to violations of North Dakota Century Code chapter 51-04, 51-12, or 51-15.
 - c. An administrative or judicial proceeding or civil or criminal suit whereby the transient merchant was adjudicated negligent or was determined to have violated North Dakota Century Code chapter 51-04, 51-12, or 51-15.
3. Any transient merchant selling merchandise in specific locations on a temporary basis for fourteen or more consecutive business days at each location.

History: Effective August 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 51-04-07

10-10-01-04. Warranty requirements upon application for license.

1. In addition to the application requirements of North Dakota Century Code section 51-04-02, any transient merchant required to be licensed pursuant to North Dakota Century Code chapter 51-04, shall specify which, if any, of the merchandise offered for sale by the transient merchant is the subject of a warranty provision, what type of warranty is offered for each item of merchandise, whether the warranty period still applies to the merchandise offered, and the name, address, and telephone number of the person or business that will provide service for the merchandise pursuant to the warranty.
2. Any transient merchant who does not provide the warranty information required by subsection 1 shall appoint a resident agent in the state as required by section 10-10-01-01, notwithstanding the exception provisions of section 10-10-01-03. If the merchandise offered for sale is not the subject of a warranty provision, this subsection does not require the appointment of a resident agent in this state.
3. Any transient merchant who does not provide the warranty information required by subsection 1 may not state, claim, or advertise that the merchandise offered for sale by the transient merchant is subject to any warranty.

History: Effective August 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 51-04-02, 51-04-07

10-10-01-05. Sales tax permit required. In addition to the application requirements of North Dakota Century Code section 51-04-02, any transient merchant required to be licensed pursuant to North Dakota Century Code chapter 51-04, shall obtain the required North Dakota sales tax permit, a copy of which shall be filed with the attorney general as part of the application for license.

History: Effective August 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 51-04-02

TITLE 13

Department of Banking and Financial Institutions

AUGUST 1984

13-03-06-01. Establishment of special reserve fund.

1. All credit unions operating under a charter issued by the state of North Dakota shall be required to establish a special reserve fund whenever the reserve fund required by North Dakota Century Code section 6-06-21 is inadequate for past due loans. Adequacy for past due loans shall be computed in accordance with the formula in section 13-03-06-02. When the amounts calculated under section 13-03-06-02 exceed those required pursuant to North Dakota Century Code section 6-06-21, the reserves required by North Dakota Century Code section 6-06-21 shall be considered inadequate, and the excess shall be set aside in a special reserve fund.
2. All reserve funds shall be established and adjusted at the end of each quarter of the fiscal year. If the amount of special reserve carried forward from the previous quarter exceeds the amount of special reserve required for the current quarter, the excess may be returned to undivided profits. The commissioner of banking and financial institutions may require a credit union to adjust its reserves more often, or at different times, than quarterly. The commissioner may also require a credit union to put aside additional reserves under the formula provided in section 13-03-06-03.
3. Upon application by a credit union to the state credit union board, and upon the showing of extraordinary hardship, the state credit union board may alter the reserve requirements as set forth in this chapter when, in its opinion, such an alteration is necessary or desirable.

History: Amended effective January 1, 1981; August 1, 1984.

General Authority: NDCC 6-01-04, 6-06-21.1

Law Implemented: NDCC 6-06-21.1

OCTOBER 1984

13-05-01-01. No advance fee - Exception. No Except as specified by this section, no money broker may accept any type of fee in advance, to include expense deposits, from a potential borrower for the procurement of a loan. A money broker may accept an advance expense deposit which may not exceed the money broker's good faith estimate of the actual cost of any appraisal or credit reports performed by an independent appraiser or independent credit reporting agency and required by the originating lender for the evaluation of the potential borrower's loan application. Any expense deposit that exceeds the actual cost of any appraisal or credit reports must be promptly refunded to the borrower or credited to the borrower's account at the time of the loan closing.

History: Effective February 1, 1984; amended effective October 1, 1984.

General Authority: NDCC 13-04.1-01

Law Implemented: NDCC 13-04.1-06

TITLE 45
Commissioner of Insurance

OCTOBER 1984

45-02-02-02. Applications for licenses.

1. Resident agents' applications.

- a. An application must be completed in accordance with the instruction sheet and submitted on the insurance department's application form.
- b. An application may be submitted prior or subsequent to the applicant's testing date.
- c. An application for an agent's license by a partnership must be accompanied by a certified copy of the agreement.
- d. An application for an agent's license by a corporation must be accompanied by a certified copy of the articles of incorporation.
- e. An applicant who is licensed as a nonresident agent in this state and seeks to be licensed as a resident agent must provide, with the application, a letter of clearance from the state in which the agent is currently or was most recently licensed as a resident agent. Additionally, the agent must have that state indicate whether the agent was so licensed within the preceding twelve months.
- f. An application for a corporate or partnership agent's license must be completed on the department form.
- g. A new application form is not required to add a new company unless adding an additional major category of insurance.

- h. Every application must be accompanied by the appropriate fee.
2. **Nonresident agents' applications.**
- a. An application for a nonresident agent's license must comply with subdivisions a, b, c, d, f, and h of subsection 1 and must contain a written designation of the commissioner and the commissioner's successors in office as that agent's true and lawful attorney for purposes of service of process.
 - b. An applicant for a nonresident agent's license must have the state which issued the agent's resident license, supply to the department a certificate showing the lines for which the agent is licensed and eligible to write in that state.
 - c. A new application form is not required to add a new company unless adding an additional major category of insurance.
3. **Resident and nonresident brokers' applications.**
- a. An application must be completed in accordance with the instruction sheet provided by the department and submitted on the appropriate application form.
 - b. A broker's application must be accompanied by written proof of compliance with the requirement that the broker have in force a bond in the penal sum of not less than two thousand dollars and the appropriate fee.
 - c. An application for a broker's license may not be submitted unless the applicant is currently licensed in this state as an agent, and has had two years' experience as an insurance agent or in comparable employment for an insurance company, agency, or brokerage firm during the three years immediately next preceding the date of application.
4. **Surplus lines brokers' applications.** A surplus lines insurance broker's application must be submitted in accordance with chapter 45-09-01.
5. **Consultants' applications.**
- a. An application for a consultant's license must be submitted in accordance with the instruction sheet provided by the department and submitted on the appropriate form.

- b. No person, firm, corporation, or partnership holding a license as an agent, broker, surplus lines broker, or limited insurance representative may obtain and simultaneously hold a license as a consultant. If the applicant holding such licenses at the time of application, the licenses must be terminated prior to obtaining a consultant's license.
 - c. No person may apply for a consultant's license unless the applicant has had not less than five years' experience as an insurance agent or in comparable employment for an insurance company, agency, or brokerage firm, within the ten years immediately next preceding the date of application in the area of insurance in which the applicant intends to consult.
 - d. An application may be submitted prior or subsequent to the applicant's testing date and must be accompanied by the appropriate fee.
6. **Limited insurance representatives' applications.**
- a. An application for a limited insurance representative must be submitted in accordance with the instruction sheet provided by the department and submitted on the appropriate form.
 - b. The applicant must clearly indicate in writing the specific area of insurance in which the applicant intends to conduct business and which must be exempt from the examination requirement.
7. **Temporary license applications.**
- a. An application for a temporary insurance agent's or broker's license must be submitted in accordance with subdivisions a, b, c, d, e, and h of subsection 1, subsection 2, and subsection 3 and be accompanied by the appropriate fee.
 - b. The application must be accompanied by a written statement of the reasons for requesting the issuance of a temporary license.
 - c. A temporary license will not be granted for the sole reason that the applicant has failed to pass the agents' examination and desires to be licensed until such time as a passing examination score is obtained.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-15

45-02-02-03. Examination for licensure.

1. An applicant must ~~register~~ and take the examination authorized and required by the department of insurance.
2. The examination is administered by the educational testing service through its multistate insurance licensing program.
3. The examination may be taken prior or subsequent to the date an application for the license is submitted to the department at a designated time and location on a preregistration or walk-in basis, and in compliance with all procedures required by the test administrator.
4. An applicant must present a photo identification card at the test center prior to being admitted for testing. If the applicant does not have a photo identification card, permission to take the test may be specially obtained upon application to the ~~office of the~~ insurance department.
5. There are two basic parts to each examination:
 - a. Part One is the part of the test developed as a test of general knowledge for the major categories of insurance and there are four such part ones:
 - (1) 01 Life
 - (2) 02 Accident and health
 - (3) 03 Property (fire)
 - (4) 04 Casualty
 - b. Part Two is the part of ~~the~~ each test which examines the applicant's knowledge of North Dakota law.
6. For an applicant to be qualified to conduct the business of insurance in the following lines, the applicant must take and pass the test listed immediately after it in the separate column.

a. Life insurance and annuity contracts	01 Life
b. Sickness, accident and health	02 Accident and health
c. Credit life insurance and credit accident and health insurance	01 Life and 02 Accident and health
d. Fire and allied lines	03 Property

e. Vehicle liability and vehicle damage insurance	04 Casualty
f. Comprehensive personal and general liability coverage	04 Casualty
g. Marine and transportation	03 Property
h. Credit and mortgage guarantee insurance	03 Property
i. Burglary and theft insurance	04 Casualty
j. Crop insurance	03 Property
k. Bail bonds	04 Casualty
l. Fidelity and surety insurance	04 Casualty
m. Homeowners' and farmowners' multiple peril insurance	03 Property <u>and</u> 04 Casualty
n. Commercial multiple peril insurance	03 Property and 04 Casualty
o. Property and casualty insurance sold in connection with a credit transaction	03 Property and 04 Casualty
p. Industrial fire	03 Property
q. Legal expense insurance	02 Accident and health or 04 Casualty
r. Variable annuities and variable life insurance	01 Life
s. Title insurance	03 Property <u>Exempt</u>

7. An examination is valid for as long as a person continuously holds a valid agent's or broker's license issued by the North Dakota department of insurance and for twelve months following expiration of a license, with the exception that an examination ceases to be valid immediately upon the suspension or revocation of the license unless the order of suspension or revocation specifies otherwise.

8. Licensure tests for consultants.
 - a. An applicant for a consultant license must take and pass the agent's examination for the major categories in which the applicant wishes to consult.
 - b. The applicant must comply with all provisions of this chapter regarding testing for an agent's license.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-28, 26-17.1-29, 26-17.1-30, 26-17.1-31, 26-17.1-32, 26-17.1-37

45-02-02-04. Exceptions to examination requirement.

1. Chartered life underwriter and chartered property/casualty underwriters designations.
 - a. Holders of the designation of chartered life underwriter need take only Part Two of the licensure test in order to be qualified in the life insurance category and the lines listed at subdivisions a, c, and r of subsection 6 of section 45-02-02-03.
 - b. Holders of the designation of chartered property/casualty underwriters need take only Part Two of the licensure test in order to be qualified to transact business in the accident and health, property and casualty categories and lines listed at subdivisions b, d through q, and s of subsection 6 of section 45-02-02-03.
2. If an applicant previously held a like license in another state with which North Dakota has reciprocal agreements within twelve months prior to the application for license of this state, the applicant need take only Part Two of the licensure test covering North Dakota law and administrative rules.
3. Consultants' exemption.
 - a. If an applicant holds a chartered life underwriter or chartered property/casualty underwriters designation, the exemptions in subsection 1 of section ~~45-02-01-04~~ 45-02-02-04 apply.
 - b. Subsection 2 applies to consultant examinations.
 - c. If an applicant holds an agent's or broker's license in North Dakota, the applicant is exempt from the testing requirements; however, the applicant must terminate all other licenses prior to obtaining a consultant's license.

- d. Upon application, it may be shown that the educational background or work experience record are adequate basis to grant an exemption from testing. A narrative must be included with the application.
4. An applicant applying for a license for title insurance is exempt from any examination requirement but must meet the following qualifications:
- a. The applicant must be a licensed abstractor or attorney; or
 - b. The applicant must have a minimum of eighty hours of training provided by the appointing insurer. A certification by the appointing insurer that the training has been completed, must accompany the application.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-35

45-02-02-05. Effective date of license - New line - New company appointment - Renewals.

1. Resident agent.

- a. An applicant who has filed a completed application for a resident agent's license with the department of insurance may first transact business under that license effective the date the applicant receives a passing test score report from the testing service.
- b. An applicant who passes the examination prior to the filing of a completed application with the department may first transact business effective the date the company, through which the license is issued, signed the appointment. The company is responsible for notifying the agent of the appointment date. A completed application must be filed with the department within forty-five days of the date the applicant signed the application for the license to remain effective and mailing the completed application to the department on that appointment date.
- c. An agent who is adding a new line of insurance may first transact business in that new line effective the same date as the effective date if the agent were obtaining a new license under the provisions of subdivision a or b.
- d. An agent who is adding a new company may first transact business under that new appointment effective the date of

that appointment. ~~A letter of~~ An appointment form must be mailed to the department on the day the ~~letter~~ appointment is signed.

2. Nonresident agent.
 - a. An applicant who has filed a completed application for a nonresident license with the department may first transact business under the license when the license is physically in the possession of that applicant.
 - b. A nonresident agent who is adding a new line of insurance may first transact business in that new line effective the date the license with the new line added is physically in the possession of the agent.
 - c. A nonresident agent who is licensed for the appropriate category of insurance and who is adding a new company may first transact business under that new appointment effective the date of that appointment. ~~A letter of~~ An appointment form must be mailed on the day the ~~letter~~ appointment is signed.
3. A person obtaining a broker, surplus lines broker, limited representative, temporary, or consultant license may first transact business under that license effective the date the license is physically in the possession of that person.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-13.1, 26-17.1-15

45-02-02-06. Appointment procedure - Terminations.

1. The appointment of an agent who is a new agent shall be contained in the application form submitted to the department of insurance to obtain that new license.
2. The appointment of an agent licensed for a new major category of insurance shall be contained in the application form submitted to the department.
3. The appointment of an agent when the agent is already licensed for the appropriate major categories and lines of insurance is accomplished through an agreement or contract between the company and the agent. A new application form is not required with such an appointment. However, for that appointment to become effective the company must provide notice of the appointment to the department ~~by letter.~~ ~~The letter shall include the full name and social security number of the agent, the federal employee~~

identification number of the appointing company, and a statement that "The appointing company assumes full and complete responsibility for the acts of this agent without regard to any technical distinction between this relationship and that which exists in law between 'principal and agent'." on the appropriate appointment form and also provide with that form the required fee. The form must include the following statement: The appointing company assumes full and complete responsibility for the acts of this agent without regard to any technical distinction between this relationship and that which exists in law between "principal and agent" until the appointment process has been completed and is limited to the relationship among the proposed insured, the agent and the appointing company. Such ~~letter~~ appointment form must be signed by the appointed appointing company representative and ~~filed with~~ mailed to the department within forty-five days of the date of that signature and be accompanied by the appropriate fee on the date the letter is signed.

- 4- Appointments of agents which are made through one representative for a group of companies may be made in one letter; however, a fee is payable for each company appointment of each agent.
- 5- 4. If a company desires to limit the appointment to specified categories or lines of insurance, such limitation must be clearly set out in the applications or ~~letter~~ of appointment forms.
- 6- 5. The fees for all appointments shall be submitted with the ~~letters~~ of appointment forms.
- 7- 6. Notice of termination of all appointments shall be provided by the company to the department only on an annual basis and only by lining out the agent on the renewal list, on or before May first of each year unless the agent was terminated for any of the grounds listed in North Dakota Century Code section 26-17.1-42, in which case notification shall be submitted immediately. Such immediate notice shall specify the grounds for the termination. The company is responsible for notifying the agent of the termination.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-13, 26-17.1-13.1, 26-17.1-15

45-02-02-07. Renewal procedure for license.

1. On or before March ~~first~~ fifteenth of each year, a computerized renewal list of the agents appointed by that company, together with an instruction letter, will be furnished by the department to each company.
2. The company shall designate on that list which agents it does not wish to renew, and return the list to the department within the time frame set out in the cover letter.
3. The renewal list shall be the company's record of its appointed agents.
4. The company shall pay the appropriate fee for all appointments which were renewed, along with the renewal list prior to May first.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-13.1

45-02-02-11. Agents selling variable life and annuity contracts.

All applicants for a license to do business in the line of insurance set out in subdivision r of subsection 6 of section 45-02-02-03, must first become licensed as a securities salesman under North Dakota law and provide written proof of such licensure along with the application a copy of their North Dakota securities license or a verification letter from the securities commissioner.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC 26-17.1-07

45-02-02-13. Proceedings, hearings, and appeals. All proceedings, hearings, and appeals under this chapter and North Dakota Century Code chapter 26-17.1 shall be governed by North Dakota Century Code chapter 28-32. Change of address. The change of address required by North Dakota Century Code section 26-17.1-34 must be provided to the department on a letter or form separate from the application or appointment forms and submitted solely for that purpose.

History: Effective September 1, 1983; amended effective October 1, 1984.

General Authority: NDCC 26-17.1-55

Law Implemented: NDCC ~~26-17.1-45~~ 26-17.1-34

45-02-02-14. Excessive or unnecessary coverage - When presumed a violation. An agent or broker is presumed to have violated

subsection 13 of North Dakota Century Code section 26-17.1-42 when the agent or broker knowingly solicits, procures, or sells a medicare supplement policy containing both A and B coverage to any person who has such a medicare supplement policy in force unless the insured is informed by the agent and understands, there is to be a replacement of the existing policy and there is an indication in writing or on the face of the application that the new policy is intended to replace the existing policy. It is not presumed to be a violation to solicit and sell a second policy which provides only B coverage. A violation may occur in other situations where there is the sale or solicitation of unnecessary or excessive coverage, even though no presumption has been established under this section.

History: Effective October 1, 1984.
General Authority: NDCC 26-17.1-55
Law Implemented: NDCC 26-17.1-42

45-02-02-15. Proceedings, hearings, and appeals. All proceedings, hearings, and appeals under this chapter and North Dakota Century Code chapter 26-17.1 are governed by North Dakota Century Code chapter 28-32.

History: Effective October 1, 1984.
General Authority: NDCC 26-17.1-55
Law Implemented: NDCC 26-17.1-45

Chapter 45-03-08 contains all new material but is not underscored so as to improve readability.

CHAPTER 45-03-08 RETURN OF PREMIUM

Section	
45-03-08-01	Policies On Which Refund Not Required
45-03-08-02	Policy Forms
45-03-08-03	Premiums On All Other Policies

45-03-08-01. Policies on which refund not required. An insurer may provide a refund of premium for life insurance policies, guaranteed renewable accident and health policies and crop/hail policies; however, such refund is not required and policy forms permitting no refund may be approved by the insurance department.

History: Effective October 1, 1984.
General Authority: NDCC 28-32-02
Law Implemented: NDCC 26.1-24-03

45-03-08-02. Policy forms. The term "policy form" as used in subsection 3 of North Dakota Century Code section 26.1-24-03 includes annual rates, rating plans, and rating rules filed and approved under North Dakota Century Code section 26.1-25-04. Such rates, plans, and rules may constitute the basis for an exception to the refund provision set out in subsection 3 of North Dakota Century Code section 26.1-24-03.

History: Effective October 1, 1984.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-24-03

45-03-08-03. Premiums on all other policies. Premiums on all other policies are refundable in accordance with subsection 3 of North Dakota Century Code section 26.1-24-03 and the policy form filed with the insurance department.

History: Effective October 1, 1984.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-24-03

APPENDIX II (Article 45-05)

UNDERTAKING

The undersigned, pursuant to North Dakota Century Code chapter 26-41, the North Dakota Auto Accident Reparations Act, being the owner of one or more motor vehicles as a condition to the issuance of a certificate of self-insurance, hereby executes this undertaking and agrees as follows:

1. The undersigned will respond in the payment of the minimum security requirements as provided under North Dakota Century Code chapter 26-41.
2. The undersigned will promptly and efficiently administer all claims made by injured persons, or their successors, and make payment of no-fault benefits to them resulting from accidental bodily injuries sustained in motor vehicles owned by the undersigned.
3. The undersigned agrees and understands that North Dakota Century Code chapter 26-41 imposes an absolute liability at law for payment of basic no-fault benefits as a result of being the owner of motor vehicles.
4. The undersigned agrees that the undersigned and any other person occupying the undersigned's motor vehicle or motor vehicles with the expressed or implied permission of the undersigned shall be insured against loss from the liability

acknowledged the execution of the foregoing and swore to the contents thereof this _____ day of _____, 19 ____.

My commission expires _____

Notary Public

FOR DEPARTMENT USE ONLY

Undertaking approved _____ Date _____
Chief Examiner

Undertaking approved _____ Date _____
Commissioner of Insurance

History: Amended effective October 1, 1984.

TITLE 48
Livestock Sanitary Board

SEPTEMBER 1984

48-02-01-03. **Cattle.** Tests for brucellosis shall be conducted by a state or federal laboratory or by a veterinarian approved in the state of origin.

1. **Tuberculosis.** No test is required on cattle identified as originating directly from tuberculosis-free accredited herds or states. All other cattle over twelve months of age must be negative to the tuberculosis test within thirty days prior to entry.
2. **Brucellosis.** "Brucellosis test" means the blood agglutination test conducted at the state-federal laboratory in Bismarck. Vaccination is required. No female cattle over twelve months (three hundred sixty-five days) of age may be imported unless officially calfhood vaccinated against brucellosis and properly identified. Exempted from this requirement are cattle entering licensed quarantined feedlots.
3. **Permits.** Permits shall be required on all female cattle over twelve months (three hundred sixty-five days) of age. Permits shall be required on all cattle originating from any state where scabies may be introduced in shipments originating from such state as determined by the judgment of the board.
4. **Dipping.** Dipping in a solution approved by the board shall be required on all cattle originating from states where scabies permits are required. Two dippings, ten to fourteen days apart, may be required on cattle originating from states determined by the board to have a large number of infested herds. In lieu of dipping, treatment with ivermectin administered by a licensed accredited veterinarian in accordance with the United States department of agriculture,

guidelines for veterinary services, found in 9 CFR Part 73 is acceptable.

History: Amended effective April 1, 1980; June 1, 1983; September 1, 1984.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

48-04-01-06. Cattle scabies. Scabies affected or exposed cattle must be quarantined and ~~dipped under supervision.~~ Reinspection after dipping is required. treated with ivermectin in accordance with the United States department of agriculture, guidelines for veterinary services, found in 9 CFR Part 73.

History: Amended effective September 1, 1984.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

48-04-01-07. Sheep scabies. Scabies affected or exposed sheep must be quarantined and ~~dipped under supervision.~~ Reinspection after dipping is required. treated with ivermectin in accordance with the United States department of agriculture, guidelines for veterinary services, found in 9 CFR Part 74.

History: Amended effective September 1, 1984.

General Authority: NDCC 36-01-08

Law Implemented: NDCC 36-01-08

TITLE 69
Public Service Commission

SEPTEMBER 1984

69-05.2-05-03. Permit applications - Fees. A permit application filing fee shall be included with each application for a permit and shall be computed as follows: a nonrefundable filing fee in the amount of two hundred fifty dollars plus a refundable filing fee in the amount of ten dollars per acre {0.40 hectare} or fraction of an acre {0.40 hectare} for all lands included within the proposed permit area. Permit revision applications that propose additional acreage to be included within the permit area because of incidental boundary changes shall only be subject to the refundable ten dollar per acre {0.40 hectare} filing fee. All other permit revision applications shall not be assessed a filing fee. The ten dollar per acre {0.40 hectare} fee shall be refunded to the permit applicant in the event the permit application or any revisions thereto, for which such fee is required, is rejected by the commission or withdrawn by the permit applicant prior to approval by the commission.

History: Effective August 1, 1980.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-13

Repealed effective September 1, 1984.

69-05.2-09-18. Permit applications - Operations and reclamation plans - Auger mining. If auger mining operations are proposed to be conducted, the permit applicant shall submit a plan which explains how the permit applicant intends to comply with the requirements of section 69-05.2-13-12 and subsection 1.1 of North Dakota Century Code section 38-14.1-24. This plan must contain, at a minimum:

1. A description of the augering methods to be used.
2. An identification, on a map, where augering operations will be conducted.
3. A description, with sufficient detailed supporting information, of how the permit applicant intends to ensure the long-term stability of the augered area. This description should contain specific engineering designs which will ensure that:
 - a. Material backfilled into the auger holes can be compacted to provide sufficient strength to the material to prevent subsidence;
 - b. The coal remaining between the auger holes and the overlying overburden is of sufficient strength to prevent subsidence; or
 - c. The auger mined area can be collapsed in a controlled manner through the use of explosive or other techniques which will eliminate any possible future subsidence.
4. A description of how all auger holes will be sealed to prevent pollution of surface and ground water.

History: Effective September 1, 1984.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-14, 38-14.1-24

69-05.2-13-12. Performance standards - General requirements - Auger mining.

1. Auger mining must be conducted so as to maximize the utilization and conservation of the coal resources in accordance with subsection 1 of North Dakota Century Code section 38-14.1-24.
2. The surface coal mining operator who conducts augering operations shall:
 - a. Prevent subsidence to the extent technologically and economically feasible by one of the following methods:
 - (1) Backfilling the auger holes with material sufficient to assure the long-term stability of the site.
 - (2) Utilizing measures consistent with known technology which assure the long-term structural stability of the augered area; or

- b. Adopt mining technology which provides for planned subsidence in a predictable and controlled manner.
- 3. The operator shall correct any material damage caused to surface lands by reclaiming the land surface in accordance with the appropriate requirements of North Dakota Century Code chapter 38-14.1 and this article.
- 4. All auger holes must be sealed with an impervious noncombustible material as contemporaneously as practicable to prevent pollution of surface and ground water.
- 5. All drainage from auger holes must be contained and treated to meet water quality standards and effluent limitations of section 69-05.2-16-04.
- 6. Auger holes shall not come within five hundred feet [152.4 meters] of any underground mine workings, except as approved in accordance with section 69-05.2-13-06.

History: Effective September 1, 1984.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-05.2-16-04. Performance standards - Hydrologic balance - Water quality standards and effluent limitations.

- 1. The operator shall comply with the following water quality standards and effluent limitations:
 - a. All surface drainage from the disturbed area, including disturbed areas that have been graded, seeded, or planted, shall be passed through a sedimentation pond or a series of sedimentation ponds before leaving the permit area.
 - b. Sedimentation ponds and other treatment facilities shall be maintained until the disturbed area has been restored, the vegetation requirements of chapter 69-05.2-22 have been met, and the quality of the untreated drainage from the disturbed area meets the applicable state water quality standards requirements for the receiving stream.
 - c. The commission may grant exemptions from these requirements only when:
 - (1) The disturbed drainage area within the total disturbed area is small; and
 - (2) The permittee or operator demonstrates that sedimentation ponds and treatment facilities are not necessary for drainage from the disturbed drainage areas to meet the effluent limitations ~~in the~~

~~table included~~ referenced in subdivision g and the applicable state water quality standards for downstream receiving waters.

- d. For the purposes of this chapter only, "disturbed area" shall not include those areas in which only diversion ditches, sedimentation ponds, or roads are installed in accordance with this article and the upstream area is not otherwise disturbed by the operator.
- e. Sedimentation ponds required by this section shall be constructed in accordance with the plans in the approved permit before beginning any surface mining activities in the drainage area to be affected.
- f. Where a sedimentation pond or series of sedimentation ponds is used so as to result in the mixing of drainage from the disturbed areas with drainage from other areas not disturbed by current surface coal mining and reclamation operations, the operator shall achieve the effluent limitations ~~set forth~~ referenced in subdivision g for all of the mixed drainage when it leaves the permit area.
- g. Discharges of water from areas disturbed by surface mining activities shall be made in compliance with all ~~state laws and regulations and, at a minimum, the following effluent limitations:~~ applicable state laws and rules and with the effluent limitations for coal mining adopted by the North Dakota state department of health pursuant to North Dakota Century Code chapter 61-28.

Effluent limitations, in milligrams per liter, except for pH

Effluent characteristics	Maximum allowable*	Average of daily values for thirty consecutive discharge days*
Iron, total	7.0	3.5
Total suspended solids	45.0	30.0
pH	within the range 6.0 to 9.0	

* Based on representative sampling.

2- A discharge from the disturbed areas is not subject to the effluent limitations of this section, provided the operator has demonstrated to the commission that the following prerequisites have been met:

a- The discharge is caused by precipitation or snowmelt, and

b- The discharge is from facilities designed, constructed, operated, and maintained in accordance with the requirements of this chapter.

3- 2. Adequate facilities shall ~~shall~~ must be installed, operated, and maintained to treat any water discharged from the disturbed area so that it complies with all state laws and ~~regulations~~ rules and the effluent limitations of this section.

History: Effective August 1, 1980; amended effective September 1, 1984.

General Authority: NDCC 38-14.1-03

Law Implemented: NDCC 38-14.1-24

69-09-02-35. Installation and maintenance - Conformance to National Electrical Safety Code. The installation and maintenance of electric supply and communication lines shall conform to rules and regulations established in the ~~1977~~ 1984 edition of the National Electrical Safety Code, issued ~~February 28, 1977~~ July 15, 1983, which is adopted by reference.

History: Amended effective September 1, 1984.

General Authority: NDCC 49-02-04

Law Implemented: NDCC 49-02-04, 49-20-02

TITLE 75

Department of Human Services

AUGUST 1984

AGENCY SYNOPSIS: This proposed amendment amends subsection 3 of section 75-04-02-07 to permit a provider's dissolution provisions to be other than in the provider's Articles of Incorporation, and to limit the application of the transfer approval requirement to assets which have been purchased in whole or in part with funds loaned or granted by the state or with the state's necessary approval.

75-04-02-07. Articles and bylaws of provider.

1. The articles, bylaws, or constitution of the provider shall identify developmentally disabled persons as eligible recipients of the provider's services and the provisions of those services as a purpose of the organization.
2. The articles, bylaws, or constitution of the provider shall authorize the governing board to enter into contracts, agreements, or any other arrangement to secure funds to provide services consistent with the provider's purpose.
3. The provider's dissolution provisions of the articles of incorporation shall provide that the assets of the organization, which have been purchased, in whole or in part, with funds loaned or granted by the state or with the state's necessary approval, shall inure to the benefit of developmentally disabled persons and shall further provide that the ownership of property, equipment, and vehicles, purchased in whole or in part with state funds, such assets shall be transferred subject to the approval of the department.

History: Effective April 1, 1982; amended effective August 1, 1984.

General Authority: NDCC 25-16-06, 50-06-16

Law Implemented: NDCC 25-16-10

SEPTEMBER 1984

AGENCY SYNOPSIS: This amendment to North Dakota Administrative Code section 75-04-05-24 will serve to delay the effective date of North Dakota Administrative Code chapter 75-04-05 until July 1, 1985. This delay is necessitated to permit flexibility in establishing rates for developmental disability facilities during early phases of operation.

Prepared By: Blaine L. Nordwall

75-04-05-24. Application. This chapter will be applied to providers of services to developmentally disabled persons, starting the first day of a facility's first fiscal year which begins on or after July 1, ~~1984~~ 1985; provided, however, that neither this section, nor the effective date, shall preclude the application and implementation of some or all of the provisions of this chapter through contract or through official statements of department policy.

History: Effective July 1, 1984; amended effective July 1, 1984.

General Authority: NDCC 25-01.2-18, 50-06-16

Law Implemented: NDCC 25-15-01, 25-16-10, 50-24.1-01

