

CHAPTER 326

EMPLOYMENTS LICENSED BY STATE

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### 326.01 DEFINITIONS.

Subdivision 1. **Words, terms and phrases.** For the purpose of this chapter, the terms defined in this section have the meanings ascribed to them.

Subd. 2. **Class A master electrician.** The term "Class A master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes who is licensed as such by the board of electricity.

Subd. 3. **Class A journeyman electrician.** The term "Class A journeyman electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes who is licensed as such by the board of electricity.

Subd. 4. **Special electrician.** The term "special electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of special classes of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes or for special classes of electrical work who is licensed as such by the board of electricity. The scope of any special electrician license created by the board under section 326.242, subdivision 4, shall be limited to that provided for by the rules adopted by the board.

Subd. 5. **Electrical contractor.** The term "electrical contractor" means a person, partnership, or corporation operating a business that undertakes or offers to undertake to plan for, lay out, or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes with or without compensation who is licensed as such by the board of electricity. An electrical contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's license.

Subd. 6. **Class B master electrician.** The term "Class B master electrician" means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for single phase systems of not over 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2500 inhabitants who is licensed as such by the board of electricity.

Subd. 6a. **Class B journeyman electrician.** The term “Class B journeyman electrician” means a person having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for single phase systems of not more than 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2500 inhabitants who is licensed as such by the board of electricity.

Subd. 6b. **Class A installer.** The term “Class A installer” means a person who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances and such other electrical equipment as is determined by the state board of electricity pursuant to section 326.242, subdivision 3, on the load side of the main service on farmsteads or in any town or municipality with less than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a master electrician, and who is licensed as such by the state board of electricity.

Subd. 6c. **Class B installer.** The term “Class B installer” means a person who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install other electrical equipment determined by the state board of electricity. A Class B installer must be licensed by the board of electricity.

Subd. 6d. **Alarm and communication system.** The term “alarm and communication system” means class 2 or class 3 signaling circuits, power limited fire protective signaling circuits, class 2 or class 3 alarm systems, or communication circuits or systems, as covered by articles 725, 760, 770, 800, 810, and 820, of the National Electrical Code as that code was approved by the American National Standards Institute and was in effect on January 14, 1985.

Subd. 6e. **Owner.** An owner is a natural person who physically performs electrical work on premises the person owns and actually occupies as a residence or owns and will occupy as a residence upon completion of construction.

Subd. 6f. **Electrical work.** The term “electrical work” means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes. The installing, alteration, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes includes, but is not limited to, the performance of any work governed by the standards referred to in section 326.243.

Subd. 6g. **Personal supervision.** The term “personal supervision” means that a licensed electrician oversees and directs the electrical work performed by an unlicensed person such that:

- (1) the licensed electrician actually reviews the electrical work performed by the unlicensed person;
- (2) the licensed electrician is immediately available to the unlicensed person at all times for assistance and direction; and
- (3) the licensed electrician is able to and does determine that all electrical work performed by the unlicensed person is performed in compliance with section 326.243.

The licensed electrician is responsible for the compliance with section 326.243 of all electrical work performed by the unlicensed person.

Subd. 6h. **Complaint committee.** The term “complaint committee” means a committee of the board which is authorized by the board or other provisions of chapter 214 or sections 326.241 to 326.248 to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating violations of sections 326.241 to 326.248. The complaint committee shall consist of at least one board member, the board’s executive secretary, its assistant executive secretary, and the attorney general staff member assigned to provide legal services to the board.

**Subd. 7. Journeyman plumber.** A "journeyman plumber" is any person, other than a master plumber, who, as a principal occupation, is engaged as an employee of, or otherwise working under the direction of, a master plumber in the practical installation of plumbing.

**Subd. 8. Master plumber.** A "master plumber" is any person skilled in the planning, superintending, and the practical installation of plumbing and otherwise lawfully qualified to contract for plumbing and installations and to conduct the business of plumbing and who is familiar with the laws and rules governing the same.

**Subd. 9. Plumber's apprentice.** A "plumber's apprentice" is any person, other than a journeyman or master plumber, who, as a principal occupation, is engaged in working as an employee of a plumbing contractor under the immediate and personal supervision of either a master or journeyman plumber or plumbing contractor in learning and assisting in the installation of plumbing.

**Subd. 10. High pressure steam piping.** "High pressure steam piping" means steam piping operating under a pressure of 15 pounds or more per square inch.

**Subd. 11. Journeyman steamfitter.** A "journeyman steamfitter" is any person, other than a contracting steamfitter, who, as a principal occupation, is engaged in the practical installation of high pressure steam work.

**Subd. 12. Contracting steamfitter.** A "contracting steamfitter" is any person skilled in the planning, superintending, and the practical installation of high pressure steamfitting, and who is familiar with the laws and rules governing the same.

**Subd. 13. Steamfitter's apprentice.** A "steamfitter's apprentice" is any person, other than a journeyman or master steamfitter, who, as a principal occupation, is engaged in learning and assisting in the installation of high pressure steamfitting.

**Subd. 14. Person.** The term "person" includes an individual, partnership, association, joint stock company, trust, or corporation.

**Subd. 15. Distributor.** The term "distributor" includes any person who engages, or contracts to engage, in the distribution of motion picture films and is a resident of, or legally authorized to do business in, this state.

**Subd. 16. Exhibitor.** The term "exhibitor" includes any person who engages, or contracts to engage, in the exhibition of motion picture films and is a resident of, or legally authorized to do business in, this state.

**Subd. 17. License.** The term "license" includes the offering, intending or making of a license agreement, contract, or any type of agreement whereby a film, the distribution of which is controlled by one of the parties is to be supplied to and exhibited in a theatre owned, controlled, or operated by the other party.

**Subd. 18. Feature motion picture film.** The term "feature motion picture film" means all motion pictures, whether copyrighted or uncopyrighted, including positive and negative prints and copies or reproductions of such prints, which films contain photoplays or other subjects and are produced for public exhibition. The term shall not include films commonly known as short subjects, newsreels, trailers, serials, reissues, foreign, and western pictures, and road shows.

**Subd. 19. Exhibition season.** The term "exhibition season" means a period of 12 months as may be selected by the producer-distributor, but there shall be no lapse of time between the termination of one season and the beginning of the next.

**Subd. 20.** [Repealed, 1992 c 464 art 1 s 19]

**Subd. 21.** [Repealed, 1989 c 209 art 1 s 33]

**History:** (5872, 5887, 5887-23, 5887-30, 5887-30e) 1907 c 457 s 8; 1913 c 554 s 1; 1933 c 349 s 5; 1937 c 367 s 1,6; 1937 c 370 s 4; 1941 c 460 s 1; 1943 c 474 s 1; 1947 c 253 s 1; 1957 c 907 s 1-3; 1967 c 602 s 10-16; 1979 c 121 s 1; 1985 c 73 s 1-4; 1985 c 248 s 70; 1Sp1985 c 6 s 2; 1986 c 373 s 1,2; 1986 c 402 s 1; 1986 c 444; 1991 c 289 s 1-9

**ARCHITECTS, ENGINEERS, SURVEYORS,  
LANDSCAPE ARCHITECTS, INTERIOR DESIGNERS****326.02 LICENSURE OR CERTIFICATION OF ARCHITECTS, ENGINEERS,  
SURVEYORS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS.**

Subdivision 1. **Licensure or certification mandatory.** In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing, or offering to practice, architecture, professional engineering, land surveying, or landscape architecture, or using the title certified interior designer in this state, either as an individual, a copartner, or as agent of another, shall be licensed or certified as hereinafter provided. It shall be unlawful for any person to practice, or to offer to practice, in this state, architecture, professional engineering, land surveying, or landscape architecture, or to use the title certified interior designer, or to solicit or to contract to furnish work within the terms of sections 326.02 to 326.15, or to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is an architect, professional engineer (hereinafter called engineer), land surveyor, landscape architect, or certified interior designer, unless such person is qualified by licensure or certification under sections 326.02 to 326.15.

Subd. 2. **Practice of architecture.** Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications.

Subd. 3. **Practice of professional engineering.** Any person shall be deemed to be practicing professional engineering within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional service, such as planning, design or observation of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private structures, buildings, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the principles of mathematics and the physical and applied engineering sciences, acquired by education or training, and by experience.

Subd. 4. **Practice of land surveying.** Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

- (a) monumenting property boundaries;
- (b) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and
- (c) preparing and perpetuating maps, record plats and property descriptions.

Any person who offers to perform, holds out as being able to perform, or who does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, or landscape architect from doing any work

included in the practice of engineering, architecture and landscape architecture, if the work does not involve the establishment or reestablishment of property corners or property lines.

**Subd. 4a. Practice of landscape architecture.** Any person shall be deemed to be practicing landscape architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service in connection with the development of land areas where the dominant purpose of the service is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight and hazards. This practice shall include the location and arrangement of tangible objects and features incidental and necessary to the purposes outlined but shall not include the design of structures or facilities with separate and self-contained purposes as ordinarily included in the practice of engineering or architecture or the preparation of boundary surveys or final land plats, as ordinarily included in the practice of land surveying.

Nothing contained in sections 326.02 to 326.15 concerning landscape architects shall be construed:

- (a) To apply to a professional engineer duly registered under the laws of this state;
- (b) To apply to an architect registered under the laws of this state;
- (c) To apply to a land surveyor registered under the laws of this state;
- (d) To prevent a registered architect or professional engineer from doing landscape planning and designing;
- (e) To exclude nursery operators or other small business people from the preparation of landscape plans appropriate to the normal operation of their business;
- (f) To authorize a landscape architect to engage in the practice of architecture, engineering, or land surveying;

No person shall use the designation landscape architect or any title or device indicating or representing that the person is a landscape architect or is practicing landscape architecture unless the person is registered under the provisions of sections 326.02 to 326.15.

**Subd. 4b. Certified interior designer.** (a) For the purposes of sections 326.02 to 326.15, "certified interior designer" means a person who is certified under section 326.10, to use the title certified interior designer and who provides services in connection with the design of public interior spaces, including preparation of documents relative to non-load-bearing interior construction, space planning, finish materials, and furnishings.

(b) No person may use the title certified interior designer unless that person has been certified as an interior designer or has been exempted by the board. Registered architects may be certified without additional testing. Persons represent themselves to the public as certified interior designers if they use a title that incorporates the words certified interior designer.

(c) Nothing in this section prohibits the use of the title interior designer or the term interior design by persons not certified by the board.

(d) Nothing in this section restricts persons not certified by the board from providing interior design services and from saying that they provide such services, as long as they do not use the title certified interior designer.

(e) Nothing in this section authorizes certified interior designers to engage in the practice of architecture as defined in subdivision 2 or the practice of engineering as defined in subdivision 3.

**Subd. 5. Limitation.** The provisions of sections 326.02 to 326.15 shall not apply to the preparation of plans and specifications for the erection, enlargement, or alteration of any building or other structure by any person, for that person's exclusive occu-

pancy or use, unless such occupancy or use involves the public health or safety or the health or safety of the employees of said person, or of the buildings listed in section 326.03, subdivision 2, nor to any detailed or shop plans required to be furnished by a contractor to a registered engineer, landscape architect, architect, or certified interior designer, nor to any standardized manufactured product, nor to any construction superintendent supervising the execution of work designed by an architect, landscape architect, engineer, or certified interior designer licensed or certified in accordance with section 326.03, nor to the planning for and supervision of the construction and installation of work by an electrical contractor or master plumber as defined in and licensed pursuant to this chapter, where such work is within the scope of such licensed activity and not within the practice of professional engineering, or architecture, or where the person does not claim to be a certified interior designer as defined in subdivision 2, 3, or 4b.

**History:** (5697-1) 1921 c 523 s 1; 1933 c 404 s 1; 1945 c 380 s 1; Ex1967 c 28 s 1; 1971 c 22 s 1-3; 1973 c 245 s 1; 1975 c 329 s 1-3; 1979 c 209 s 1; 1Sp1981 c 4 art 1 s 25-29; 1986 c 444; 1992 c 507 s 3-5

### 326.03 LICENSE OR CERTIFICATE REQUIRED.

**Subdivision 1. Plans; documents.** No person, except an architect, engineer, land surveyor, landscape architect, or certified interior designer, licensed or certified as provided for in sections 326.02 to 326.15 shall practice architecture, professional engineering, land surveying, or landscape architecture, or use the title certified interior designer, respectively, in the preparation of plans, specifications, reports, plats or other architectural, engineering, land surveying, landscape architectural, or interior design documents, or in the observation of architectural, engineering, land surveying, landscape architectural, or interior design projects. In preparation of such documents, reasonable care shall be given to compliance with applicable laws, ordinances, and building codes relating to design.

**Subd. 2. Exceptions.** Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

- (a) Dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;
- (b) Two family dwellings;
- (c) Any farm building or accessory thereto; or
- (d) Temporary buildings or sheds used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters

**Subd. 3. Recording.** No plat, map, or drawing of any survey or subdivision of lands required by law to be filed or recorded with the county recorder or registered with the registrar of titles of any county, shall be filed, recorded, or registered therein unless there shall be endorsed thereon a certification by a registered land surveyor.

**Subd. 4. Exception for persons elected in office.** The provisions hereof shall not apply to any person holding an elective office when in discharging the duties thereof such person is required to do work or perform service of the character of work or service usually done or performed by an architect, engineer, land surveyor or landscape architect.

**Subd. 5. Insurance companies; rating bureaus.** The provisions of sections 326.02 to 326.15 shall not apply to inspection and service work done by employees of insurance companies, their agents, or insurance rating bureaus.

**History:** (5697-2) 1921 c 523 s 2; 1933 c 404 s 1; 1945 c 380 s 2; Ex1967 c 28 s 2; 1975 c 83 s 1; 1975 c 329 s 4,5; 1976 c 181 s 2; 1976 c 222 s 138; 1978 c 577 s 1,2; 1Sp1981 c 4 art 1 s 30; 1987 c 8 s 1; 1987 c 384 art 1 s 30; 1989 c 329 art 5 s 15; 1990 c 562 art 5 s 11; 1992 c 507 s 6

**326.031 SPECIFICATIONS FOR PUBLIC FACILITIES, USE OF BRAND NAMES.**

Any engineer, architect, certified interior designer, or other person preparing specifications with respect to a contract for the construction of any facility for the state, or any agency or department thereof, or for any county, city, town, or school district, shall at the time of submitting such specifications to the governing body of the organization requesting the specifications, submit to such body, in writing, a list showing each item in the specifications which has been specified by brand name, unless such specifications allow for the consideration of an equal.

*History: 1969 c 635 s 1; 1973 c 123 art 5 s 7; 1992 c 507 s 7*

**326.04 BOARD OF ARCHITECTURE, ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, AND INTERIOR DESIGN.**

To carry out the provisions of sections 326.02 to 326.15 there is hereby created a board of architecture, engineering, land surveying, landscape architecture, and interior design (hereinafter called the board) consisting of 20 members, who shall be appointed by the governor. Three members shall be licensed architects, five members shall be licensed engineers, one member shall be a licensed landscape architect, two members shall be licensed land surveyors, one member shall be a certified interior designer, and eight members shall be public members. Not more than one member of said board shall be from the same branch of the profession of engineering. The first certified interior designer member and seventh and eighth members shall be appointed as soon as possible and no later than 60 days after August 1, 1992, and shall serve for a term to end on January 1, 1994. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

*History: (5697-3) 1921 c 523 s 3; 1949 c 86 s 1; 1973 c 638 s 42; 1975 c 136 s 55; 1975 c 329 s 6; 1976 c 222 s 139; 1976 c 239 s 63; 1979 c 209 s 2; 1991 c 199 art 1 s 50; 1992 c 507 s 8*

**326.05 QUALIFICATIONS OF BOARD MEMBERS.**

Each member of the board shall be a resident of this state at the time of appointment. Each member except the public members shall have been engaged in the practice of the relevant profession for at least ten years and shall have been in responsible charge of work for at least five years. Each such member shall be a member in good standing of a recognized society of architects, engineers, land surveyors, landscape architects, or interior designers; and, except as provided in section 326.06, shall be a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, or certified interior designer. The certified interior design member must have passed the National Council for Interior Design Qualifications test.

*History: (5697-4) 1921 c 523 s 4; 1973 c 638 s 43; 1975 c 329 s 7; 1976 c 222 s 140; 1986 c 444; 1992 c 507 s 9*

**326.06 GENERAL POWERS AND DUTIES OF BOARD.**

Each member of the board shall receive a certificate of appointment from the governor, and, before beginning a term of office, shall file with the secretary of state the constitutional oath of office. The board shall adopt and have an official seal, which shall be affixed to all licenses granted; shall make all rules, not inconsistent with law, needed in performing its duties; and shall fix standards for determining the qualifications of applicants for certificates, which shall not exceed the requirements contained in the curriculum of a recognized school of architecture, landscape architecture, engineering, or interior design. The board shall make rules to define classes of buildings with respect



to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare.

**History:** (5697-5) 1921 c 523 s 5; 1975 c 329 s 8; 1976 c 222 s 141; 1978 c 577 s 3; 1979 c 222 s 1; 1986 c 444; 1987 c 8 s 2; 1987 c 384 art 1 s 31; 1992 c 507 s 10

### 326.07 BOARD, MEETINGS OF, OFFICERS, QUORUM.

The board shall hold meetings at such times as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide. The board shall elect annually from its members a chair, a vice-chair, a secretary and a treasurer. A quorum of the board shall consist of not less than ten members, of whom four shall be architects, landscape architects, land surveyors, or certified interior designers, three engineers, and three public members.

**History:** (5697-6) 1921 c 523 s 6; 1949 c 86 s 2; 1973 c 638 s 44; 1975 c 136 s 56; 1975 c 329 s 9; 1986 c 444; 1992 c 507 s 11

### 326.08 EXPENSES OF BOARD AND MEMBERS.

Subdivision 1. **Board.** The expenses of administering sections 326.02 to 326.15 shall be paid from the appropriation made to the board. The expenses of the board shall be paid by voucher made by the executive secretary and approved by the chair. Each member of the board shall receive \$35 for each day or portion thereof that the member attends a meeting of the board or is otherwise engaged in performing official business of the board. The members of the board shall be reimbursed for ordinary and actual expenses in the same amount and manner as state employees.

Subd. 2. **Members.** Any member of the board, the executive secretary of the board, or the attorney for the board may be authorized by the board to attend any architectural, engineering, land surveying, landscape architectural, or interior design conference or meeting held outside of this state, the major purpose of which is the consideration of problems directly associated with the registration or licensing of architects, professional engineers, land surveyors, landscape architects, or certified interior designers.

Subd. 3. [Repealed, 1976 c 222 s 209]

**History:** (5697-7) 1921 c 523 s 7; Ex1967 c 28 s 3; 1971 c 22 s 4; 1971 c 24 s 35; 1973 c 638 s 45; 1975 c 329 s 10; 1976 c 222 s 142,143; 1978 c 674 s 35; 1Sp1981 c 4 art 1 s 31; 1986 c 444; 1992 c 507 s 12

### 326.09 RECORDS OF BOARD.

The board shall keep a record of its proceedings and a register of all applicants for licensing, showing for each the date of application, name, age, educational and other qualifications, place of business, and the place of residence, whether or not an examination was required and whether the applicant was rejected or a license granted, and the date of such action. The books and register of the board shall be prima facie evidence of all matters recorded therein. A roster showing the names and places of business or of residence of all licensed architects, engineers, land surveyors, landscape architects, and certified interior designers shall be prepared by the executive secretary of the board during the month of July, of each even numbered year. Roster supplements listing newly licensed persons shall be published semiannually between publications of the biennial roster. Rosters may be printed out of the funds of the board, as provided in section 326.08.

**History:** (5697-8) 1921 c 523 s 8; 1955 c 847 s 23; 1957 c 15; 1975 c 329 s 11; 1976 c 222 s 144; 1992 c 507 s 13

### 326.10 LICENSURE AND CERTIFICATION.

Subdivision 1. **Issuance.** The board shall on application therefor on a prescribed form, and upon payment of a fee prescribed by rule of the board, issue a license or cer-

tificate as an architect, engineer, land surveyor, landscape architect, or certified interior designer. A separate fee shall be paid for each profession licensed.

(1) To any person over 25 years of age, who is of good moral character and repute, and who has the experience and educational qualifications which the board by rule may prescribe.

(2) To any person who holds an unexpired certificate of registration or license issued by proper authority in the District of Columbia, any state or territory of the United States, or any foreign country, in which the requirements for registration or licensure of architects, engineers, land surveyors, landscape architects, or certified interior designers, respectively, at the time of registration or licensure in the other jurisdiction, were equal, in the opinion of the board, to those fixed by the board and by the laws of this state, and in which similar privileges are extended to the holders of certificates of registration or licensure issued by this state. The board may require such person to submit a certificate of technical qualification from the National Council of Architectural Registration Boards in the case of an architect, from the National Council of Engineering Examiners in the case of an engineer, from the National Council of Landscape Architects Registration Board in the case of a landscape architect, and from the National Council for Interior Design Qualifications in the case of a certified interior designer.

**Subd. 2. Examination.** The board may subject any applicant for licensure to such examinations as may be deemed necessary to establish qualifications.

In determining the qualifications in such cases of applicants for licensure as architects, a majority vote of the architect members of the board only shall be required; in determining the qualifications in such cases of applicants for licensure as engineers, a majority vote of the engineer members of the board only, shall be required; in determining the qualifications of applicants for registration as land surveyors, the affirmative vote of the land surveyor member and of one engineer of the board only, shall be required; in determining the qualifications of applicants for licensure as landscape architects, the affirmative vote of the landscape architect member of the board and of one architect member or one civil engineer member of the board only, shall be required; and in determining the qualifications of applicants for certification as certified interior designers, the affirmative vote of the interior designer member of the board, of two public members, and of one architect or engineer member of the board only, is required.

**Subd. 2a. Needs of physically disabled, inclusion in examination.** Examinations for architect, civil structural engineer, landscape architect, and certified interior designer shall include questions which require the applicant to demonstrate knowledge of the design needs of people with physical disabilities and of the relevant statutes and codes. The questions shall be developed by the board in consultation with the department of administration.

Subd. 3. [Repealed, Ex1967 c 28 s 9]

Subd. 4. [Repealed, 1976 c 222 s 209]

**Subd. 5. Delayed renewal fee.** The failure on the part of any licensee to renew a license shall not deprive such person of the right of renewal thereafter, but a late renewal fee shall be paid in addition to the renewal fee for each profession.

Subd. 6. [Repealed, Ex1967 c 28 s 9]

**Subd. 7. Engineer-in-training; land surveyor-in-training; landscape architect-in-training.** (1) An applicant for certification as an engineer-in-training who is a graduate with a bachelor of engineering degree from a school or college having an engineering curriculum accredited by the engineers' council for professional development or whose education, in the opinion of the board, is equivalent thereto, shall receive from the board, upon passing an examination in fundamental engineering subjects, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as an engineer-in-training.

(2) An applicant for certification as a land surveyor-in-training who has had a minimum of four years of qualifying experience of a character satisfactory to the board,

of which a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, shall receive from the board, upon passing a written examination in the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as a land surveyor-in-training.

(3) Any applicant for certification as a landscape architect-in-training who is a graduate with a degree from a school or college having a landscape architecture curriculum accredited by the American Society of Landscape Architects committee on education or who has had equivalent education or experience or a combination thereof of a grade and character acceptable to the board shall receive from the board, upon passing an examination in fundamental landscape architectural subjects, a certificate stating that the applicant has passed that examination and that the applicant's name has been recorded as a landscape architect-in-training.

**History:** (5697-9) 1921 c 523 s 9; 1933 c 404 s 2; 1945 c 380 s 3; 1949 c 86 s 3; 1949 c 507 s 1; 1955 c 433 s 1; 1959 c 336 s 1-5; 1961 c 519 s 1; Ex1967 c 28 s 4-7; 1971 c 22 s 5; 1971 c 25 s 61; 1975 c 329 s 12; 1976 c 222 s 145; 1978 c 483 s 1; 1986 c 444; 1992 c 507 s 14-16

### 326.11 LICENSE OR CERTIFICATE SUSPENSION, REVOCATION, REISSUANCE, REPLACEMENT.

Subdivision 1. **Revocation or suspension.** The board shall have the power to revoke or suspend the license or certificate of any architect, engineer, land surveyor, landscape architect, or certified interior designer, who is found guilty by the board of any fraud or deceit in obtaining a license or certificate, or of attaching the licensee's or certificate holder's seal or signature to any plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, or interior design document not prepared by the person signing or sealing it or under that person's direct supervision, or of gross negligence, incompetency, or misconduct in the practice of architecture, engineering, land surveying, landscape architecture, or interior design, or upon conviction of any violation of sections 326.02 to 326.15 or amendments thereof, or of any crime involving moral turpitude or upon adjudication of insanity or incompetency.

Subd. 2. [Repealed, 1976 c 222 s 209]

Subd. 3. [Repealed, 1976 c 222 s 209]

Subd. 4. [Repealed, 1976 c 222 s 209]

Subd. 5. **Reissuance.** The board may reissue a license to any person whose license has been suspended or revoked upon application for relicensure.

Subd. 6. **Replacement.** A new license to replace any license revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board.

**History:** (5697-10) 1921 c 523 s 10; 1945 c 380 s 4; 1949 c 86 s 4; Ex1967 c 28 s 8; 1975 c 329 s 13-16; 1976 c 222 s 146-148; 1978 c 514 s 1; 1Sp1981 c 4 art 1 s 32; 1986 c 444; 1992 c 507 s 17

### 326.111 ISSUANCE, DENIAL, REVOCATION, AND SUSPENSION OF LICENSES AND CERTIFICATES; DISCIPLINE.

Subdivision 1. **Generally.** (a) If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in subdivisions 2 and 3.

(b) The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating the unauthorized practice of architecture, engineering, land surveying, landscape architecture,

or the unauthorized use of the title certified interior designer, or a violation of statute, rule, or order that the board has issued or is empowered to enforce. The complaint committee shall consist of five members of the board, with no more than one from each of the professions licensed by the board, and no more than two public members.

(c) Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

**Subd. 2. Legal action.** (a) When necessary to prevent the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey county or in any county in which jurisdiction is proper to enjoin the act, practice, or violation and to enforce compliance with the statute, rule, or order. Upon a showing that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority or from disciplinary action by the board with respect to the person's license, certificate, or application for examination, license, or renewal.

**Subd. 3. Cease and desist orders.** (a) The board, or the complaint committee if authorized by the board, may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing and shall state the reasons for the entry of the order.

(b) Service of the order is effective if the order is served on the person or counsel of record personally or by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person requesting the hearing, the hearing shall be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true.

**Subd. 4. Actions against applicants and licensees.** (a) The board may, by order, deny, refuse to renew, suspend, temporarily suspend, or revoke the application, license, or certification of a person; censure or reprimand that person; condition or limit the person's practice; refuse to permit a person to sit for examination; or refuse to release

the person's examination grades if the board finds that the order is in the public interest and the applicant, licensee, or certificate holder:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, or certified interior design, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, or certified interior design;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by Minnesota Rules, chapters 1800 and 1805, where the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, or use of the title certified interior designer;

(4) has been convicted of or has pled guilty or nolo contendere to a felony, an element of which is dishonesty or fraud, whether or not the person admits guilt, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, or use of the title certified interior designer;

(5) employed fraud or deception in obtaining a certificate, license, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's architecture, engineering, land surveying, landscape architecture, or interior design license, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, in the District of Columbia, or in any foreign country;

(7) has had the person's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed;

(8) failed to meet any requirement for the issuance or renewal of the person's license or certificate;

(9) has attached the person's seal or signature to a plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, or interior design document not prepared by the person sealing or signing it or under that person's direct supervision; or

(10) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may, or has in the opinion of the board, or the complaint committee if authorized by the board, resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued licensure, possession of certificate, termination of suspension, reinstatement of license or certificate, examination, or release of examination grades, that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in such fashion and by such persons, entity, or entities as the board may require including, but not limited to, remedial education courses; and

(2) complete to the satisfaction of the board such continuing professional education courses as the board may specify by rule.

(c) Service of the order is effective if the order is served on the licensee, certificate holder, applicant, person, or counsel of record personally or by certified mail, to the most recent address provided to the board for the licensee, certificate holder, applicant, person, or counsel of record. The order shall state the reasons for the entry of the order.

(d) All hearings required by this section shall be conducted in accordance with chapter 14, except with respect to temporary suspension orders, as provided for in subdivision 5, paragraph (d).

Subd. 5. **Procedure for temporary suspension of license or certificate.** (a) When the board, or the complaint committee if authorized by the board, issues a temporary suspension order, the suspension is in effect upon service of a written order on the licensee or counsel of record, specifying the statute, rule, or order violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee.

(b) Service of the order is effective if the order is served on the licensee or counsel of record personally or by certified mail, to the most recent address provided to the board for the licensee or counsel of record.

(c) The order shall set forth the rights to a hearing contained in this subdivision and shall state the reasons for the entry of the order.

(d) Within ten days after service of the order, the licensee may request a hearing in writing. The board shall hold a hearing before its own members within five working days of receipt of a request for hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(e) Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that report and any exceptions to it.

Subd. 6. **Violations; penalties; costs of proceeding.** (a) The board may impose a civil penalty not to exceed \$2,000 per violation upon a person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

Subd. 7. **Reinstatement.** The board may reinstate a suspended, revoked, or surrendered certificate or license upon petition of the former or suspended certificate holder or licensee. The board may, in its sole discretion, place any other conditions, including reexamination in whole or in part, upon reinstatement of a suspended, revoked, or surrendered certificate or license that it finds appropriate and necessary to ensure that the purposes of sections 326.02 to 326.15 are met. No suspended certificate or license shall be reinstated until the former certificate holder or licensee has completed one-half of the suspension.

**History:** 1993 c 358 s 1; 1994 c 465 art 1 s 39

## 326.12 LICENSE OR CERTIFICATE AS EVIDENCE; SEAL.

Subdivision 1. **Judicial proof.** The issuance of a license or certificate by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed architect, licensed engineer, licensed land surveyor, licensed land-

scape architect, or certified interior designer while the license or certificate remains unrevoked or has not expired or has not been suspended.

**Subd. 2. Seal.** Each licensee or certificate holder may, upon registration, obtain a seal of a design approved by the board, bearing the licensee's or certificate holder's name and the legend "licensed architect," "licensed professional engineer," "licensed land surveyor," "licensed landscape architect," or "certified interior designer." Plans, specifications, plats, reports, and other documents prepared by a licensee or certificate holder may be stamped with the seal during the life of the license or certificate. A rubber stamp facsimile thereof may be used in lieu of the seal on tracings from which prints are to be made or on papers which would be damaged by the regular seal. It shall be unlawful for any one to stamp or seal any document with the stamp or seal after the license of the registrant named thereon has expired, been revoked or suspended, unless said license or certificate shall have been renewed or reissued.

**Subd. 3. Certified signature.** Each plan, specification, plat, report, or other document which under sections 326.02 to 326.15 is prepared by a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, or certified interior designer must bear the signature of the licensed or certified person preparing it, or the signature of the licensed or certified person under whose direct supervision it was prepared. Each signature shall be accompanied by a certification that the signer is licensed under sections 326.02 to 326.15, by the person's license number, and by the date on which the signature was affixed. The provisions of this paragraph shall not apply to documents of an intraoffice or intracompany nature.

**History:** (5697-11) 1921 c 523 s 11; 1945 c 380 s 5; 1971 c 22 s 6; 1975 c 329 s 17; 1976 c 222 s 149; 1Sp1981 c 4 art 1 s 33; 1992 c 507 s 18; 1994 c 632 art 3 s 55

### 326.13 PRACTICE EXEMPT.

Practice of architecture, engineering, landscape architecture, or land surveying, or use of the title certified interior designer in this state prior to licensure by the board shall be permitted under the following conditions and limitations:

(1) By any person or firm not a resident of and having no established place of business in this state, or any person or firm resident in this state, but whose arrival in the state is recent; provided, however, such person or a person connected with such firm:

(a) is registered or licensed and qualified to practice such profession in a state or country to which the board grants registration or licensure by comity in accordance with the provisions of section 326.10, subdivision 1, clause (2); and

(b) shall have filed an application for licensure as an architect, an engineer, or a certified interior designer shall have paid the fee provided for in section 326.10, and shall have been notified by the board that the applicant meets the requirements for licensure or certification in this state and is entitled to receive a license or certificate;

(c) notwithstanding the provisions of paragraph (b) and prior to the notification provided for therein, an applicant who meets the requirements of paragraph (a) shall be permitted to practice in this state provided that such practice is limited solely to solicitation of work within the terms of sections 326.02 to 326.15;

(2) Practice as an architect, an engineer, a land surveyor, or a landscape architect, or use of the title certified interior designer by any person not a resident of, and having no established place of business in, this state, as a consulting associate of an architect, an engineer, a land surveyor, or a landscape architect, or use of the title certified interior designer licensed or certified under the provisions of sections 326.02 to 326.15; provided, the nonresident is licensed or certified and qualified to practice the profession in a state or country to which the board grants licensure or certification by comity in accordance with the provisions of section 326.10, subdivision 1, clause (2);

(3) Practice as an architect, an engineer, a land surveyor, or a landscape architect, or use of the title certified interior designer solely as an officer or employee of the United States.

**History:** (5697-13) 1921 c 523 s 13; 1933 c 404 s 4; 1971 c 22 s 7; 1975 c 329 s 18; 1976 c 222 s 150; 1Sp1981 c 4 art 1 s 34; 1986 c 444; 1992 c 507 s 19

**326.14 CORPORATIONS AND PARTNERSHIPS AUTHORIZED.**

A corporation, partnership or other firm may engage in work of an architectural or engineering character, in land surveying or in landscape architecture, or use the title of certified interior designer in this state, provided the person or persons connected with such corporation, partnership or other firm in responsible charge of such work is or are licensed or certified as herein required for the practice of architecture, engineering, land surveying, and landscape architecture, and use of the title of certified interior designer.

**History:** (5697-14) 1921 c 523 s 14; 1933 c 404 s 5; 1945 c 380 s 6; 1975 c 329 s 19; 1976 c 222 s 151; 1992 c 507 s 20

**326.15 FALSE IMPERSONATION.**

It shall be unlawful for any person to present or attempt to use as the person's own the seal or certificate of another, or to give false or forged evidence of any kind to the board, or any member thereof, or to falsely impersonate any registrant of like or different name, or to use or attempt to use as the person's own the license of another issued by any authority outside of this state, or to use or attempt to use an expired or revoked or suspended license.

**History:** (5697-15) 1921 c 523 s 15; 1945 c 380 s 7; 1976 c 222 s 152; 1986 c 444

**326.16** [Repealed, 1976 c 222 s 209]

**ACCOUNTANTS****326.165 BOARD OF ACCOUNTANCY.**

Subdivision 1. **Purpose.** It is the policy of this state to promote the dependability of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental. The public interest requires that persons engaged in the practice of public accounting be qualified; that a public authority competent to prescribe and assess the qualifications of public accountants be established; that the expression of any form of assurance or of opinions on financial statements be reserved to persons who demonstrate their ability and fitness to observe and apply the standards of the accounting profession; and that the use of accounting titles likely to confuse the public be prohibited.

Subd. 2. **Practice of public accounting.** The "practice of public accounting" is: (a) holding one's self out to the public as skilled in the knowledge and practice of accounting; or (b) expressing any form of assurance on financial statements; or (c) expressing opinions on financial statements for credit purposes, for use in courts and for other purposes involving third parties.

Subd. 3. **Opinions on financial statements.** "Opinions on financial statements" are any opinions expressed in accordance with generally accepted auditing standards as to the fairness of presentation of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private, or governmental.

**History:** 1979 c 326 s 1; 1980 c 591 s 1,2

**326.17 BOARD OF ACCOUNTANCY.**

A board of accountancy is created to carry out the purposes and enforce the provisions of sections 326.165 to 326.229. It consists of between seven and nine citizens of this state appointed by the governor as provided in this section. Two shall be public members as defined by section 214.02, five shall be currently licensed certified public accountants, and two shall be licensed public accountants under the provisions of sections 326.165 to 326.229. When the number of licensed public accountants in this state drops below 100, their representation on the board of accountancy shall drop to one



and the board shall consist of two public members, five currently licensed certified public accountants, and one licensed public accountant. At the time when the number of licensed public accountants in this state drops below 25, the licensed public accountants shall lose their representation on the board, except that the licensed public accountant then serving on the board shall be allowed to complete the term of office and the board shall consist of two public members and five currently licensed certified public accountants. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214 and sections 326.165 to 326.229.

**History:** (5698) 1909 c 439 s 1; 1959 c 269 s 1; 1963 c 145 s 1; 1973 c 638 s 46; 1975 c 136 s 59; 1976 c 222 s 160; 1976 c 239 s 64; 1979 c 326 s 2,15; 1980 c 591 s 3; 1981 c 12 s 1; 1986 c 444; 1992 c 542 s 4

### **326.18 BOARD, DUTIES, OFFICERS, EXAMINATIONS.**

A majority of the board constitutes a quorum. The board shall elect one of its number as chair, another as vice-chair, and another as secretary and treasurer, who shall hold their respective offices for a term of one year and until their successors are elected. The affirmative vote of a majority of members of the board is considered the action of the board. The board shall enforce the standard of general education; the standard of special education in the science and art of accounting; the standard of good character and general public experience, as prescribed in sections 326.165 to 326.229, in all examinations conducted thereunder. The board shall make rules for the conduct of applicants' examinations and the character and scope of the examinations, the method and time of filing applications for examinations and their form and contents, and all other rules proper to carry into effect the purposes of sections 326.165 to 326.229. The board may make use of all or any part of the uniform certified public accountant examination and advisory grading service provided by the American Institute of Certified Public Accountants if it deems it appropriate to assist it in performing its duties. These examinations shall be conducted by the board of accountancy. The examinations shall take place as often as may be convenient in the opinion of the board. The board may make rules necessary to implement and enforce sections 326.165 to 326.229, and 214.12, including but not limited to rules of professional conduct, pertaining to individuals, partnerships and corporations practicing public accounting which it deems consistent with or required by the public welfare and rules of continuing education to be met by persons licensed under sections 326.165 to 326.229.

The board shall keep records of its proceedings, an accurate list of all applications made, licenses and certificates issued, and licenses and certificates revoked, and shall keep proper financial records in which there shall be entered a complete statement of the cash receipts and disbursements. The board shall issue to each person who satisfies the examination requirements of section 326.19, subdivision 1, a certified public accountant certificate and shall maintain a record of that issuance. The board shall issue a license as a certified public accountant to each holder of a certified accountant certificate who satisfies the experience requirements for a license as a certified public accountant or to a person who has been issued a certified public accountant certificate under section 326.19, subdivision 3. The board shall maintain a record of the issuance. It shall adopt and provide itself with a seal with a band inscribed "Certified Public Accountant, State of Minnesota," with the coat of arms of Minnesota in the center, which seal shall be affixed to each certificate of certified public accountant issued under sections 326.17 to 326.229. The board shall issue to each person who qualifies for a license under sections 326.17 to 326.229 as a licensed public accountant a certificate as a licensed public accountant and shall maintain a record of that issuance. It shall adopt and provide itself with a seal with a band inscribed "Licensed Public Accountant, State of Minnesota," with the coat of arms of Minnesota in the center, which seal shall be affixed

to each certificate of the licensed public accountant, issued under sections 326.17 to 326.229. All records of the board shall be open to the inspection of the public at the office of its secretary.

**History:** (5699) 1909 c 439 s 2; 1955 c 847 s 24; 1959 c 269 s 2; 1963 c 145 s 2; 1971 c 811 s 1; 1973 c 638 s 47; 1975 c 136 s 60; 1976 c 222 s 161; 1979 c 326 s 3,15; 1980 c 591 s 4; 1981 c 12 s 1; 1984 c 543 s 19; 1985 c 248 s 70; 1986 c 444; 1992 c 542 s 4

### 326.19 LICENSURE; QUALIFICATIONS OF ACCOUNTANTS.

Subdivision 1. MS 1974 [Expired]

Subdivision 1. **Certificates and licenses as certified public accountants.** A certified public accountant certificate shall be granted to any person:

- (a) Who has attained the age of 18 years; and
- (b) Who is of good character; and
- (c) Who has successfully completed an examination in the subjects and at the times the board may prescribe in its rules. The examination shall be administered by the board only to a candidate who holds:

(i) a master's degree with a major in accounting from a college or university that is fully accredited by the North Central Association of Colleges and Secondary Schools, or an equivalent accrediting association, or who has in the opinion of the board at least an equivalent education; or

(ii) a baccalaureate degree, with a major in accounting, from a college or university that is fully accredited by the North Central Association of Colleges and Secondary Schools, or an equivalent accrediting association, or whose credits are acceptable to the University of Minnesota for admission to graduate study, or who has in the opinion of the board at least an equivalent education; or

(iii) a baccalaureate degree from a college or university that is fully accredited by the North Central Association of Colleges and Secondary Schools, or an equivalent accrediting association, or whose credits are acceptable to the University of Minnesota for admission to graduate study, or who has in the opinion of the board at least an equivalent education, providing at least one year of experience of the type specified in subdivision 4, has been completed; or

(iv) evidence of having completed two or more years of study with passing grade average or above from a college or university that is fully accredited by the North Central Association of Colleges and Secondary Schools, or an equivalent accrediting association, or whose credits are acceptable to the University of Minnesota for admission to graduate study, or a technical college, a Minnesota licensed private vocational school which fulfills the requirements of sections 141.21 to 141.36, or who has in the opinion of the board at least an equivalent education, providing at least three years experience of the type specified in subdivision 4, has been completed; or

(v) a diploma as a graduate of an accredited high school or who has in the opinion of the board at least an equivalent education, providing at least five years experience of the type specified in subdivision 4 has been completed.

Subd. 2. **Experience.** A certified public accountant license shall be granted to any person who has been issued a certified public accountant certificate under subdivision 3. Those persons holding certified public accountant certificates issued under subdivision 1 shall be granted licenses as certified public accountants providing that they have completed the following required experience of the type specified in subdivision 4 in addition to any experience required in subdivision 1, clause (c)(i) to (v):

(i) for those whose educational qualifications meet the requirements of subdivision 1, clause (c)(i) the experience requirement is one year;

(ii) for those whose educational qualifications meet the requirements of subdivision 1, clause (c)(ii) the experience requirement is two years;

(iii) for those whose educational and experience qualifications meet the requirements of subdivision 1, clause (c)(iii), the additional required experience is two years;

(iv) for those whose educational and experience qualifications meet the requirements of subdivision 1, clause (c)(iv), the additional required experience is two years; and

(v) for those whose educational and experience qualifications meet the requirements of subdivision 1, clause (c)(v), the additional required experience is one year.

**Subd. 3. Certificate and license without examination.** The state board of accountancy may, in its discretion, waive the examination of and may issue a certificate and license as a certified public accountant to any person possessing the qualifications mentioned in this section, who:

(a) Is the holder of a C.P.A. license or certificate, issued under the laws of another state, provided the requirements for the license or certificate in the state which has granted it to the applicant are, in the opinion of the state board of accountancy, equivalent to those herein provided; or

(b) Shall be the holder of a degree or certificate of certified public accountant or chartered accountant, or the equivalent thereof, issued in any foreign country, provided that the requirements for the degree or certificate are equivalent to those herein provided for the license of certified public accountant in this state.

(c) Shall in another jurisdiction have completed successfully an examination which, in the opinion of the board, is comparable to that prescribed by the board in its rules and provided that such person has satisfied the other requirements of subdivisions 1 and 2.

**Subd. 4. Qualifying experience for examination and granting of license.** Qualifying experience for subdivisions 1, 2 and 3 include public accounting experience (1) as a staff employee of a certified public accountant or public accountant, a firm of certified public accountants or public accountants, or a corporation formed for the practice of public accounting; or (2) as an auditor in the office of the legislative auditor or state auditor, or as an auditor or examiner with any other agency of government, which experience, in the opinion of the board is equally comprehensive and diversified; or (3) as a self-employed public accountant or as a partner in a firm of public accountants; or (4) in any combination of the foregoing capacities.

**History:** (5700) 1909 c 439 s 3; 1933 c 236; 1947 c 31 s 1; 1949 c 577 s 1; 1957 c 48; 1959 c 269 s 3; 1961 c 113 s 1; 1963 c 145 s 3; 1969 c 1036 s 1; 1971 c 811 s 2; 1973 c 492 s 14; 1973 c 725 s 56,57; 1974 c 325 s 1; 1976 c 222 s 162; 1979 c 326 s 4,15; 1980 c 591 s 5-8; 1981 c 12 s 1; 1987 c 258 s 12; 1989 c 246 s 2

### 326.191 PUBLIC ACCOUNTANTS; LICENSING.

Any person: (i) who is a resident of this state or has a place of business in this state; (ii) who has attained the age of 18 years; (iii) who meets the requirements of clause (a), (b), (c), or (d) below shall so certify to the board on or before the first day of July, 1980, and shall thereafter be licensed by the board as a licensed public accountant:

(a) Persons who held themselves out to the public as public accountants and who were engaged within this state for a minimum of one year as of July 1, 1979 in the practice of public accounting as their principal occupation;

(b) Persons who for at least one year immediately prior to July 1, 1979 have been employees whose principal duty has been the practice of accounting for a certified public accountant or a public accountant engaged within this state in the practice of public accounting as principal occupation;

(c) Persons who, for a minimum of one year as of July 1, 1979, held senior level accounting or auditing positions in government which are equivalent, as determined by the board, to the practice of public accounting, and were required to successfully complete an examination in accountancy or obtain specific accounting experience or accounting education as a prerequisite for the position; or

(d) Persons serving in the armed forces of the United States of America on January 1, 1980, who for a minimum of one year immediately prior to entering the service held themselves out to the public as public accountants and were engaged within this state

in the practice of public accounting as their principal occupation. In that case, the time for application for licensure shall be extended for a period of 12 months from the time the person is separated from active duty.

The board may license an applicant who does not meet the requirements of clause (a), (b), (c), or (d), but intends to practice full-time public accounting in this state, if the applicant is the holder of a license or registration as a public accountant issued by another state before July 1, 1979, which is, in the opinion of the board, equivalent to the licensure requirements for a public accountant in this state. A license under this paragraph may be issued only if the other state provides for similar recognition of public accountants of this state.

The board may, in its discretion, license applicants who do not, for reasons of individual hardship, meet the minimum experience requirement.

The board shall charge an initial licensure fee to be determined by rule, to license a public accountant.

The board shall in each case determine whether the applicant is eligible for a license. Any individual who is so licensed and who holds a permit issued under this section shall be styled and known as a "licensed public accountant".

**History:** 1979 c 326 s 5; 1980 c 380 s 1; 1986 c 444

### 326.20 RENEWAL.

**Subdivision 1. License renewal of certified public accountants and licensed public accountants.** Every holder of a certified public accountant license or a licensed public accountant license issued by the board, if engaged, or intending to be engaged, in public practice within this state at any time during a calendar year shall renew the license as prescribed by the board by rule.

The board shall, upon application made by any holder of an unrevoked Minnesota license as a certified public accountant or license as a licensed public accountant, renew the license which shall be good for a period prescribed by the board, unless the said certificate or license shall sooner be revoked. Interim licenses shall be issued to individuals who have satisfied the provisions of sections 326.17 to 326.229 within the year.

**Subd. 2. Licensure of partnerships and corporations.** Every partnership or corporation in which one or more certified public accountants or licensed public accountants of this state is a partner or shareholder, if it is engaged, or intends to be engaged, in public practice within this state at any time shall be licensed by the state board of accountancy for that period. Upon application made upon the affidavit of a general partner of the partnership or secretary of the corporation who is a certified public accountant or a licensed public accountant of this state in good standing, the board shall issue a license which shall be good for a period prescribed by the board, unless the license shall sooner be revoked. Interim licenses shall be issued to partnerships or corporations which have satisfied the provisions of this subdivision. The application shall confer upon the board the consent of the partnership or corporation, and of the general partner or secretary making the application, to the board's jurisdiction over the acts of the partnership and its partners or agents or of the corporation and its shareholders or agents within the state.

No partnership or corporation shall style itself as a firm of certified public accountants unless (a) all partners or shareholders resident in this state are certified public accountants of this state, (b) all managers in charge of offices maintained in this state are certified public accountants of this state, (c) all partners or shareholders, wherever situated, are certified public accountants of one of the states or territories or of the District of Columbia and (d) the partnership or corporation is duly licensed under this section.

No partnership or corporation shall style itself as a firm of licensed public accountants unless (a) all partners or shareholders resident in this state are licensed public accountants or certified public accountants of this state, (b) all managers in charge of offices maintained in this state are licensed public accountants or certified public accountants of this state, (c) all partners or shareholders, wherever situated, are licensed

public accountants of this state or certified public accountants of one of the states or territories or the District of Columbia and (d) the partnership or corporation is duly licensed under this section.

Any cooperative auditing organization organized under chapter 308A (a) which for a minimum of one year prior to July 1, 1979, has been rendering auditing, accounting of business analysis services to its members only, and (b) whose managers in charge of offices maintained in this state are certified public accountants or licensed public accountants of this state, shall be deemed to be qualified for a cooperative auditing service license and may style itself as a licensed cooperative auditing service.

**Subd. 3. Unlicensed practice.** It shall be unlawful for any certified public accountant or any partnership containing one or more certified public accountants to engage in public practice within this state unless such certified public accountant or partnership is duly licensed as provided by this section. A partnership shall be deemed in public practice within this state if it performs professional accounting services for a fee. A certified public accountant shall be deemed in public practice within this state if the accountant performs professional accounting services for a fee within this state.

**Subd. 4. Tax clearance certificate.** (a) Notwithstanding subdivisions 1 and 2, the board may not issue or renew a license under sections 326.165 to 326.229 if the commissioner of revenue notifies the board and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The board may issue or renew the license only if (1) the commissioner of revenue issues a tax clearance certificate and (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance to the board. The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) "Taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes.

(2) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

(c) When a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in paragraph (a). The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

(d) The board shall require all licensees or applicants to provide their social security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the board must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, social security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

**History:** (5701) 1909 c 439 s 4; 1963 c 145 s 4; 1969 c 1036 s 2; 1974 c 325 s 2; 1976 c 222 s 163; 1979 c 326 s 6, 7, 15; 1981 c 12 s 1; 1986 c 444; 1Sp1986 c 1 art 7 s 36; 1989 c 184 art 2 s 28; 1989 c 356 s 17; 1992 c 542 s 4

### 326.21 CERTIFIED PUBLIC ACCOUNTANT; EXCLUSIVE USE OF NAME.

Any person who has received from the state board of accountancy a certificate to

practice as a certified public accountant shall be known and styled a certified public accountant; and no other person who has not received a certificate shall assume such title or the title of certified accountant, or the abbreviation C.P.A., or any other words, letters, or abbreviations tending to indicate that the person so using the same is a certified public accountant. No partnership shall style itself as a firm of certified public accountants unless (1) all partners resident in this state are certified public accountants of this state and (2) all managers in charge of offices maintained in this state are certified public accountants of this state and (3) all partners, wherever situated, are certified public accountants of one of the states or territories or of the District of Columbia and (4) the partnership is duly licensed under section 326.20. No corporation, other than one duly licensed under the laws of this state shall style itself as certified public accountants, or use the abbreviation C.P.A. in connection with its corporate name.

**History:** (5702) 1909 c 439 s 5; 1959 c 269 s 4; 1969 c 1036 s 3; 1971 c 399 s 22; 1971 c 811 s 3; 1976 c 222 s 164; 1979 c 326 s 15; 1981 c 12 s 1

### 326.211 PROHIBITED ACTS.

**Subdivision 1. Certified public accountant; use of title by individual.** Except as permitted by the board, no person shall assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person has received a certificate as a certified public accountant under sections 326.17 to 326.229, holds a license issued under sections 326.17 to 326.229 which is not revoked or suspended, and has all offices in this state for the practice of public accounting maintained and licensed as required under section 326.20.

**Subd. 2. Certified public accountant; use of title by individual.** No partnership or corporation shall assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A.," or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership or corporation is composed of certified public accountants, unless the partnership or corporation is licensed as a partnership or corporation of certified public accountants under section 326.20 and all offices of the partnership or corporation in this state for the practice of public accounting are maintained and licensed as required under section 326.20.

**Subd. 3. Licensed public accountant; use of title by individual.** No person shall assume or use the title or designation "licensed public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a licensed public accountant, unless the person is licensed as a licensed public accountant under section 326.191, and all of the person's offices in this state for the practice of public accounting are maintained and licensed as required under section 326.20, or unless the person has received a certificate as a certified public accountant under section 326.19, holds a license issued under section 326.20, and all of the person's offices in this state for the practice of public accounting are maintained and licensed as required under section 326.20.

**Subd. 4. Licensed public accountant; use of title by partnership or corporation.** No partnership or corporation shall assume or use the title or designation "licensed public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership or corporation is composed of licensed public accountants, unless the partnership or corporation is licensed as a partnership of licensed public accountants under section 326.20, and all offices of the partnership or corporation in this state for the practice of public accounting are maintained and licensed as required under section 326.20.

**Subd. 5. Prohibited and permitted titles.** No person, partnership, or corporation shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "public accountant," "accredited accountant," "accounting practitioner," or any other title or designation likely to be confused with "certified public accountant," or "licensed public accountant," or any of

the abbreviations "C.A.," "L.A.," "P.A.," "R.A.," "A.A.," "A.P.," or similar abbreviations likely to be confused with "C.P.A." or "L.P.A." Anyone who holds a current license issued under sections 326.18 and 326.20 and all of whose offices in this state for the practice of public accounting are maintained and licensed as required under section 326.20 may hold out to the public as an "auditor."

**Subd. 6. Financial statement by individual.** No person's name shall be signed or affixed by the person nor shall any trade or assumed name be used by the person professionally or in business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, rules, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate, which indicates (a) that the person is an accountant or auditor or (b) that the person has expert knowledge in accounting or auditing, without holding a current license issued under section 326.20 and all of the person's offices in this state for the practice of public accounting are maintained and licensed under section 326.20. The provisions of this subdivision shall not prohibit any officer, employee, partner, or principal of any organization from affixing that person's signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which the person holds in the organization, nor shall the provisions of this subdivision prohibit any act of a public official or public employee in the performance of duties.

**Subd. 7. Financial statement by partnership or corporation.** No person shall sign or affix a partnership or corporate name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (a) financial information or (b) facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, rules, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate which indicates that the partnership or corporation is composed of or employs (1) accountants or auditors or (2) persons having expert knowledge in accounting or auditing, unless the partnership or corporation is licensed under sections 326.17 to 326.229.

**Subd. 8. Auditor; use of title.** No person, partnership or corporation not licensed under section 326.18 shall assume or use the title "auditor" on any sign, card, letterhead, or in any advertisement or directory without indicating thereon or therein that the person, partnership or corporation does not hold such a license, provided that this subdivision shall not prohibit any officer, employee, partner, or principal of any organization from being described by the position, title, or office that person holds in the organization, nor shall this subdivision prohibit any act of a public official or public employee in the performance of duties.

**Subd. 9. Title indicating partnership or corporation.** (a) No person shall assume or use the title or designation "certified public accountant" or "licensed public accountant" in conjunction with names indicating or implying that there is a partnership or corporation, if there is no bona fide partnership or corporation licensed under section 326.20.

(b) No person shall assume or use the title or designation "certified public accountant" or "licensed public accountant" in conjunction with the designation "and Company," "and Co.," "and Associates," or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation with more than one shareholder licensed under section 326.20.

(c) A sole proprietor, partnership, or corporation lawfully using the title or designation in conjunction with the names or designation on July 1, 1992, may continue to do so if otherwise in compliance with the provisions of sections 326.165 to 326.229.

**Subd. 10. Unlicensed corporation; prohibited use of title.** No corporation, other than one licensed under sections 326.17 to 326.229, and in compliance with the rules of the board, shall style itself as certified public accountants or licensed public account-

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ants, or use the abbreviation "C.P.A." or "L.P.A." in connection with its corporate name.

**History:** 1979 c 326 s 8; 1980 c 591 s 9,10; 1985 c 248 s 70; 1986 c 444; 1992 c 542 s 1,4

## 326.212 PERMITTED ACTS.

Subdivision 1. **Employees; assistants.** Nothing contained in sections 326.17 to 326.229 shall prohibit any person not a certified public accountant or licensed public accountant from serving as an employee of, or an assistant to, a certified public accountant or licensed public accountant, or partnership or corporation composed of certified public accountants or licensed public accountants, provided that the person shall not issue any accounting or financial statement over the person's name.

Subd. 2. **Certified but not licensed C.P.A., L.P.A.** The board, by rule, may permit persons holding a certificate issued pursuant to section 326.19, but who do not hold a current license, to assume or use the title or designation "certified public accountant" or "licensed public accountant," or the abbreviation "C.P.A.," "L.P.A.," or other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant or licensed public accountant, provided (a) that the board has not revoked, suspended, or refused to renew a license previously issued to the person; (b) that the assumption or use is not incident to the practice of public accountancy; and (c) that the assumption or use is not in conjunction with or incident to any opinion or certificate within the purview of section 326.211, subdivision 6.

Subd. 3. **Corporations performing unaudited accounting services.** Nothing contained in sections 326.165 to 326.229 shall prohibit any corporation from performing accounting services incident to a commercial relationship with another corporation, cooperative association, or cooperative corporation involving either the extension of credit or the performance of sales, purchasing, or marketing functions if any financial reports prepared incident thereto are marked "Unaudited" and disclose the identity of the preparer and its lack of independence.

Subd. 4. **Persons preparing unaudited financial statements.** Nothing contained in sections 326.165 to 326.229 shall prohibit any person, partnership or corporation, not licensed under sections 326.165 to 326.229, from preparing and presenting unaudited financial statements and unaudited schedules on printed forms or the letterheads of the preparer if they are clearly marked on each page, "Unaudited."

Subd. 5. **Tax returns.** Nothing contained in sections 326.165 to 326.229 shall prohibit any person, partnership or corporation, not licensed under sections 326.165 to 326.229, from preparing tax returns.

**History:** 1979 c 326 s 9; 1980 c 591 s 11; 1986 c 444; 1992 c 542 s 4; 1994 c 465 art 1 s 40

## 326.22 FEES.

Subdivision 1. **Examination and license renewal.** The state board of accountancy shall charge for each examination and certificate provided for in sections 326.17 to 326.229 a fee to be prescribed in the rules of the board, to meet the expenses of such examination. This fee shall be payable by the applicant at the time of making initial application, and no additional charge shall be made for the issuance of a certificate to any applicant.

Subd. 2. **Annual license fee.** Each person or partnership to whom a license is issued shall pay a renewal fee at the rate set by the board for such year.

Subd. 3. **Expenses of administration.** The expenses of administering sections 326.17 to 326.229 shall be paid from appropriations made to the state board of accountancy.

**History:** (5703) 1909 c 439 s 6; 1959 c 269 s 5; 1963 c 145 s 5; 1969 c 1036 s 4; 1973 c 638 s 48; 1975 c 136 s 61; 1976 c 222 s 165; 1979 c 326 s 15; 1981 c 12 s 1; 1986 c 444; 1992 c 542 s 4



**326.223 EQUIVALENCY.**

Whenever any statute or rule specifically requires professional services to be performed by a certified public accountant, the requirement shall be construed to mean certified public accountant or licensed public accountant.

*History: 1979 c 326 s 10*

**326.224 SINGLE ACT EVIDENCE OF PRACTICE.**

Displaying or presenting a card, sign, advertisement, or other printed, engraved, or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "licensed public accountant" or any abbreviation thereof, except as permitted by sections 326.165 to 326.229, shall be prima facie evidence in any action brought under sections 326.165 to 326.229 that the person whose name is so displayed caused or procured the displaying or presenting of the card, sign, advertisement, or other printed, engraved, or written instrument or device, and that the person is holding out to be a certified public accountant or a licensed public accountant. In any action evidence of the commission of a single act prohibited by sections 326.165 to 326.229 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

*History: 1979 c 326 s 11; 1986 c 444; 1992 c 542 s 4; 1994 c 465 art 1 s 41*

**326.225 PRIOR CERTIFICATES.**

Persons who on June 6, 1979 held certified public accountant certificates issued under the laws of this state shall not be required to obtain additional certificates under sections 326.17 to 326.229, but shall otherwise be subject to all provisions of those sections.

*History: 1979 c 326 s 13; 1992 c 542 s 4*

**326.228 COMPLAINT COMMITTEE.**

The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating violations of sections 326.165 to 326.229. The complaint committee shall consist of three members of the board, one of whom shall be a certified public accountant, and one of whom shall be a licensed public accountant. When the licensed public accountants lose their representation on the board pursuant to section 326.17, the complaint committee shall consist of three members of the board, two of whom shall be certified public accountants.

*History: 1992 c 542 s 2*

**326.229 ISSUANCE, DENIAL, REVOCATION, AND SUSPENSION OF LICENSES; DISCIPLINE.**

Subdivision 1. **Generally.** (a) If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe that a person has engaged in or is about to engage in a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in subdivision 2 or 3.

(b) Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

Subd. 2. **Legal action.** (a) When necessary to prevent an imminent violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey county, when necessary to prevent imminent harm to the public, or in any county in which jurisdiction is proper to enjoin the act or practice and to enforce compliance with the statute, rule, or order. Upon a showing that a person has engaged in or is about to engage in an act or practice constituting a

violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in or is about to engage in an act or practice constituting a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority or from action by the board pursuant to subdivisions 3, 4, 5, and 6 with respect to the person's license, certificate, or application for examination, license, or renewal.

**Subd. 3. Cease and desist orders.** (a) The board, or the complaint committee if authorized by the board, may issue and have served upon an unlicensed person or an unlicensed certificate holder an order requiring the unlicensed person or unlicensed certificate holder to cease and desist from the act or practice constituting a violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the unlicensed person or unlicensed certificate holder to request a hearing and shall state the reasons for the entry of the order. No such order shall be issued until an investigation of the facts has been conducted pursuant to section 214.10.

(b) Service of the order is effective when the order is served on the unlicensed person, unlicensed certificate holder, or counsel of record personally or by certified mail to the most recent address provided to the board for the unlicensed person, unlicensed certificate holder, or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person requesting the hearing, the hearing shall be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true.

**Subd. 4. Actions against applicants, licensees, or certificate holders.** (a) The board may, by order, deny, refuse to renew, suspend for not more than five years, temporarily suspend, or revoke the application, certificate, or license of a person; censure or reprimand that person; refuse to permit a person to sit for examination, or refuse to release the person's examination grades if the board finds that the order is in the public interest and that, based on a preponderance of the evidence presented, the applicant, licensee, or certificate holder:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to the practice of public accounting, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of public accounting;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by Minnesota Rules, parts 1100.4700 and 1100.4800, where the conduct or acts relate to the practice of public accounting;

(4) has been convicted of or has pled guilty or nolo contendere to a felony or crime, an element of which is dishonesty or fraud, or has been shown to have engaged in acts

or practices tending to show that the applicant, licensee, or certificate holder is incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness to engage in the practice of public accounting;

(5) employed fraud or deception in obtaining a certificate, license, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's public accounting license, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, in the District of Columbia, or in any foreign country;

(7) has had the person's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed;

(8) failed to meet any requirement for the issuance or renewal of the person's license or certificate; or

(9) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may result or may have resulted, in the opinion of the board or the complaint committee if authorized by the board, in an immediate threat to the public.

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued licensure, possession of certificate, termination of suspension, reinstatement of license or certificate, examination, or release of examination grades, that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in such fashion and by such persons, entity, or entities as the board may require; and

(2) complete to the satisfaction of the board such continuing professional education courses as the board may specify.

(c) Service of the order is effective if the order is served on the applicant, licensee, certificate holder, or counsel of record personally or by certified mail to the most recent address provided to the board for the licensee, certificate holder, applicant, person or counsel of record. The order shall state the reasons for the entry of the order.

(d) All hearings required by this subdivision shall be conducted in accordance with chapter 14 except with respect to temporary suspension orders, as provided for in subdivision 5, paragraph (e).

**Subd. 5. Procedure for temporary suspension of license or certificate.** (a) When the board, or the complaint committee if authorized by the board, issues a temporary suspension order, the suspension is in effect upon service of a written order on the licensee, certificate holder, or counsel of record, specifying the statute, rule, or order violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee or certificate holder.

(b) The order may prohibit the licensee from engaging in the practice of public accounting in whole or in part, as the facts may require, and may condition the end of such suspension on compliance with a statute, rule, or order that the board has issued or is empowered to enforce.

(c) The order shall set forth the rights to hearing contained in this subdivision and shall state the reasons for the entry of the order.

(d) Within ten days after service of the order, the licensee or certificate holder may request a hearing in writing. The board shall hold a hearing before its own members within five working days of receipt of a request for hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the licensee or certificate holder shall be in affidavit form only. The licensee, certificate holder, or counsel of record may appear for oral argument.

(e) Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days after

issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that report.

**Subd. 6. Violation; penalties; costs of proceeding.** (a) The board may impose a civil penalty not to exceed \$2,000 per violation upon a person who violates an order that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person who violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

(c) All hearings required by this subdivision shall be conducted in accordance with chapter 14.

**Subd. 7. Reinstatement.** The board may reinstate a suspended, revoked, or surrendered certificate or license upon petition of the former or suspended certificate holder or licensee. The board may, in its sole discretion, require that the former certificate holder or licensee submit to the board evidence of having obtained up to 120 hours of continuing professional education credits that would have been required had the former certificate holder held a certificate or the former licensee been licensed continuously. The board may, in its sole discretion, place any other conditions upon reinstatement of a suspended, revoked, or surrendered certificate or license that it finds appropriate and necessary to ensure that the purposes of sections 326.165 to 326.229 are met. No suspended certificate or license shall be reinstated until the former certificate holder or licensee has completed one-half of the suspension.

**History:** 1992 c 542 s 3

**326.23** [Repealed, 1992 c 542 s 5]

**326.231** [Repealed, 1992 c 542 s 5]

### MINNESOTA ELECTRICAL ACT

**326.24** [Repealed, 1967 c 602 s 17]

#### **326.241 BOARD OF ELECTRICITY.**

**Subdivision 1. Composition.** The board of electricity shall consist of 11 members, residents of the state, appointed by the governor of whom at least two shall be representatives of the electrical suppliers in the rural areas of the state, two shall be master electricians, who shall be contractors, two journeyman electricians, one registered consulting electrical engineer, two licensed alarm and communication system contractors engaged in the business of installing alarm and communication systems, and two public members as defined by section 214.02. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

**Subd. 2. Powers.** The board, or the complaint committee on behalf of the board where authorized by law, shall have power to:

- (1) Elect its own officers.
- (2) Engage and fix the compensation of inspectors, and hire employees. The salary of the executive secretary shall be established pursuant to chapter 43A. All agents and employees other than contract inspectors shall be in the classified service and shall be compensated pursuant to chapter 43A. All inspectors shall hold licenses as master or journeyman electricians under section 326.242, subdivision 1(1) or 2(1), and shall give bond in an amount fixed by the board, conditioned upon the faithful performance of their duties.
- (3) Pay such other expenses as it may deem necessary in the performance of its duties, including rent, supplies, and such like.
- (4) Enforce the provisions of sections 326.241 to 326.248, and provide, upon request, such additional voluntary inspections and reviews as it may deem appropriate.
- (5) Issue, renew, refuse to renew, suspend, temporarily suspend, and revoke licenses, censure licensees, assess civil penalties, issue cease and desist orders, and seek injunctive relief and civil penalties in court as authorized by section 326.242 and other provisions of Minnesota law.
- (6) Adopt reasonable rules to carry out its duties under sections 326.241 to 326.248 and to provide for the amount and collection of fees for inspection and other services. All rules shall be adopted in accordance with chapter 14.

**Subd. 3. Fees and finances; disposition.** All fees collected under the provisions of sections 326.241 to 326.248 are to be credited to a special account in the state treasury. Money in the account is appropriated to the board of electricity to administer and enforce sections 326.241 to 326.248, to pay indirect costs, to compensate contract electrical inspectors for inspections performed, and to make refunds.

**History:** 1967 c 602 s 1; 1973 c 638 s 49,50; 1974 c 45 s 1; 1974 c 406 s 47; 1975 c 136 s 62,63; 1976 c 149 s 53; 1976 c 222 s 167; 1976 c 239 s 65; 1977 c 455 s 83; 1981 c 357 s 80; 1982 c 424 s 130; 1983 c 216 art 1 s 51; 1983 c 299 s 27; 1Sp1985 c 6 s 3; 1987 c 358 s 116; 1991 c 289 s 10

### 326.242 LICENSES.

**Subdivision 1. Master electrician.** Except as otherwise provided by law, no person shall install, alter, repair, plan, lay out, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless the person is: (a) licensed by the board as a master electrician and (b)(i) the electrical work is for a licensed electrical contractor and the person is an employee, partner, or officer of, or is the licensed electrical contractor, or (ii) the electrical work is performed for the person's employer on electric wiring, apparatus, equipment, or facilities owned or leased by the employer which is located within the limits of property which is owned or leased and operated and maintained by the employer.

(1) An applicant for a Class A master electrician's license shall (a) be a graduate of a four-year electrical course in an accredited college or university; or (b) shall have had at least one year's experience, acceptable to the board, as a licensed journeyman; or (c) shall have had at least five years' experience, acceptable to the board, in planning for, laying out, supervising and installing wiring, apparatus, or equipment for electrical light, heat and power.

(2) As of August 1, 1985, no new Class B master electrician's licenses shall be issued. An individual who has a Class B master electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

**Subd. 2. Journeyman electrician.** (a) Except as otherwise provided by law, no person shall install, alter, repair, or supervise the installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, or other purposes unless:

- (1) the person is licensed by the board as a journeyman electrician; and

(2) the electrical work is:

(i) for an electrical contractor and the person is an employee, partner, or officer of the licensed electrical contractor; or

(ii) performed under the supervision of a master electrician also employed by the person's employer on electrical wiring, apparatus, equipment, or facilities owned or leased by the employer that is located within the limits of property owned or leased, operated, and maintained by the employer.

(b) An applicant for a Class A journeyman electrician's license shall have had at least four years of experience, acceptable to the board, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided however, that the board may by rule provide for the allowance of one year of experience credit for successful completion of a two-year post high school electrical course approved by the board.

(c) As of August 1, 1985, no new Class B journeyman electrician's licenses shall be issued. An individual who holds a Class B journeyman electrician's license as of August 1, 1985 may retain the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or on single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

**Subd. 3. Class A installer.** Notwithstanding the provisions of subdivisions 1, 2, and 6, any person holding a class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of an electrical contractor.

**Subd. 3a. Class B installer.** Notwithstanding the provisions of subdivisions 1, 2 and 6, any person holding a class B installer license may lay out and install electrical wiring, apparatus and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install such other electrical equipment as is determined by the board.

**Subd. 3b. Coursework or experience.** An applicant for a Class A or B installer license shall have completed a post high school course in electricity acceptable to the board or shall have had at least one year's experience, acceptable to the board in electrical wiring.

**Subd. 3c. Bond.** Every installer, as a condition of licensure, shall give bond to the state in the sum of \$1,000 conditioned upon the faithful and lawful performance of all work contracted for or entered upon by the installer within the state of Minnesota, and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be in lieu of all other license bonds to any political subdivision of the state. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

**Subd. 4. Special electrician.** Notwithstanding the provisions of subdivisions 1, 2, 6, and 7, the board may by rule provide for the issuance of special electrician licenses empowering the licensee to engage in a limited class or classes of electrical work, which class or classes shall be specified on the license certificate. Each licensee shall have had at least two years of experience, acceptable to the board, in each such limited class of work for which the licensee is licensed.

**Subd. 5. Unlicensed persons.** (a) An unlicensed person shall not perform electrical work unless the work is performed under the personal supervision of an electrician actually licensed to perform such work and the licensed electrician and unlicensed person are employed by the same employer. Licensed electricians shall not permit unlicensed persons to perform electrical work except under the personal supervision of an electrician actually licensed to perform such work. Unlicensed persons shall not supervise the performance of electrical work or make assignments of electrical work to unlicensed persons. Licensed electricians shall supervise no more than two unlicensed persons.

(b) Notwithstanding any other provision of this section, no person other than a master electrician shall plan or lay out electrical wiring, apparatus, or equipment for light, heat, power, or other purposes.

(c) Electrical contractors employing unlicensed persons performing electrical work shall maintain records establishing compliance with this subdivision, which shall designate all unlicensed persons performing electrical work and shall permit the board to examine and copy all such records as provided for in section 326.244, subdivision 6.

**Subd. 6. Electrical contractor's license required.** Except as otherwise provided by law, no person other than an employee, partner, or officer of a licensed electrical contractor, as defined by section 326.01, subdivision 5, shall undertake or offer to undertake to plan for, lay out, supervise or install or to make additions, alterations, or repairs in the installation of electrical wiring, apparatus, and equipment for light, heat, power, and other purposes with or without compensation unless the person obtains an electrical contractor's license. An electrical contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician's license.

**Subd. 6a. Bond required.** Each electrical contractor shall give and maintain bond to the state in the penal sum of \$5,000 conditioned upon the faithful and lawful performance of all work entered upon by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the board and shall be in lieu of all other license bonds to any political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

**Subd. 6b. Insurance required.** Each electrical contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each electrical contractor shall maintain on file with the board a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the board of such cancellation.

**Subd. 6c. Employment of master electrician.** (a) No electrical contractor shall engage in business of electrical contracting unless the electrical contractor employs a licensed Class A master or Class B master electrician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The classes of work for which the licensed electrical contractor is authorized shall be limited to those for which such Class A master, or Class B master employed by the electrical contractor is licensed.

(b) When an electrical contractor's license is held by an individual, partnership, or corporation and the individual, one of the partners, or an officer of the corporation, respectively, is not the responsible master electrician of record, all requests for inspection shall be signed by the responsible master electrician of record. The designated responsible master electrician of record shall be employed by the individual, partnership, or corporation which is applying for an electrical contractor's license and shall not be employed in any capacity as a licensed electrician by any other electrical contractor or employer designated in subdivision 12.

(c) All applications for electrical contractor's licenses and all renewals shall include a verified statement that the applicant or licensee has complied with this subdivision.

**Subd. 7. Examination.** In addition to the requirements imposed herein and except as herein otherwise provided, as a precondition to issuance of an electrician's license, each applicant must pass a written or oral examination given by the board to insure the competence of each applicant for license. An oral examination shall be adminis-

tered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as an electrician. No person failing an examination may retake it for six months thereafter, but within such six months the person may take an examination for a lesser grade of license. Any licensee failing to renew a license for two years or more after its expiration shall be required to retake the examination before being issued a new license.

An applicant for journeyman's or special electrician's license who shall furnish evidence satisfactory to the board of having the requisite experience, upon written application, payment of the examination fee and fulfillment of all other requirements stated herein, may work as a journeyman or special electrician until the examination next following and the announcement of the results of such latter examination by the board.

**Subd. 8. License and renewal fees.** All licenses issued hereunder shall expire in a manner as provided by the board. Fees, as set by the board, shall be payable for examination, issuance and renewal of the following:

(1) For examination:

Class A Master.

Class B Master.

Class A Journeyman, Class B Journeyman, Installer, Alarm and Communications Contractor, or Special Electrician.

(2) For issuance of original license and renewal:

Class A Master.

Class B Master.

Class A Journeyman, Class B Journeyman, Installer, or Special Electrician.

Electrical contractor.

Alarm and Communication System Contractor.

**Subd. 9. Denial, suspension, and revocation of licenses.** The board may by order deny, suspend, revoke, or refuse to renew a license, or may censure a licensee if the board finds (1) in its discretion that the order is in the public interest and (2) that, based upon a preponderance of the evidence presented, the applicant or licensee:

(a) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(b) has engaged in any fraudulent, deceptive, or dishonest act or practice;

(c) has been convicted within the past five years of a misdemeanor involving a violation of sections 326.241 to 326.248;

(d) has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections; or

(e) has, in the conduct of the applicant's or licensee's affairs, including, but not limited to, the performance of electrical work, been shown to be incompetent or untrustworthy.

If a licensee engages in conduct that is proven by a preponderance of the evidence to be a basis for discipline pursuant to paragraphs (a) to (e), the conduct shall constitute a violation of this subdivision. The board may take action under this subdivision or any other law authorizing action against a licensee regardless of whether the underlying conduct was willful.

The board may adopt rules further specifying and defining actions, conduct, and omissions that constitute fraudulent, deceptive, dishonest, or prohibited practices, and establishing standards of conduct for applicants and licensees.

**Subd. 9a. Civil penalties.** Whenever a preponderance of the evidence presented



proves that a person has violated or failed to comply with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board may impose a civil penalty upon the person in an amount not to exceed \$10,000 per violation.

**Subd. 9b. Orders for hearing.** The complaint committee may, on behalf of the board, issue an order requiring a licensee or an applicant for a license to appear at a hearing on the issue of whether the license should be revoked or suspended, the licensee censured, the application denied, or a civil penalty imposed. The order shall be calculated to give reasonable notice of the time and place for hearing, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with chapter 14. After the hearing, the board shall enter an order making a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which that person has been duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the order for hearing, the allegations of which may be deemed to be true.

**Subd. 9c. Temporary suspension.** (a) The complaint committee may, on behalf of the board and in the public interest, temporarily suspend a license pending final determination of an order for hearing. The complaint committee shall not issue a temporary suspension order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The complaint committee shall issue a temporary suspension order only when the safety of life or property is threatened or to prevent the commission of fraudulent, deceptive, or dishonest acts against the public. Service of the temporary suspension order is effective if the order is served on the licensee or counsel of record personally or by first class mail to the most recent address provided to the board for the licensee or the counsel of record.

(b) If a license is suspended pending final determination of an order for hearing, a hearing on the merits shall be held within 45 days of the issuance of the order of temporary suspension. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record. The board shall issue a final order within 30 days after receipt of that report and any exceptions.

(c) If the licensee requests a hearing in writing within ten days of service of the order, the board shall hold a hearing before its own members on the sole issue of whether there is a reasonable basis to continue, modify, or vacate the temporary suspension. The board shall hold the hearing within five working days of the licensee's request for hearing. Evidence presented by the complaint committee or licensee shall be in affidavit form only. The licensee or counsel of record for the licensee may appear for oral argument. Within five working days after the hearing, the board shall issue its order either continuing or vacating the temporary suspension.

**Subd. 9d. Cease and desist order.** (a) Whenever it appears to the complaint committee that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248, any other law authorizing the issuance of a cease and desist order, or any rule or order adopted or issued under these sections, the complaint committee may, on behalf of the board, issue and cause to be served upon the person an order requiring the person to cease and desist from violating sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. The complaint committee shall not issue a cease and desist order until an investigation of the facts has been conducted pursuant to section 214.10 by the attorney general. The order shall be calculated to give reasonable notice of the right of the person to request a hearing and shall state the reasons for the entry of the order. If no hearing is requested of the board within 15 days of service of the order, the order shall become final and shall remain in effect until it is modified or vacated by the board and shall not be reviewable by a court.

(b) A hearing shall be held not later than 30 days from the date of the board's receipt of a written hearing request, unless otherwise agreed by the person requesting the hearing and the complaint committee. Within 30 days of receipt of the administrative law judge's report and any exceptions, the board shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the board.

**Subd. 9e. Costs of proceeding.** The board may impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action or the imposition of civil penalties or the issuance of a cease and desist order. Such fees include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

**Subd. 9f. District court action; injunctive relief and civil penalties.** (a) Whenever it appears to the board, or the complaint committee if authorized by the board, that any person has engaged or is about to engage in any act or practice constituting a violation of sections 326.241 to 326.248 or any rule or order adopted or issued under these sections, the board, or the complaint committee if authorized by the board, may bring an action in the name of the board in the Ramsey county district court or the district court of any other county in which venue is proper.

(b) The action may be brought to enjoin the acts or practices and to enforce compliance with sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections and for a civil penalty not to exceed \$10,000 for each separate violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections.

(c) A temporary restraining order and other temporary injunctive relief shall be granted in the proceeding whenever it appears that any person has engaged in or is about to engage in any act, conduct, or practice constituting violation of sections 326.241 to 326.248, any other law authorizing a civil or injunctive action, or any rule or order adopted or issued under these sections. The board shall not be required to show irreparable harm.

**Subd. 9g. Other remedies.** The issuance of a cease and desist order or injunctive relief under this section does not relieve a person from criminal prosecution by any competent authority or from disciplinary action by the board and does not prevent the board from exercising any other authority granted to it.

**Subd. 9h. Powers additional.** The powers contained in subdivisions 9 to 9g are in addition to all other powers of the board.

**Subd. 9i. Cooperation required.** A person who is the subject of an investigation, or who is questioned in connection with an investigation, by or on behalf of the board or its complaint committee shall cooperate fully with the investigation. Cooperation includes, but is not limited to:

(1) responding fully and promptly to questions raised by or on behalf of the board or its complaint committee relating to the subject of the investigation;

(2) providing copies of records in the person's possession related to the matter under investigation as requested by the board, its complaint committee, or the attorney general within the time limit set by the board, its complaint committee, or the attorney general;

(3) assisting the board, its complaint committee, or the attorney general in its investigation; and

(4) appearing at conferences or hearings scheduled by the board or its complaint committee.

**Subd. 9j. Disciplinary proceedings closed.** Proceedings held before the board or its complaint committee under chapter 214 or subdivisions 9 to 9d are exempt from the requirements of section 471.705, subdivision 1.

**Subd. 9k. Conflicts of law.** If there is a conflict between sections 326.241 to 326.248 and chapter 214, sections 326.241 to 326.248 shall control.

**Subd. 10. Continuation of business by estates.** Upon the death of a master who is an electrical contractor the board may permit the decedent's representative to carry on the business of the decedent for a period not in excess of six months, for the purpose of completing work under contract or otherwise to comply with this act. The representa-

tive shall give such bond as the board may require conditioned upon the faithful and lawful performance of such work and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota. Such representative shall also comply with all public liability and property damage insurance requirements imposed by this chapter upon a licensed electrical contractor.

**Subd. 11. Reciprocity.** To the extent that any other state which provides for the licensing of electricians provides for similar action the board may grant licenses, without examination, of the same grade and class to an electrician who has been licensed by such other state for at least one year, upon payment by the applicant of the required fee and upon the board being furnished with proof that the required fee and upon the board being furnished with proof that the qualifications of the applicant are equal to the qualifications of holders of similar licenses in Minnesota.

**Subd. 12. Exemptions from licensing.** (a) A maintenance electrician who is supervised by the responsible master electrician for an electrical contractor who has contracted with the maintenance electrician's employer to provide services for which an electrical contractor's license is required or by a master electrician or an electrical engineer registered with the board and who is an employee of an employer and is engaged in the maintenance, and repair of electrical equipment, apparatus, and facilities owned or leased by the employer, and performed within the limits of property which is owned or leased and operated and maintained by said employer, shall not be required to hold or obtain a license under sections 326.241 to 326.248; or

(b) Employees of a licensed alarm and communication contractor are not required to hold a license under sections 326.241 to 326.248 while performing work authorized to be conducted by an alarm and communication contractor; or

(c) Employees of any electric, communications, or railway utility, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility or telephone company, shall not be required to hold a license under sections 326.241 to 326.248:

1. While performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility or telephone company in the exercise of its utility or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company, and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the meter; or

2. While performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

3. While installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction; or

(d) An owner shall not be required to hold or obtain a license under sections 326.241 to 326.248.

**History:** 1967 c 602 s 2; 1976 c 222 s 168,169; 1979 c 121 s 2; 1981 c 63 s 1; 1981 c 195 s 1; 1985 c 73 s 5-9; 1985 c 248 s 70; 1Sp1985 c 6 s 4,5; 1986 c 373 s 3-6; 1986 c 444; 1991 c 289 s 11-29

### 326.2421 ALARM AND COMMUNICATION SYSTEMS.

Subdivision 1. [Repealed, 1Sp1985 c 6 s 11]

Subd. 2. **Exemption.** Except as provided in subdivision 3, no person exempt under subdivision 1 or licensed pursuant to subdivision 3 may be required to obtain any authorization, permit, franchise, or license from, or pay any fee, franchise tax, or other assessment to, any agency, department, board, or political subdivision of the state as a condition for performing any work described herein. The requirements of this section shall not apply to telephone companies as defined under section 237.01 nor to their employees, that are only engaged in the laying out, installation, and repair of telephone systems.

Subd. 3. **Alarm and communication contractor's licenses.** No person may lay out, install, maintain, or repair alarm and communication systems, unless the person is licensed as an alarm and communication contractor under this subdivision, or is a licensed electrical contractor under section 326.242, subdivision 6, or is an employee of the contractor. The board of electricity shall issue an alarm and communication contractor's license to any individual, corporation, partnership, sole proprietorship, or other business entity that provides adequate proof that a bond and insurance in the amounts required by section 326.242, subdivision 6, have been obtained by the applicant. The board may initially set license fees without rulemaking, pursuant to section 16A.128. Installation of alarm and communication systems are subject to inspection and inspection fees as provided in section 326.244, subdivision 1a.

Subd. 4. **Examination.** No alarm and communication contractor shall be issued a license by the board under this section unless the contractor or an employee of the contractor has passed an alarm and communication system examination given by the board of electricity.

Subd. 5. [Repealed, 1Sp1985 c 6 s 11]

Subd. 6. **Existing contractors.** Persons who on July 1, 1985, are in the business of laying out, installing, maintaining, or repairing alarm and communication systems and who have filed a license application with the electrical board by September 1, 1987, shall be allowed to continue in that business as if licensed under subdivision 3 until final action is taken by the board upon their applications. Contractors who are in the business on July 1, 1985, and who file a license application with the board by September 1, 1987, are exempt from the requirements of subdivision 4.

Subd. 7. [Repealed, 1987 c 384 art 3 s 14]

Subd. 8. **Hazardous locations.** The provisions of this section shall not apply to work performed in hazardous classified locations covered by articles 500 to 517 of the National Electrical Code as that code was approved by the American National Standards Institute and was in effect January 14, 1985.

Subd. 9. **Limitation.** Nothing in this section prohibits a unit of local government from charging a franchise fee to the operator of a cable communications system.

**History:** 1Sp1985 c 6 s 1; 1986 c 373 s 7; 1987 c 279 s 2

### 326.243 SAFETY STANDARDS.

All electrical wiring, apparatus and equipment for electric light, heat and power, alarm and communication systems shall comply with the rules of the department of public service, the commissioner of commerce, or the department of labor and industry, as applicable, and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this chapter, the rules and safety standards stated at the time the work is done in the then most recently published edition of the National Electrical Code as adopted by the National Fire Protection Association, Inc. and approved by the American National Standards Institute, and the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc. and approved by the American National Standards Institute, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota building code is formulated pursuant to section 16B.61, containing approved methods of electrical construction for safety to life and property, compliance with said methods of electrical construction of

said Minnesota building code shall also constitute compliance with this section, and provided further, that nothing herein contained shall prohibit any political subdivision from making and enforcing more stringent requirements than set forth herein and such requirements shall be complied with by all licensed electricians working within the jurisdiction of such political subdivisions.

**History:** 1967 c 602 s 3; Ex1967 c 1 s 6; 1971 c 25 s 67; 1983 c 289 s 114 subd 1; 1984 c 544 s 89; 1984 c 655 art 1 s 92; 1985 c 73 s 10; 1985 c 248 s 70; 1Sp1985 c 6 s 6

### 326.244 INSPECTION.

Subdivision 1. **Required inspection.** Except where any political subdivision has by ordinance provided for electrical inspection similar to that herein provided, every new electrical installation in any construction, remodeling, replacement, or repair, except minor repair work as the same is defined by the board by rule, shall be inspected by the board for compliance with accepted standards of construction for safety to life and property.

Subd. 1a. **Alarm and communication systems.** (a) The installation of fire alarm systems as defined in article 760 of the National Electrical Code, except minor work performed by a contractor, must be inspected as provided in this section for compliance with the applicable provisions of articles 725, 760, 770, 800, 810, and 820 of the most recent edition of the National Electrical Code and the applicable provisions of the National Electrical Safety Code, as those codes were approved by the American National Standards Institute.

(b) [Repealed, 1Sp1985 c 6 s 12]

(c) For the purposes of this subdivision "minor work" means the adjustment or repair and replacement of worn or defective parts of an alarm or communication system. Minor work may be inspected under this section at the request of the owner of the property or the person doing the work.

(d) Notwithstanding this subdivision, if an electrical inspector in the course of doing another inspection in a building observes that an alarm and communication contractor has not complied with accepted standards when the work was performed, as provided in the most recent editions of the National Electrical Code and the National Electrical Safety Code as approved by the American National Standards Institute, the inspector may order the contractor who has performed the work to make any necessary repairs to comply with applicable standards and require that the work be inspected.

Subd. 2. **Procedure.** (a) At or before commencement of any installation required to be inspected by the board, the electrical contractor, installer, special electrician, or owner making the installation shall submit to the board a request for inspection, in a form prescribed by the board, together with the fees required for the installation.

(b) The fees required are a handling fee and an inspection fee. The handling fee shall be set by the board in an amount sufficient to pay the cost of printing and handling the form requesting an inspection. The inspection fee shall be set by the board in an amount sufficient to pay the actual costs of the inspection and the board's costs in administering the inspection. All fees shall be set pursuant to the procedure of sections 14.001 to 14.69.

(c) If the inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by section 326.243, the inspector shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of the order to the board. If the installation or the noncomplying part will seriously and proximately endanger human life and property, the order of the inspector, when approved by the inspector's superior, shall require immediate condemnation or disconnection. In all other cases, the order of the inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established for condemnation or disconnection.

(d) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the electrical contractor, installer, or special electrician making the installation, and other persons as the board by rule may direct. An aggrieved party may appeal any condemnation or disconnection order by filing with the board a notice of appeal within ten days after (1) service upon the aggrieved party of the condemnation or disconnection order, if this service is required, or (2) filing of the order with the board, whichever is later. The appeal shall proceed and the order of the inspector shall have the effect the order, by its terms, and the rules of the board provides. The board shall adopt rules providing procedures for the conduct of appeals, including provisions for the stay of enforcement of the order of the inspector pending such appeal when justified by the circumstances.

**Subd. 3. Duty of electrical utility.** No electrical installation subject to inspection by the board shall be newly connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician, directing the work that inspection has been requested and that the conditions of the installation are safe for energization, provided further, that in all cases where an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the inspector or the board dismissing such prior order of condemnation or disconnection or approving the installation as being in compliance with accepted standards of construction for safety to life and property. With respect to transient projects, the aforesaid certificate shall also contain a certification that the request for inspection has been or will be filed with the board so as to be received by it at least five days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states such date and time, and it shall be the responsibility of the board to have inspection of such transient project occur prior to the date and time at which the request states energization is to occur.

**Subd. 4. Powers of political subdivisions.** Any political subdivision or the University of Minnesota may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances and codes. No political subdivision or the University of Minnesota shall require any individual, partnership, corporation or other business association holding a license from the board under sections 326.241 to 326.248 to pay any license or registration fee, provided however, that any such political subdivision or the University of Minnesota may provide by ordinance a requirement that each individual, partnership, corporation or other business association doing electrical work within the jurisdiction of such political subdivision or the University of Minnesota have on file with said political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

Each electrical inspector of any political subdivision or the University of Minnesota shall be a licensed master or journeyman electrician under section 326.242, subdivision 1, paragraph (1), or 2, paragraph (b), and shall not otherwise engage or be employed in the sale, installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and shall have no financial interest in any concern engaged in any such business.

**Subd. 5. Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326.241 to 326.248:

1. When owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326.241 to 326.248, while performing electrical maintenance work only as defined by board rule; or

2. When owned or leased, and operated and maintained by any electric, communications or railway utility or telephone company in the exercise of its utility or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmis-

sion of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility or telephone company; and

(ii) are generally accessible only to employees of such utility or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the meter; or

3. When used in the street lighting operations of an electric utility; or

4. When used as outdoor area lights which are owned and operated by an electric utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction; or

5. When the installation, material, and equipment are alarm or communication systems laid out, installed, or maintained within residential units not larger than a duplex; or

6. When the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act.

Subd. 6. **Site inspections.** The board may, without advance notice, inspect any site at which electrical work is being performed or has been performed or where records concerning the performance of electrical work are kept for purposes of ensuring compliance with sections 326.241 to 326.248 or any rule or order adopted or issued under these sections. With respect to electrical work performed at or records kept in an occupied private dwelling, all inspections permitted by this subdivision shall occur during normal business hours and shall be preceded by advance notice, which need not be in writing. The board shall have the authority to examine and copy all records concerning the performance of electrical work and to question in private all persons employed by an electrical contractor or on the site. No person shall retaliate in any manner against any employee or person who is questioned by, cooperates with, or provides information to the board, its complaint committee, or the attorney general.

**History:** 1967 c 602 s 4; 1981 c 357 s 81; 1982 c 424 s 130; 1985 c 73 s 11-13; 1985 c 248 s 70; 1Sp1985 c 6 s 7-9; 1986 c 373 s 8,9; 1987 c 358 s 117; 1987 c 384 art 2 s 1; 1990 c 422 s 10; 1991 c 289 s 30-32

### **326.245 MANUFACTURING, INSTALLATION, ALTERATION, OR REPAIR OF ELECTRICAL APPARATUS; EXEMPT.**

Electrical components, apparatus or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's production employees shall not be covered by sections 326.241 to 326.248. Installation, alteration, or repair of electrical appliance units, except (a) electrical wiring to the unit, or (b) original wiring in or on the unit installed outside the limits of property which is owned or leased by a manufacturer shall not be covered by this chapter. For purposes of this section, "electrical appliance units" means all electrical and natural gas appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, air conditioners, dishwashers, and humidifiers.

**History:** 1967 c 602 s 5; 1986 c 373 s 10; 1991 c 289 s 33

### **326.246 CRIMES.**

It is a misdemeanor knowingly and willfully to commit, or to order, instruct, or direct another to commit, any of the following acts:

(1) to make a false statement in any license application, request for inspection, certificate or other lawfully authorized or required form or statement provided by sections 326.241 to 326.248;

(2) to perform electrical work without a proper license for such work unless the work is exempt from licensing;

(3) to fail to file a request for inspection when required;

(4) to interfere with or refuse entry to an inspector lawfully engaged in the performance of the inspector's duties; and

(5) to violate any lawful statute, rule, or order of the board, or any city ordinance which pertains to powers given to political subdivisions under section 326.244, subdivision 4.

**History:** 1967 c 602 s 6; 1985 c 73 s 14; 1Sp1985 c 6 s 10; 1986 c 373 s 11; 1986 c 444; 1991 c 289 s 34

### 326.2461 UNIFORM ELECTRICAL VIOLATION CITATION.

Subdivision 1. **Citation authorized.** The board of electricity may issue a citation for violations of sections 326.241 to 326.248, rules adopted under those sections, and ordinances of political subdivisions. The citation must be in a form as provided by subdivision 2.

Subd. 2. **Form of citation.** The board of electricity shall pursuant to chapter 14 prescribe the detailed form of an electrical violation citation and shall revise the citation as the board considers necessary and proper to keep the citation in conformity with the board's rules.

Subd. 3. **Political subdivision may alter ticket.** A political subdivision that has made provision for inspection of electrical installations within its jurisdiction under section 326.244, subdivision 4, may use or alter by deletion or addition the electrical violation citation adopted by the board of electricity under subdivision 2.

**History:** 1989 c 126 s 1

### 326.247 CONTINUITY.

Persons now members of the board shall remain in office until the expiration of the terms to which they were appointed. Board rules, forms, policies and classifications of special electricians now in effect, and not in conflict herewith, shall continue until lawfully modified or repealed.

**History:** 1967 c 602 s 7; 1985 c 248 s 70

### 326.248 CITATION.

Sections 326.241 to 326.248 shall be known as the Minnesota electrical act.

**History:** 1967 c 602 s 8; 1986 c 373 s 12

326.25 [Repealed, 1967 c 602 s 17]

326.26 [Repealed, 1967 c 602 s 17]

326.261 [Repealed, 1967 c 602 s 17]

326.27 [Repealed, 1967 c 602 s 17]

326.28 [Repealed, 1967 c 602 s 17]

326.29 [Repealed, 1967 c 602 s 17]

326.30 [Unnecessary]

326.31 [Repealed, 1967 c 602 s 17]

## PRIVATE DETECTIVES, PROTECTIVE AGENTS

326.32 MS 1965 [Repealed, 1967 c 602 s 17]

### 326.32 DEFINITIONS.

Subdivision 1. As used in sections 326.32 to 326.339, the terms defined in this section have the meanings given them.

Subd. 1a. "Armed employee" means an employee of a private detective or protective agent who at any time in the performance of the employee's duties wears, carries, possesses, or has access to a firearm.



Subd. 2. "Board" means the board of private detective and protective agent services.

Subd. 3. "Board member" means any person appointed as a member of the board of private detective and protective agent services.

Subd. 4. "Chair" means the board member designated by the board to act in the capacity of board chair.

Subd. 5. "Board review" means the process by which the board reviews and evaluates private detective or protective agent license applications.

Subd. 6. [Repealed, 1987 c 360 s 26]

Subd. 7. [Repealed, 1987 c 360 s 26]

Subd. 8. "Applicant" means any individual, partnership or corporation who has made application for a private detective or protective agent license.

Subd. 9. "License" means a private detective license or a protective agent license.

Subd. 10. "License holder" means any individual, partnership or corporation licensed to perform the duties of a private detective or a protective agent.

Subd. 10a. "Minnesota manager" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The Minnesota manager must be actively involved in the day to day management and supervision of the licensed activity in the Minnesota office.

Subd. 10b. "Minnesota office" means an office maintained in Minnesota by a license holder for the conduct or solicitation of business when the principal place of business of the license holder is located outside the state of Minnesota.

Subd. 10c. A "proprietary employer" means an individual, partnership, or corporation that is not engaged in the business of providing protective agents but employs individuals to serve as security guards solely on the employer's property and its curtilage.

Subd. 11. "Public member" means a person who is not, nor ever was, a member of the profession or occupation being licensed, or the spouse of any such person or a person who has not, nor ever has had, a material or financial interest in either the providing of the professional service being licensed or regulated or an activity directly related to the profession being licensed.

Subd. 12. "Qualified representative" means the member of a partnership or corporation, who meets the qualifications for licensing as provided in sections 326.32 to 326.339. The qualified representative must be actively involved in the day to day management and supervision of the licensed activity.

Subd. 13. (a) "Security guard" means a person who wears or carries any insignia that identifies the person to the public as security, who is paid a fee, wage, or salary to do one or more of the following:

(1) prevent or detect intrusion, unauthorized entry or activity, vandalism, or trespass on private property;

(2) prevent or detect theft, loss, embezzlement, misappropriation, or concealment of merchandise, money, bonds, stocks, notes, or other valuable documents or papers;

(3) control, regulate, or direct the flow or movements of the public, whether by vehicle or otherwise, to assure protection of private property;

(4) protect individuals from bodily harm; or

(5) enforce policies and rules of the security guard's employer related to crime reduction to the extent that the enforcement falls within the scope of the security guard's duties.

(b) The term "security guard" does not include:

(1) an auditor, accountant, or accounting clerk performing audits or accounting functions;

(2) an employee of a firm licensed under section 326.3381 whose duties are primarily administrative or clerical in nature;

(3) a person employed by a proprietary company to conduct plainclothes surveillance or investigation;

(4) a person temporarily employed under statute or ordinance by political subdivisions to provide protective services at social functions;

(5) an employee of an air or rail carrier;

(6) a customer service representative or sales clerk employed in a retail establishment; or

(7) a person employed to perform primarily maintenance or custodial functions.

Subd. 14. [Renumbered subd 1a]

**History:** 1974 c 310 s 1; 1975 c 271 s 6; 1984 c 649 s 5; 1986 c 444; 1987 c 360 s 1-6; 1989 c 171 s 1,2; 1990 c 485 s 1

**326.33** MS 1965 [Repealed, 1945 c 130 s 1]

### **326.33 BOARD OF PRIVATE DETECTIVE AND PROTECTIVE AGENT SERVICES.**

Subdivision 1. **Members.** There is hereby created a board of private detective and protective agent services, consisting of the superintendent of the bureau of criminal apprehension or an assistant superintendent designated by the superintendent, and the following members appointed by the commissioner of public safety: a licensed protective agent, or qualified representative for a licensed protective agent partnership or corporation, a licensed private detective, or qualified representative for a licensed private detective partnership or corporation, and two public members. Filling of member vacancies shall be the responsibility of the commissioner of public safety. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, unless otherwise provided in sections 326.32 to 326.339; administrative services and office space; the review and processing of complaints; the setting of board fees, unless otherwise provided in sections 326.32 to 326.339; and other provisions relating to board operations shall be as provided in chapter 214.

Subd. 2. **Meetings; chair.** The board shall meet at the times it considers necessary to conduct business ascribed to the board by the provisions of sections 326.32 to 326.339. The board shall designate one of its members to fill the position of board chair, and that person may remain in the capacity of chair for a term of one year. The board has the option of replacing a board member as chair.

Subd. 3. [Repealed, 1987 c 360 s 26]

Subd. 4. [Repealed, 1987 c 360 s 26]

Subd. 5. [Repealed, 1987 c 360 s 26]

Subd. 6. **Compensation to board members.** Members of the board of private detective and protective agent services shall receive, in addition to necessary traveling and lodging expenses, \$35 per day for each day actually engaged in board activities, provided, however, members of the board who are state employees will be governed by state rules regarding travel expense and per diem payments.

**History:** 1974 c 310 s 5; 1975 c 136 s 64; 1975 c 271 s 6; 1976 c 149 s 54; 1976 c 222 s 170-172; 1980 c 509 s 128; 1982 c 424 s 130; 1984 c 531 s 8; 1984 c 649 s 1,5; 1986 c 444; 1987 c 360 s 7,8

**326.331** [Repealed, 1987 c 360 s 26]

### **326.3311 POWERS AND DUTIES.**

The board has the following powers and duties:

(1) to receive and review all applications for private detective and protective agent licenses;

(2) to approve applications for private detective and protective agent licenses and issue, or reissue licenses as provided in sections 326.32 to 326.339;

(3) to deny applications for private detective and protective agent licenses if the applicants do not meet the requirements of sections 326.32 to 326.339; upon denial of a license application, the board shall notify the applicant of the denial and the facts and circumstances that constitute the denial; the board shall advise the applicant of the right to a contested case hearing under chapter 14;

(4) to enforce all laws and rules governing private detectives and protective agents; and

(5) to suspend or revoke the license of a license holder or impose a civil penalty on a license holder for violations of any provision of sections 326.32 to 326.339 or the rules of the board.

**History:** 1987 c 360 s 9

**326.332** [Repealed, 1987 c 360 s 26]

### **326.3321 EMPLOYEES.**

Subdivision 1. **Executive director.** The board shall appoint an executive director to serve in the unclassified service at the pleasure of the board. The executive director shall perform the duties as the board shall prescribe.

Subd. 2. **Others.** The board may employ and assign duties to other employees or agents as it considers necessary to discharge the functions of the board.

**History:** 1987 c 360 s 10

**326.333** [Repealed, 1987 c 360 s 26]

### **326.3331 RULEMAKING.**

The board shall adopt rules under chapter 14 to govern the selection, training, conduct, discipline, and licensing of private detectives and protective agents, and any other matters necessary to carry out duties imposed by sections 326.32 to 326.339.

**History:** 1987 c 360 s 11

**326.334** [Repealed, 1987 c 360 s 26]

### **326.3341 EXEMPTIONS.**

Sections 326.32 to 326.339 do not apply to:

(1) an employee while providing security or conducting an investigation of a pending or potential claim against the employee's employer;

(2) a peace officer or employee of the United States, this state or one of its political subdivisions, while engaged in the discharge of official duties for the government employer;

(3) persons engaged exclusively in obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

(4) an attorney-at-law while performing the duties of an attorney-at-law or an investigator employed exclusively by an attorney or a law firm engaged in investigating legal matters;

(5) a collection agency or finance company licensed to do business under the laws of this state or an employee of one of those companies while acting within the scope of employment when making an investigation incidental to the business of the agency, including an investigation as to location of a debtor, of the debtor's assets or property, provided the client has a financial interest in or a lien upon the assets or property of the debtor;

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(6) an insurance adjuster employed exclusively by an insurance company, or licensed as an adjuster with the state of Minnesota and engaged in the business of adjusting insurance claims; or

(7) persons engaged in responding to alarm signals including, but not limited to, fire alarms, industrial process failure alarms and burglary alarms, for purposes of maintaining, repairing or resetting the alarm, or for opening the premises for law enforcement personnel or responding agents.

**History:** 1987 c 360 s 12

**326.335** [Repealed, 1974 c 310 s 12]

## **326.336 EMPLOYEES OF LICENSE HOLDERS.**

Subdivision 1. **Background check.** A license holder may employ, in connection with the business of private detective or protective agent, as many unlicensed persons as may be necessary; provided that every license holder is at all times accountable for the good conduct of every person employed. When a license holder hires a person to perform services as a private detective or protective agent, the employer shall submit to the bureau of criminal apprehension a full set of fingerprints of each employee and the written consent of the employee to enable the bureau to determine whether that person has a criminal record. The employee is a conditional employee until the employer receives a report from the bureau that, based on a check of the criminal records maintained by the bureau, the prospective employee has not been convicted in Minnesota of a felony or any offense listed in section 326.3381, subdivision 3, other than a misdemeanor or gross misdemeanor assault. During the period of conditional employment, the person may not serve as a private detective or protective agent, but may be trained by the employer. The bureau shall immediately request the Federal Bureau of Investigation to conduct a check of each conditional employee's criminal record, and the bureau of criminal apprehension shall immediately forward the results to the employer when they are received. If the bureau report or Federal Bureau of Investigation report indicates that the employee was convicted of a disqualifying offense, the employer shall immediately dismiss the employee.

Subd. 2. **Identification card.** An identification card must be issued by the license holder to each employee. The card must be in the possession of the employee to whom it is issued at all times. The identification card must contain the license holder's name, logo (if any), address or Minnesota office address, and the employee's photograph and physical description. The card must be signed by the employee and by the license holder, qualified representative, or Minnesota office manager.

Subd. 3. **Failure to return property.** Any person who shall be issued an identification card, badge, holster, weapon, shield, or any other equipment bearing the name, trademark or trade name, or any combination thereof, of any licensed agency, or indicating that such person is a private detective, protective agent, or employee of same, who does not return such badge, weapon, holster, identification card, uniform emblem, or other equipment to the owner thereof within ten days of the termination of employment, or of receiving a written request to return same, made by certified mail to the person's last known address, whichever shall last occur, shall be guilty of a misdemeanor.

Subd. 4. **Confidentiality; false statements.** No employee of any license holder shall divulge to anyone other than the employer, or as the employer shall direct, except as may be required by law, any information acquired during such employment in respect of any matter or investigation undertaken or done by such employer. Any employee who shall make any false statement in an employment statement or who willfully makes a false report to the employer in respect to any matter in the course of the employer's business, or who shall otherwise violate the provisions of this subdivision is guilty of a misdemeanor.

**History:** 1945 c 130 s 7; 1959 c 317 s 5; 1969 c 1129 art 1 s 3; 1974 c 310 s 7; 1978 c 674 s 60; 1984 c 649 s 5; 1986 c 444; 1987 c 360 s 13; 1989 c 171 s 3

**326.3361 TRAINING.**

Subdivision 1. **Rules.** The board shall, by rule, prescribe the requirements, duration, contents, and standards for successful completion of certified training programs for license holders, qualified representatives, Minnesota managers, partners, and employees, including:

(1) first aid and firearms training required for armed employees, including training in the legal limitations on the justifiable use of force and deadly force as specified in sections 609.06 and 609.065;

(2) training in the use of weapons other than firearms, including bludgeons, nightsticks, batons, chemical weapons, and electronic incapacitation devices, and in the use of restraint or immobilization techniques, including the carotid neck restraint;

(3) training in alternatives to the use of force;

(4) standards for weapons and equipment issued to or carried or used by license holders, qualified representatives, Minnesota managers, partners, and employees;

(5) preassignment or on-the-job training, or its equivalent, required before applicants may be certified as having completed training; and

(6) continuing training for license holders, qualified representatives, Minnesota managers, partners, employees, and armed employees.

Subd. 2. **Required contents.** The rules adopted by the board must require:

(1) 12 hours of preassignment or on-the-job certified training within the first 21 days of employment, or evidence that the employee has successfully completed equivalent training before the start of employment;

(2) certification by the board of completion of certified training for a license holder, qualified representative, Minnesota manager, partner, and employee to carry or use a firearm, a weapon other than a firearm, or an immobilizing or restraint technique; and

(3) six hours a year of certified continuing training for all license holders, qualified representatives, Minnesota managers, partners, and employees, and an additional six hours a year for armed individuals, which must include annual certification of the armed individual.

An employee may not carry or use a weapon while undergoing on-the-job training under this subdivision.

Subd. 3. **Use of weapons; certified training required.** The rules must provide that no license holder, qualified representative, Minnesota manager, partner, or employee may carry or use a weapon or immobilizing or restraint technique without having successfully completed certified training as directed by the board.

Subd. 4. **Full-time peace officers.** A person licensed as a peace officer by the board of peace officer standards and training meets the training requirements of this section.

**History:** 1990 c 485 s 2; 1993 c 168 s 1-3

**326.337 [Repealed, 1987 c 360 s 26]****326.338 PERSONS ENGAGED AS PRIVATE DETECTIVES OR PROTECTIVE AGENTS.**

Subdivision 1. **Private detective.** Persons who for a fee, reward, or other consideration, undertake any of the following acts for the purpose of obtaining information for others are considered to be engaged in the business of a private detective:

(1) investigating crimes or wrongs done or threatened against the government of the United States or of any state, county, or municipal subdivision thereof;

(2) investigating the identity, habits, conduct, movements, whereabouts, transactions, reputation, or character of any person or organization;

(3) investigating the credibility of witnesses or other persons;

(4) investigating the location or recovery of lost or stolen property;

(5) investigating the origin of and responsibility for libels, losses, accidents, or damage or injuries to persons or property;

(6) investigating the affiliation, connection, or relationship of any person, firm, or corporation with any organization, society, or association, or with any official, representative, or member thereof;

(7) investigating the conduct, honesty, efficiency, loyalty, or activities of employees, persons seeking employment, agents, or contractors and subcontractors;

(8) obtaining through investigation evidence to be used before any authorized investigating committee, board of award, board of arbitration, administrative body, or officer or in preparation for trial of civil or criminal cases; or

(9) investigating the identity or apprehension of persons suspected of crimes or misdemeanors.

Subd. 2. [Repealed, 1987 c 360 s 26]

Subd. 3. [Repealed, 1987 c 360 s 26]

Subd. 4. **Protective agent.** A person who for a fee, reward, or other valuable consideration undertakes any of the following acts is considered to be engaged in the business of protective agent:

(1) providing guards, private patrol, or other security personnel to protect persons or their property or to prevent the theft, unlawful taking of goods, merchandise, or money, or to prevent the misappropriation or concealment of goods, merchandise, money, or other valuable things, or to procure the return of those things;

(2) physically responding to any alarm signal device, burglar alarm, television camera, still camera, or a mechanical or electronic device installed or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or other security measures;

(3) providing armored car services for the protection of persons or property;

(4) controlling motor traffic on public streets, roads, and highways for the purpose of escorting a funeral procession; or

(5) providing management and control of crowds for the purpose of safety and protection.

**History:** 1945 c 130 s 9; 1959 c 317 s 7; 1974 c 310 s 9; 1986 c 444; 1987 c 360 s 14, 15

### 326.3381 LICENSES.

Subdivision 1. **Prohibition.** No person shall engage in the business of private detective or protective agent, or advertise or indicate in any verbal statement or in written material that the person is so engaged or available to supply those services, without having first obtained a license as provided in sections 326.32 to 326.339.

Subd. 1a. **Proprietary employers.** A proprietary employer is not required to obtain a license, but must comply with section 326.336, subdivision 1, with respect to the hiring of security guards.

Subd. 2. **Application procedure.** The board shall issue a license upon application to any person qualified under sections 326.32 to 326.339 and under the rules of the board to engage in the business of private detective or protective agent. The license shall remain effective for two years as long as the license holder complies with sections 326.32 to 326.339, the laws of Minnesota, and the rules of the board. Upon receipt of an application for private detective or protective agent license, the board shall:

(1) post notice of the application in its office for a period of 20 days, and notify all persons who have requested notification of applications;

(2) conduct an investigation as it considers necessary to determine the qualifications of the applicant, qualified representative, Minnesota manager, and if appropriate, a partner or corporate officer; and

(3) notify the applicant of the date on which the board will conduct a review of the license application.

Subd. 3. **Disqualification.** No person is qualified to hold a license who has:

(1) been convicted of (i) a felony by the courts of this or any other state or of the United States; (ii) acts which, if done in Minnesota, would be criminal sexual conduct; assault; theft; larceny; burglary; robbery; unlawful entry; extortion; defamation; buying or receiving stolen property; using, possessing, manufacturing, or carrying weapons unlawfully; using, possessing, or carrying burglary tools unlawfully; escape; possession, production, sale, or distribution of narcotics unlawfully; or (iii) in any other country of acts which, if done in Minnesota, would be a felony or would be any of the other offenses provided in this clause and for which a full pardon or similar relief has not been granted;

(2) made any false statement in an application for a license or any document required to be submitted to the board; or

(3) failed to demonstrate to the board good character, honesty, and integrity.

**Subd. 4. Business entity applicant.** If the applicant for a license is a corporation or partnership, one member of that corporation or partnership must meet the licensing requirements in sections 326.32 to 326.339.

**Subd. 5. Nonresident applicant.** If an applicant's home office is located outside of Minnesota, and the applicant establishes a Minnesota office, the applicant shall provide a manager for the Minnesota office who meets the licensing requirements in sections 326.32 to 326.339.

**History:** 1987 c 360 s 16; 1989 c 171 s 4,5

### **326.3382 APPLICATION FOR LICENSE.**

**Subdivision 1. Application form.** (a) Application for a private detective or protective agent license shall be made on a form prescribed by the board. Each applicant shall provide the following information:

(1) the full name, date of birth, and sex of each person signing the application, and the residences of those persons for the past five years;

(2) all past and present occupations and employers, length of employment, and the name, address, and telephone numbers of supervisors for all persons signing the application;

(3) the address or a description indicating the location of the place of business of the applicant;

(4) a statement indicating that each person signing the application has attained the age of 18;

(5) if the applicant is a corporation, the name of the corporation, the date and place of incorporation, and the location of its principal place of business or registered office in its state of incorporation; and

(6) further facts as may be required by the board to show the good character, competency, and integrity of each person signing the application; and

(b) each application shall be signed and acknowledged as follows:

(1) if the applicant is an individual, by the individual;

(2) if the applicant is a partnership, by each partner, one of whom must be a qualified representative; or

(3) if the applicant is a corporation, by the chief executive officer, chief financial officer, and the qualified representative of the corporation. If the principal place of the applicant's business is outside Minnesota, the application shall also include the signature of the Minnesota manager.

**Subd. 2. Documents accompanying application.** (a) Each individual signing the application shall submit:

(1) references, on forms provided by the board, from five persons who have known the signer for at least five years, and who are not related by blood or marriage to the signer; and

(2) a recent photograph and a full set of fingerprints for each person signing the application.

(b) If the application is for a private detective license, the individual signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager, as appropriate, has been employed as an investigator for a minimum of 6,000 hours by any of the following:

- (1) a licensed private detective agency;
  - (2) a United States government investigative service;
  - (3) a city police department or sheriff's office; or
  - (4) an occupation that, the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed;
- and has the qualifications established in the rules of the board.

(c) If the application is for a protective agent license, each person signing the application shall submit a statement under oath by a present or previous employer that the applicant for an individual license, the qualified representative for a partnership or corporate license, or the Minnesota manager has been employed as an investigator or protective agent for a minimum of 6,000 hours by any of the following:

- (1) a licensed protective agent or licensed private detective, having gained experience in security systems, audits, and supervision;
  - (2) a United States government investigative service;
  - (3) a city police department or sheriff's office; or
  - (4) an occupation that the board finds equivalent in scope, responsibility, and training to one of the specific occupations listed;
- and has the qualifications established in the rules of the board.

**Subd. 3. Proof of insurance.** (a) No license may be issued to a private detective or protective agent applicant until the applicant has complied with the requirements in this subdivision.

(b) The applicant shall execute a surety bond to the state of Minnesota in the penal sum of \$10,000 and file it with the board. The surety bond must be executed by a company authorized to do business in the state of Minnesota, must name the applicant as principal, and must state that the applicant and each of the applicant's employees shall faithfully observe all of the laws of Minnesota and of the United States and shall pay all damages suffered by any person by reason of a violation of law by the applicant or by the commission of any willful and malicious wrong by the applicant in the course of business.

(c) The applicant shall furnish proof, acceptable to the board, of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings arising out of the ownership and operation of a private detective or protective agent business. Compliance with paragraph (d), (e), or (f) is satisfactory proof of financial responsibility for purposes of this paragraph.

(d) The applicant may file with the board a certificate of insurance demonstrating coverage for general liability, completed operations, and personal injury. Personal injury insurance must include coverage for:

- (1) false arrest, detention, imprisonment, and malicious prosecution;
- (2) libel, slander, defamation, and violation of rights of privacy; and
- (3) wrongful entry, eviction, and other invasion of rights of private occupancy.

The certificate must provide that the insurance may not be modified or canceled unless 30 days prior notice is given to the board.

(e) The applicant may file with the board an annual net worth statement, signed by a licensed certified public accountant, evidencing that the applicant has a net worth of at least the following:

- (1) for an applicant with no employees, \$10,000;
- (2) for an applicant with one to ten employees, \$15,000;
- (3) for an applicant with 11 to 25 employees, \$25,000;



(4) for an applicant with 26 to 50 employees, \$50,000; or

(5) for an applicant with 51 or more employees, \$100,000.

Data indicating with which of the above requirements an applicant must comply is public data. The contents of the net worth statement are private data on individuals or nonpublic data, as defined in section 13.02.

(f) The applicant may file with the board an irrevocable letter of credit from a financial institution acceptable to the board in the amount listed in the appropriate category in paragraph (e).

**Subd. 4. License disqualification.** Unlicensed activity will not be considered as legitimate experience for qualification in being licensed. An individual, partnership, corporation, qualified representative, or Minnesota manager engaged in the business of a private detective or protective agent without a license issued by the board is prohibited from applying for licensing for a period of one year from the date of a finding of the violation.

**History:** 1987 c 360 s 17

### 326.3383 LICENSE REISSUANCE.

**Subdivision 1. Requirements.** The board shall reissue a private detective or protective agent license to a license holder without further board review, if the license holder who has complied with all applicable laws and rules:

(1) submits to the board an application for license reissuance on a form prescribed by the board;

(2) submits to the board a list of all current employees; and

(3) remits the expired license to the board.

**Subd. 2. Appearance.** Nothing in this section shall preclude the board from requiring the appearance of the license holder at a board meeting prior to the reissuance of the license.

**Subd. 3. Bond and proof of financial responsibility.** Each applicant for license reissuance shall maintain a \$10,000 surety bond, and show proof of financial responsibility as required in section 326.3382, subdivision 3.

**History:** 1987 c 360 s 18

### 326.3384 PROHIBITED ACTS.

**Subdivision 1. Prohibition.** No license holder or employee of a license holder shall, in a manner that implies that the person is an employee or agent of a governmental agency, display on a badge, identification card, emblem, vehicle, uniform, stationery, or in advertising for private detective or protective agent services:

(1) the words "police," "constable," "highway patrol," "sheriff," "trooper," or "law enforcement"; or

(2) the name of a municipality, county, state, or of the United States, or any governmental subdivision thereof.

**Subd. 1a. Labor disputes.** No license holder, in the course of providing protective agent services, may provide armed protective personnel to labor disputes or strike locations. This subdivision does not apply to the use of armed security personnel services utilized in the usual course of business for the protection of persons, property, and payroll.

**Subd. 1b. Acts prohibited during labor disputes, strikes, and lockouts.** (a) This subdivision applies to (1) a license holder or an employee of a license holder who is primarily performing the duties of a protective agent; or (2) a security guard who is primarily performing the duties of a security guard.

(b) A person described in paragraph (a) is prohibited from doing any of the activities described in clauses (1) to (5) during a labor dispute, strike, or lockout as defined in section 179.01, subdivisions 7, 8, and 9:

(1) inciting, encouraging, or aiding in the incitement or encouragement of any participant to do unlawful acts against the person or property of anyone;

(2) photographing a participant when neither that person nor the photographer is on the premises being protected by the persons described in paragraph (a);

(3) stopping or detaining any vehicle unless the vehicle is on premises being protected by the persons described in paragraph (a);

(4) conducting surveillance of participants, when neither the participant nor the person conducting the surveillance is on the premises being protected by the person described in paragraph (a), or of their businesses, or homes; or

(5) any other activities that are outside of the scope of the duties described in sections 326.32, subdivision 13, and 326.338, subdivision 4, and have the purpose of intimidating or provoking a participant.

**Subd. 2. Penalty.** (a) A person violating this section is guilty of a gross misdemeanor.

(b) The board shall suspend the license of a license holder for the periods described in paragraph (c) if the license holder or an employee of the license holder is convicted of a violation of subdivision 1b. The board shall prohibit an employee of a license holder from working for any license holder for the periods described in paragraph (c) if the employee is convicted of a violation of subdivision 1b.

(c) The periods described in paragraph (b) are as follows:

(1) 60 days for the first violation;

(2) six months for the second violation; and

(3) one year for the third violation.

**History:** 1987 c 360 s 19; 1989 c 171 s 6,7; 1990 c 485 s 3,4

### 326.3385 CONDITIONS OF LICENSING.

**Subdivision 1. Notice of address change.** A license holder who moves to an address other than that given on the license certificate shall give written notice to the board within seven days of the move. The notice shall give the new address or location, the date the move was made, and be accompanied by the license, at which time a new license will be made showing the new address or location.

**Subd. 2. Notice of successor.** A corporate or partnership license holder shall, within seven days of the death, resignation, or removal of a person signing the license application, give written notice to the board of the change and the name and address of the successor in the vacated position.

Within seven days of the death, resignation, or removal of a person signing the license application for a partnership or corporate license holder, the successor qualified representative, partner, Minnesota manager, chief executive officer, or chief financial officer who shall qualify under the same procedure and criteria, and submit the documents required, as for an original application.

**Subd. 3. Surrender of license.** Every license issued to a license holder shall be surrendered to the board within seven days after its expiration, or upon notice to a license holder that a license has been revoked or suspended. If the license cannot be returned, a notarized statement indicating the circumstances shall be submitted to the board.

**Subd. 4. Penalty.** Failure to comply with the provisions of subdivision 1, 2, or 3 may result in the revocation or suspension of the license, or the imposition of an administrative penalty.

**History:** 1987 c 360 s 20

### 326.3386 FEES.

**Subdivision 1. Application fee.** Each applicant for a private detective or protective agent license shall pay to the board a nonrefundable application fee, as determined by the board.

Subd. 2. **License fee.** Each applicant for a private detective or protective agent license shall pay to the board a license fee, as determined by the board. In the event that an applicant is denied licensing by the board, one-half of the license fee shall be refunded to the applicant.

Subd. 3. **Designation fee.** When a licensed private detective or protective agent who is a partnership or corporation, desires to designate a new qualified representative or Minnesota manager, a fee equal to one-half of the application fee shall be submitted to the board.

Subd. 4. **Status fee.** At the time a licensed private detective or protective agent wishes to change a license status, as in the case of an individual license holder establishing a corporation, the difference between the individual license fee and the corporate license fee shall be paid to the board.

Subd. 5. **Reissuance fee.** License holders seeking license reissuance shall pay to the board a license reissuance fee as determined by the board.

Subd. 6. **Business or division fee.** If a private detective or protective agent license holder wishes to add additional business names or corporate division names to an existing license, the license holder shall be required to pay a fee as determined by the board.

Subd. 7. **Rules.** All fees authorized by this section shall be established by rule by the board. All fees paid to the board shall be paid to the general fund. The cost of administering sections 326.32 to 326.339, shall be paid from appropriations made to the board.

**History:** 1987 c 360 s 21

### 326.3387 DISCIPLINARY ACTION.

Subdivision 1. **Basis for action.** The board may revoke or suspend or refuse to issue or reissue a private detective or protective agent license if:

(a) the license holder violates a provision of sections 326.32 to 326.339 or a rule adopted under those sections;

(b) the license holder has engaged in fraud, deceit, or misrepresentation while in the business of private detective or protective agent;

(c) the license holder has made a false statement in an application submitted to the board or in a document required to be submitted to the board; or

(d) the license holder violates an order of the board.

Subd. 2. **Hearing required.** The board may impose the following penalties only after a contested case hearing under chapter 14:

(a) revoke or suspend a private detective or protective agent license; or

(b) impose an administrative penalty in excess of \$500.

**History:** 1987 c 360 s 22

### 326.3388 ADMINISTRATIVE PENALTIES.

The board shall, by rule, establish a graduated schedule of administrative penalties for violations of sections 326.32 to 326.339 or the board's rules. The schedule must include minimum and maximum penalties for each violation and be based on and reflect the culpability, frequency, and severity of the violator's actions. The board may impose a penalty from the schedule on a license holder for a violation of sections 326.32 to 326.339 or the rules of the board. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative penalties imposed by the board must be paid to the general fund.

**History:** 1987 c 360 s 23

### 326.3389 LICENSES NONTRANSFERABLE.

A license issued under sections 326.32 to 326.339 may not be transferred.

**History:** 1987 c 360 s 24

**326.339 VIOLATIONS; PENALTY.**

Unless otherwise specifically provided any violation of any provision or requirement of sections 326.32 to 326.339 is a gross misdemeanor.

**History:** 1945 c 130 s 10; 1974 c 310 s 10; 1987 c 360 s 25

**326.34-326.36** [Repealed, 1945 c 130 s 1]

**PLUMBERS****326.37 PLUMBERS; SUPERVISION BY STATE COMMISSIONER OF HEALTH; RULES; VIOLATION; PENALTY.**

Subdivision 1. **Rules.** The state commissioner of health may, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which located.

The commissioner shall administer the provisions of sections 326.37 to 326.45 and for such purposes may employ plumbing inspectors and other assistants.

Subd. 2. **Standards for capacity.** By January 1, 1993, all new floor-mounted water closets in areas under jurisdiction of the state plumbing code may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards of the commissioner and the American National Standards Institute.

**History:** (5887-19) 1933 c 349 s 1; 1937 c 370 s 1; 1973 c 123 art 5 s 7; 1975 c 136 s 66; 1977 c 305 s 45; 1990 c 597 s 57; 1993 c 206 s 20

**326.371 BAN ON LEAD IN PLUMBING.**

Lead pipe, solders and flux containing more than 0.2 percent lead, and pipes and pipe fittings containing more than eight percent lead shall not be used in any plumbing installation which conveys a potable water supply. A Minnesota seller of lead solder, except for a seller whose primary business is contracting in plumbing, heating, and air conditioning, shall not sell any solder containing 0.2 percent lead unless the seller displays a sign which states,

“Contains Lead

Minnesota law prohibits the use of this solder in any plumbing installation which is connected to a potable water supply.”

**History:** 1985 c 279 s 2; 1988 c 689 art 2 s 232

**326.38 LOCAL REGULATIONS.**

Any city having a system of waterworks or sewerage, or any town in which reside over 5,000 people exclusive of any statutory cities located therein, may, by ordinance, adopt local regulations providing for plumbing permits, bonds, approval of plans, and inspections of plumbing, which regulations are not in conflict with the plumbing standards on the same subject prescribed by the state commissioner of health. No city or such town shall prohibit plumbers licensed by the state commissioner of health from engaging in or working at the business, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person, firm, or corporation engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the state

commissioner of health, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the state commissioner of health.

**History:** (5887-20) 1933 c 349 s 2; 1937 c 370 s 2; 1941 c 367 s 1; 1953 c 166 s 1; 1957 c 921 s 1; 1973 c 123 art 5 s 7; 1977 c 305 s 45

### **326.39 VIOLATIONS TO BE REPORTED TO STATE COMMISSIONER OF HEALTH.**

Such local authority as may be designated by any such ordinance for the issuance of such plumbing permits and approval of such plans shall report to the state commissioner of health persistent or willful violation of the same and any incompetence of a licensed plumber observed by the local authority.

**History:** (5887-21) 1933 c 349 s 3; 1977 c 305 s 45

### **326.40 LICENSING, BOND AND INSURANCE.**

**Subdivision 1. Plumbers must be licensed in certain cities; master and journeyman plumbers; plumbing on one's own premises; rules for examination.** In any city now or hereafter having 5,000 or more population, according to the last federal census, and having a system of waterworks or sewerage, no person, firm, or corporation shall engage in or work at the business of a master plumber or journeyman plumber unless licensed to do so by the state commissioner of health. A master plumber may also work as a journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standard prescribed by the state commissioner of health on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

In any such city no person, firm, or corporation shall engage in the business of installing plumbing nor install plumbing in connection with the dealing in and selling of plumbing material and supplies unless at all times a licensed master plumber, who shall be responsible for proper installation, is in charge of the plumbing work of the person, firm, or corporation.

The department of health shall prescribe rules, not inconsistent herewith, for the examination and licensing of plumbers.

**Subd. 2. Master plumber's license; bond and insurance requirements.** The applicant for a master plumber license may give bond to the state in the total penal sum of \$2,000 conditioned upon the faithful and lawful performance of all work entered upon within the state. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of performance. The term of the bond shall be concurrent with the term of the license. The bond shall be filed with the secretary of state and shall be in lieu of all other license bonds to any political subdivision. The bond shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or renewal thereof, may provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the state commissioner of health a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license. The certificate shall be in lieu of all other certificates required by any political subdivision for licensing purposes.

**Subd. 3. Bond and insurance exemption.** A master plumber who is an employee of

a master plumber or who is an employee engaged within the limits of property owned, leased and operated, or maintained by the employer, in the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by the employer, shall not be required to meet the bond and insurance requirements of subdivision 2.

**Subd. 4. Alternative compliance.** Compliance with the local bond requirements of a locale within which work is to be performed shall be deemed to satisfy the bond and insurance requirements of subdivision 2.

**Subd. 5. Fee.** The state commissioner of health may charge each applicant for a master plumber license or for a renewal of a master plumber license and an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivision 2.

**History:** (5887-22) 1933 c 349 s 4; 1937 c 370 s 3; 1941 c 367 s 2; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 1978 c 604 s 1; 1980 c 487 s 10; 1986 c 444

### 326.401 PLUMBER'S APPRENTICES.

**Subdivision 1. Registration.** A plumber's apprentice must be registered with the commissioner of health on a registration application form supplied by the commissioner showing the date of beginning training, age, schooling, previous experience, employer, and other information required by the commissioner.

**Subd. 2. Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to registration as an apprentice may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the person did not have any practical plumbing experience in the 12-month period immediately prior to registration. The commissioner may adopt rules to evaluate whether the person's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the person has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

**Subd. 3. Fees.** The department of health may assess fees to pay for the administration of the apprentice registration program.

**History:** 1986 c 402 s 2; 1986 c 444

### 326.405 RECIPROCITY WITH OTHER STATES.

The commissioner of health may license without examination, upon payment of the required fee, nonresident applicants who are licensed under the laws of a state having standards for licensing plumbers which the commissioner determines are substantially equivalent to the standards of this state if the other state grants similar privileges to Minnesota residents duly licensed in this state.

**History:** 1977 c 19 s 1; 1992 c 464 art 1 s 35

### 326.41 ADVISORY COUNCIL.

The state commissioner of health shall appoint seven persons to the advisory council on plumbing code and examinations, one of whom shall be a practical master plumber, one a practical journeyman plumber, and one a representative of the commissioner. The council shall expire and the terms, compensation and removal of members of the council shall be as provided in section 15.059, except that the council shall not expire before June 30, 1995.

**History:** (5887-24) 1933 c 349 s 6; 1976 c 149 s 55; 1977 c 305 s 45; 1983 c 260 s 59; 1993 c 132 s 6

**326.42 APPLICATIONS, FEES.**

Applications for plumber's license shall be made to the state commissioner of health, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the state commissioner of health only after passing a satisfactory examination by the examiners showing fitness. Examination fees for both journeyman and master plumbers shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. Upon being notified that of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. License fees shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

**History:** (5887-25) 1933 c 349 s 7; 1937 c 370 s 5; 1941 c 367 s 3; 1959 c 78 s 1; 1974 c 205 s 1; 1974 c 471 s 15; 1975 c 310 s 31; 1976 c 2 s 169; 1977 c 305 s 45; 1986 c 444

**326.43** [Repealed, 1993 c 206 s 25]

**326.44 FEES PAID TO STATE GOVERNMENT SPECIAL REVENUE FUND.**

All fees received under sections 326.37 to 326.45 shall be deposited by the state commissioner of health to the credit of the state government special revenue fund in the state treasury. The salaries of the necessary employees of the commissioner and the per diem of the inspectors and examiners hereinbefore provided, their expenses and all incidental expenses of the commissioner in carrying out the provisions of sections 326.37 to 326.45, shall be paid, from the appropriations made to the state commissioner of health, but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

**History:** (5887-28) 1933 c 349 s 10; 1975 c 204 s 82; 1977 c 305 s 45; 1Sp1993 c 1 art 9 s 72

**326.45 STATE LICENSE; EXAMINATION; APPLICATION.**

The provisions of sections 326.37 to 326.45 which require state licenses to engage in the work or business of plumbing, and the provisions which provide for the examination of applicants for such licenses, shall only apply in cities having a population of 5,000 or more.

**History:** (5887-29) 1933 c 349 s 11; 1937 c 370 s 7; 1973 c 123 art 5 s 7

**PIPEFITTERS****326.46 DEPARTMENT OF LABOR AND INDUSTRY TO SUPERVISE HIGH PRESSURE PIPING.**

The department of labor and industry shall supervise all high pressure piping used on all projects in this state, and may prescribe minimum standards which shall be uniform.

The department shall employ inspectors and other assistants to carry out the provisions of sections 326.46 to 326.52.

**History:** (5887-30a) 1937 c 367 s 2; Ex1967 c 1 s 6; 1984 c 481 s 1

**326.461 DEFINITIONS.**

Subdivision 1. **Scope.** For the purpose of sections 326.46 to 326.521, the following terms have the meanings given them.

Subd. 2. **High pressure piping.** "High pressure piping" means all high pressure piping used in the installation of hot water or steam heating boilers, any systems of piping hot water or other medium used for heating that exceed 30 p.s.i. gauge and 250 degrees Fahrenheit, or any system of high pressure steam or ammonia piping, but shall not include any high pressure piping under the direct jurisdiction of the United States.

**Subd. 3. Municipality.** "Municipality" means a statutory or home rule charter city.

**History:** 1984 c 481 s 2; 1987 c 132 s 1; 1989 c 22 s 1; 1994 c 465 art 1 s 42

### 326.47 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.

**Subdivision 1. Required permit.** No person, firm, or corporation shall construct or install high pressure piping systems without first filing an application for a permit with the department of labor and industry or a municipality that has complied with subdivision 2. Projects under construction prior to August 1, 1984, are not required to obtain a permit.

**Subd. 2. Permissive municipal regulation.** A municipality may, by ordinance, provide for the inspection of high pressure piping system materials and construction, and provide that it shall not be constructed or installed except in accordance with minimum state standards. The authority designated by the ordinance for issuing high pressure piping permits and assuring compliance with state standards must report to the department of labor and industry all violations of state high pressure piping standards.

A municipality may not adopt an ordinance with high pressure piping standards that does not conform to the uniform standards prescribed by the department of labor and industry. The department of labor and industry shall specify by rule the minimum qualifications for municipal inspectors.

**Subd. 3. Surcharge.** For the purpose of defraying the cost of administering sections 326.46 to 326.52, there is imposed on all municipalities except municipalities which have a letter of agreement with the department of labor and industry to perform inspections, a surcharge on the filing fees, inspection fees and permits issued after December 31, 1984, in connection with the construction or installation of high pressure piping systems. The surcharge shall be set by the commissioner pursuant to section 16A.128, but shall not be less than \$25, nor greater than \$5,000. All surcharges collected under this section must be paid to the commissioner for deposit in the state treasury for credit to the general fund.

**Subd. 4. Collection and reports.** Fee surcharges must be collected by each municipality. A municipality having a population greater than 20,000 people must prepare and submit quarterly to the commissioner a report of fees and surcharges collected during the previous quarter. All other municipalities must submit reports and surcharges on a semiannual basis. The reports must be in a form prescribed by the commissioner and submitted together with a remittance covering surcharges collected. The report and surcharge are due by no later than the 15th day following the close of the period for which surcharges are being reported.

**Subd. 5. Reporting of permits issued.** Each municipality must submit to the department of labor and industry a copy of each permit issued within ten days after issuance.

All permits must be issued on forms prescribed by or approved by the department of labor and industry.

**Subd. 6. Filing and inspection fees.** The department of labor and industry must charge a filing fee set by the commissioner under section 16A.128 for all applications for permits to construct or install high pressure piping systems. The fee for inspection of high pressure piping system construction or installation shall be set by the commissioner under section 16A.128. This subdivision does not apply where a permit is issued by a municipality complying with subdivision 2.

**History:** (5887-30b, 5887-30c) 1937 c 367 s 3,4; Ex1967 c 1 s 6; 1973 c 123 art 5 s 7; 1984 c 481 s 3; 1987 c 132 s 2; 1989 c 335 art 4 s 106

### 326.48 LICENSING.

**Subdivision 1. License required; rules; time credit.** No person, firm, or corporation shall engage in or work at the business of a contracting pipefitter or journeyman pipefitter unless licensed to do so by the department of labor and industry. No license shall be required for repairs on existing installations. A contracting pipefitter may also work as a journeyman pipefitter.



No person, firm, or corporation shall engage in the business of installing high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, a licensed pipefitter, who shall be responsible for proper installation, is in charge of the high pressure pipefitting work of the person, firm, or corporation.

The department of labor and industry shall prescribe rules, not inconsistent herewith, for the examination and licensing of pipefitters and for issuance of permits for the installation of high pressure piping.

An employee performing the duties of inspector for the department of labor and industry in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

**Subd. 2. Contracting pipefitter's license; bond and insurance requirements.** The applicant for a contracting pipefitter license may give bond to the state in the total penal sum of \$2,000 conditioned upon the faithful and lawful performance of all work entered upon within the state. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of performance. The term of the bond shall be concurrent with the term of the license. The bond shall be filed with the secretary of state of the state and shall be in lieu of all other license bonds to any political subdivision. The bond shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a contracting pipefitter's license or renewal thereof, may provide evidence of public liability insurance, including products liability insurance, with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state and each licensed contracting pipefitter shall maintain on file with the department, a certificate evidencing the insurance which provides that the insurance shall not be canceled without the insurer first giving 15 days written notice to the department. The term of the insurance shall be concurrent with the term of the license. The certificate shall be in lieu of all other certificates required by any political subdivision for licensing purposes.

**Subd. 3. Bond and insurance exemption.** A contracting pipefitter who is an employee of a contracting pipefitter or who is an employee engaged within the limits of property owned, leased and operated, or maintained by the employer, in the maintenance and repair of high pressure pipe work, equipment, or facilities owned or leased by the employer, shall not be required to meet the bond and insurance requirements of subdivision 2.

**Subd. 4. Alternative compliance.** Compliance with the local bond requirements of a locale within which work is to be performed shall be deemed to satisfy the bond and insurance requirements of subdivision 2.

**Subd. 5. Fee.** The state department of labor and industry may charge each applicant for a contracting pipefitter license or for a renewal of a contracting pipefitter license and an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivision 2.

**History:** (5887-30d) 1937 c 367 s 5; Ex1967 c 1 s 6; 1978 c 604 s 2; 1979 c 50 s 40; 1981 c 72 s 1; 1984 c 481 s 4; 1986 c 444; 1987 c 132 s 3

**326.49** [Repealed, 1984 c 481 s 8]

### **326.50 APPLICATION; FEES.**

Application for a pipefitter's license shall be made to the department of labor and industry, with fees. The applicant shall be licensed only after passing an examination by the department of labor and industry. Fees and conditions for renewal of journeyman and contracting pipefitter's licenses shall be set by the commissioner under chapter 14 and section 16A.128.

**History:** (5887-30g) 1937 c 367 s 8; 1951 c 119 s 1; 1959 c 134 s 1; Ex1967 c 1 s 6; 1974 c 7 s 1; 1981 c 72 s 2; 1984 c 481 s 5; 1987 c 132 s 4

**326.51 DEPARTMENT MAY REVOKE LICENSES.**

The department may revoke or suspend, for cause, any license obtained through error or fraud, or if the licensee is shown to be incompetent, or for a violation of any of its rules and regulations applicable to such work. The licensee shall have notice, in writing, enumerating the charges, and be entitled to a hearing on at least ten days' notice, with the right to produce testimony. The hearing shall be held pursuant to chapter 14. The commissioner shall issue a final order based on testimony and the record at hearing. One year from the date of revocation application may be made for a new license.

**History:** (5887-30h) 1937 c 367 s 9; Ex 1967 c 1 s 6; 1985 c 248 s 70; 1987 c 132 s 5

**326.52 DEPOSIT OF FEES.**

All fees received under sections 326.46 to 326.52 shall be deposited by the department of labor and industry to the credit of the general fund in the state treasury. The salaries and per diem of the inspectors and examiners hereinbefore provided, their expenses, and all incidental expenses of the department in carrying out the provisions of sections 326.46 to 326.52 shall be paid from the appropriations made to the department of labor and industry.

**History:** (5887-30j) 1937 c 367 s 11; Ex 1967 c 1 s 6; 1973 c 720 s 59; 1Sp1985 c 13 s 314; 1989 c 335 art 4 s 106

**326.521 VIOLATIONS; PENALTY PROVISIONS.**

Unless otherwise specifically provided, any violation of any provision or requirement of sections 326.46 to 326.52 is a misdemeanor.

**History:** 1987 c 132 s 6

**MOTION PICTURE FILM EXHIBITORS****326.523 LICENSE PROVISIONS; DISTRIBUTION; CANCELLATION.**

No distributor shall hereafter license feature motion picture films to an exhibitor to be exhibited, shown or performed in this state unless the license provides:

(1) That all the feature motion picture films, which such distributor will license during the exhibition season, or the unexpired portion thereof, shall be included: the term "all the feature motion picture films" applies to each producer for whom the distributor is acting; and

(2) That the exhibitor shall have the right to cancel a minimum of 20 percent of the total number of feature motion pictures included in such license where the exhibitor deems the same injurious and damaging to business or offensive on moral, religious, or racial grounds.

The cancellation shall be made proportionately among the several price brackets, if there be such price brackets in the license agreement. Any number of cancellations to which an exhibitor is entitled, may be made the lowest price bracket at the exhibitor's option.

The right to cancellation shall not be effective, unless the exhibitor exercises such right by giving notice thereof, to the distributor, by certified mail, within 15 days after being notified of the availability of a feature motion picture. In determining the number of feature motion pictures that may be canceled, fractions of one-half or more shall be counted as one and fractions of less than one-half shall not be counted.

**History:** 1941 c 460 s 2; 1978 c 674 s 60; 1986 c 444

**326.524 LICENSES MAY NOT CONTAIN CERTAIN RESTRICTIONS.**

No distributor shall license feature motion picture films to an exhibitor to be exhibited, shown, or performed in this state, upon the condition that the exhibitor must also

license short subjects, newsreels, trailers, serials, reissue, foreign, and western motion picture films.

**History:** 1941 c 460 s 3

### 326.525 LICENSES, WHEN VOID.

Any provision of any license hereafter made and entered into which is contrary to any provisions of sections 326.523 to 326.526 and 326.01, subdivisions 14 to 19, is hereby declared to be against public policy and void.

**History:** 1941 c 460 s 4

### 326.526 APPLICATION OF SECTIONS 326.523 TO 326.526.

The provisions of sections 326.523 to 326.526 and 326.01, subdivisions 14 to 19, shall not apply to the licensing of motion picture films to any school, college, university, church, or any educational, fraternal, or religious organizations in this state.

**History:** 1941 c 460 s 7

## VIOLATIONS; GENERALLY

### 326.53 VIOLATIONS; PENALTY PROVISIONS.

Subdivision 1. **Generally.** (1) Any violation of the provisions of sections 326.02 to 326.229 shall be a gross misdemeanor.

(2) Every person violating any of the provisions of sections 326.523 to 326.526, or assisting in such violation, shall, upon conviction thereof, be punished by a fine not exceeding \$3,000 or, in default of the payment of such fine, by imprisonment in the county jail for not more than one year. In the case of a corporation, the violation of these sections shall be deemed to be also that of the individual directors, officers, or agents of such corporation who have assisted in such violation, or who have authorized, ordered, or done the acts or omissions constituting, in whole or in part, such violation; and, upon conviction thereof, any such directors, officers, or agents shall be punished by fine or imprisonment as herein provided.

Subd. 2. [Repealed, 1993 c 206 s 25]

Subd. 3. [Renumbered 326.547]

**History:** (5697-12, 5705, 5886, 5887-27, 5887-30i) 1907 c 457 s 7; 1909 c 439 s 8; 1921 c 523 s 12; 1933 c 349 s 9; 1933 c 404 s 3; 1937 c 367 s 10; 1941 c 460 s 5; 1945 c 380 s 9; Ex1967 c 1 s 6; 1977 c 305 s 45; 1984 c 628 art 3 s 11; 1992 c 542 s 4

**326.54** [Repealed, 1983 c 293 s 115]

**326.541** [Repealed, 1983 c 293 s 115]

**326.542** [Repealed, 1983 c 293 s 115]

**326.543** [Repealed, 1983 c 293 s 115]

**326.544** [Repealed, 1983 c 293 s 115]

**326.545** [Repealed, 1983 c 293 s 115]

**326.546** [Repealed, 1983 c 293 s 115]

**326.547** [Repealed, 1983 c 293 s 115]

## MEMBERS OF ARMED FORCES

### 326.55 NONPAYMENT OF LICENSE FEES.

Subdivision 1. **Definitions.** As used in this section:

(1) "Employment essential to the prosecution of the present war and to the national defense" means employment by the United States of America, any of its agencies, or any contractor under the United States of America, or subcontractor under such

contractor, in work connected with the prosecution of the present war or for the defense of the United States of America and others of the United Nations during such war.

(2) "Outside of the United States" means outside of the territorial limits of the 50 states of the United States and the District of Columbia.

**Subd. 2. Members of armed forces need not pay license fees.** Any person required by law to be licensed or registered in order to carry on or practice a trade, employment, occupation or profession in the state of Minnesota who is also required by law to renew the license or certificate of registration at stated intervals and to pay a fee for such renewal on or before a specified date, or be subject to revocation of the license or certificate or other penalties, who has since the enactment by the Congress of the United States of the Selective Service and Training Act of 1940 entered, or shall hereafter enter, the armed forces of the United States of America, or who has since the enactment of said act been engaged, or shall hereafter be engaged, in employment, outside of the United States, essential to the prosecution of the present war and to the national defense, whose license or certificate of registration was effective at the time of entry into the armed forces or engagement in the employment aforesaid, is hereby exempted from the payment of all renewal fees and from the filing of any application for renewal, which but for this act would have been required as a condition of the renewal of the license or certificate, during the time the person has been in such armed forces or in such employment, and from any penalties for nonpayment or late payment, and is hereby exempted from further payment of such renewal fees and from the making of any application for renewal during the period the person shall remain in such armed forces or is engaged in such employment, and for a further period of six months from discharge from the armed forces, if a member thereof, or from the date of return within the boundaries of the United States if engaged in the employment hereinbefore referred to. The license or certificate in the meantime shall remain in full force and effect, and if it has been canceled or revoked since the date of the enactment of the Selective Service and Training Act of 1940 solely on the ground of nonpayment of renewal fees, or failure to apply for a renewal, it shall be reinstated upon the application of the licensee or registrant or any one on the licensee's or registrant's behalf without the payment of any penalties or costs. Any such person may within six months from the date of release from the armed forces of the United States, if the person has been a member of such armed forces, or from the date of return within the boundaries of the United States if the person has been engaged in employment hereinbefore referred to, make application for a renewal of the license or certificate without penalty and in the same manner as if the person had made application therefor at the time or times specified by existing laws.

**History:** 1943 c 121; 1965 c 45 s 52; 1986 c 444

### 326.56 LICENSES, CERTIFICATES OF REGISTRATION; RENEWALS.

**Subdivision 1. Definitions.** For the purposes of this section the terms defined in this subdivision shall have the meanings ascribed to them.

(1) "Employment essential to the prosecution of any war and to the national defense" means employment by the United States of America, any of its agencies, or any contractor under the United States of America, or subcontractor under such contractor, in work connected with the prosecution of war or for the defense of the United States of America and others of the United Nations during war.

(2) "Outside of the United States" means outside of the territorial limits of the 50 states of the United States and the District of Columbia.

**Subd. 2. Trade licenses or registrations, renewals; exemption of members of armed forces.** Any person required by law to be licensed or registered in order to carry on or practice a trade, employment, occupation or profession in the state of Minnesota who is also required by law to renew the license or certificate of registration at stated intervals and to pay a fee for such renewal on or before a specified date, or be subject to revocation of the license or certificate or other penalties, who has since the enactment by the Congress of the United States of the Selective Service and Training Act of 1940 entered, or shall hereafter enter, the armed forces of the United States of America, or

who has since the enactment of said act been engaged, or shall hereafter be engaged, in employment, outside of the United States, essential to the prosecution of any war or to the national defense, whose license or certificate of registration was effective at the time of entry into the armed forces or engagement in the employment aforesaid, is hereby exempted from the payment of all renewal fees and from the filing of any application for renewal, which but for this section would have been required as a condition of the renewal of the license or certificate, during the time the person has been in such armed forces or in such employment, and from any penalties for nonpayment or late payment, and is hereby exempted from further payment of such renewal fees and from the making of any application for renewal during the period the person shall remain in such armed forces or is engaged in such employment, and for a further period of six months from discharge from the armed forces, if a member thereof, or from the date of return within the boundaries of the United States if engaged in the employment hereinbefore referred to. The license or certificate in the meantime shall remain in full force and effect, and if it has been canceled or revoked since the date of the enactment of the selective service and training act of 1940 solely on the ground of nonpayment of renewal fees, or failure to apply for a renewal, it shall be reinstated upon the application of the licensee or registrant or any one on the licensee's or registrant's behalf without the payment of any penalties or costs. Any such person may within six months from the date of release from the armed forces of the United States, if the person has been a member of such armed forces, or from the date of return within the boundaries of the United States if the person has been engaged in employment hereinbefore referred to, make application for a renewal of the license or certificate without penalty and in the same manner as if the person had made application therefor at the time or time specified by existing laws.

**History:** 1951 c 301 s 1, 2; 1965 c 45 s 53; 1986 c 444

#### WATER CONDITIONING CONTRACTORS AND INSTALLERS

#### 326.57 WATER CONDITIONING CONTRACTORS AND INSTALLERS; SUPERVISION BY STATE COMMISSIONER OF HEALTH.

Subdivision 1. The state commissioner of health shall, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new water conditioning servicing and water conditioning installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, county or town in which located. Such rules, upon approval of the attorney general and their legal publication, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor and may be enjoined by the attorney general.

Subd. 2. The commissioner shall administer the provisions of sections 326.57 to 326.65 and for such purposes may employ water conditioning inspectors and other assistants.

**History:** 1969 c 898 s 1; 1973 c 123 art 5 s 7; 1977 c 305 s 45; 1985 c 248 s 70; 1989 c 209 art 2 s 1

#### 326.58 LOCAL REGULATIONS.

Any city or town with a population of 5,000 or more persons may, by ordinance, adopt local regulations providing for water conditioning permits, bonds, approval of plans, and inspections of water conditioning installations and servicing, which regulations shall not be in conflict with the water conditioning standards on the same subject prescribed by the state commissioner of health. No such city or town shall prohibit water conditioning contractors or installers licensed by the state commissioner of health from engaging in or working at the business.

**History:** 1969 c 898 s 2; 1973 c 123 art 5 s 7; 1977 c 305 s 45

**326.59 VIOLATIONS TO BE REPORTED TO STATE COMMISSIONER OF HEALTH.**

Such local authority as may be designated by any such ordinance for the issuance of such water conditioning installation and servicing permits and approval of such plans shall report to the state commissioner of health persistent or willful violations of the same and any incompetence of a licensed water conditioning contractor or licensed water conditioning installer observed by the local authority.

**History:** 1969 c 898 s 3; 1977 c 305 s 45

**326.60 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.**

**Subdivision 1. Licensing in certain cities.** In any city or town now or hereafter having a population of 5,000 or more according to the last federal census, no person, firm, or corporation shall engage in or work at the business of water conditioning installation or servicing after January 1, 1970, unless (a) at all times a person licensed as a water conditioning contractor by the state commissioner of health shall be responsible for the proper water conditioning installation and servicing work of such person, firm, or corporation, and (b) all installations, other than exchanges of portable equipment, are actually made by a licensed water conditioning contractor or licensed water conditioning installer. Anyone not so licensed may do water conditioning work which complies with the provisions of the minimum standard prescribed by the state commissioner of health on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

**Subd. 2. Qualifications for licensing.** A water conditioning contractor license shall be issued only to a person who has demonstrated skill in planning, superintending, and servicing water conditioning installations. A water conditioning installer license shall only be issued to a person other than a water conditioning contractor who has demonstrated practical knowledge of water conditioning installation.

**Subd. 3. Rules.** The state commissioner of health shall:

(a) Prescribe rules, not inconsistent herewith, for the licensing of water conditioning contractors and installers;

(b) License water conditioning contractors and installers;

(c) Prescribe rules not inconsistent herewith for the examining of water conditioning contractors and installers prior to first granting a license as a water conditioning contractor or water conditioning installer; and

(d) Collect an examination fee from each examinee for a license as a water conditioning contractor and a fee from each examinee for a license as a water conditioning installer in an amount prescribed by the state commissioner of health pursuant to section 144.122. A water conditioning installer must successfully pass the examination for water conditioning contractors before being licensed as a water conditioning contractor.

**History:** 1969 c 898 s 4; 1973 c 123 art 5 s 7; 1974 c 471 s 16; 1977 c 305 s 45; 1980 c 487 s 11; 1985 c 248 s 70; 1986 c 444

**326.601 ALTERNATIVE STATE BONDING AND INSURANCE REGULATION.**

**Subdivision 1. Bonds.** An applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to give a bond to obtain or maintain the license, may comply with any political subdivision bonding requirement by giving a bond to the state in the total penal sum of \$3,000 conditioned upon the faithful and lawful performance of all water conditioning contracting or installing work done within the state. The bond shall be for the benefit of persons suffering injuries or damages due to the work. The bond shall be filed with the commissioner of health and shall be written by a corporate surety licensed to do business in this state. No applicant for a water conditioning contractor or installer license who maintains the bond under this subdivision shall be otherwise required to meet the bond requirements of any political subdivision.

Subd. 2. **Insurance.** Each applicant for a water conditioning contractor or installer license or renewal thereof may, in lieu of all other insurance requirements of any political subdivision for said licensing purposes, maintain the insurance specified by this subdivision. The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and each licensed water conditioning contractor or installer shall maintain on file with the commissioner of health a certificate evidencing the insurance. The insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner.

Subd. 3. **Bond and insurance exemption.** A water conditioning contractor or installer who is an employee of a water conditioning contractor or installer, including an employee engaged in the maintenance and repair of water conditioning equipment, apparatus, or facilities owned, leased and operated, or maintained by the employer, is not required to meet the bond and insurance requirements of subdivisions 1 and 2 or of any political subdivision.

Subd. 4. **Fee.** The commissioner of health may establish by rule an additional fee commensurate with the cost of administering the bond and insurance requirements of subdivisions 1 and 2, which may be charged each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

**History:** 1980 c 614 s 134; 1986 c 444

### 326.61 DEFINITIONS; RULES.

Subdivision 1. "Water conditioning installation" as used in sections 326.57 to 326.65 means the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, said installation to be made in a water distribution system serving a single family residential unit, which has been initially established by a licensed plumber, and does not involve a direct connection without an air gap to a soil or waste pipe.

Subd. 2. "Water conditioning servicing" as used in sections 326.57 to 326.65 means the servicing (including servicing prior to installation) of a water conditioning installation.

Subd. 3. In order to provide effective protection of the public health, the state commissioner of health may by rule prescribe limitations on the nature of alteration to, extension of, or connection with, the said water distribution system initially established by a licensed plumber which may be performed by a person licensed hereunder, and may by rule in appropriate instances require filing of plans, blueprints and specifications prior to commencement of installation. Such rules, upon approval of the attorney general and their legal publication, shall have the force of law, and the violation of any part thereof shall constitute a misdemeanor. The installation of water heaters shall not constitute water conditioning installation and consequently such work shall be accomplished in accordance with the provisions of sections 326.37 to 326.45.

Subd. 4. "Single family residential unit" as used in sections 326.57 to 326.65 means a building or portion thereof which is arranged, designed, used or intended to be used for residential occupancy by one family, but not including a motel, hotel or rooming house.

**History:** 1969 c 898 s 5; 1977 c 305 s 45; 1985 c 248 s 70; 1989 c 209 art 2 s 1

### 326.62 APPLICATIONS; FEES.

Applications for water conditioning contractor's or installer's licenses shall be made to the state commissioner of health with the fee prescribed by the commissioner pursuant to section 144.122. Licenses shall expire and be renewed as prescribed by the commissioner pursuant to section 144.122.

**History:** 1969 c 898 s 6; 1974 c 471 s 17; 1975 c 310 s 32; 1977 c 305 s 45

**326.63** [Repealed, 1993 c 206 s 25]

**326.64 FEES DEPOSITED.**

All fees received under sections 326.57 to 326.65 shall be deposited by the state commissioner of health to the credit of the general fund in the state treasury. The salaries of the necessary employees of the commissioner and the per diem of the inspectors and examiners hereinbefore provided, their expenses and the incidental expenses of the commissioner in carrying out the provisions of sections 326.57 to 326.65 shall be paid from the appropriations made to the state commissioner of health but no expense or claim shall be incurred or paid in excess of the amount received from the fees herein provided.

*History: 1969 c 898 s 8; 1975 c 204 s 83; 1977 c 305 s 45; 1989 c 209 art 2 s 1*

**326.65 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.**

The provisions of sections 326.57 to 326.65 which require the obtaining of licenses to engage in the work or business of water conditioning installation, and the provisions which provide for the examination of applicants for such licenses, shall only apply to work accomplished in cities or towns having populations of 5,000 or more and shall not apply to master plumbers and journeymen plumbers licensed under the provisions of sections 326.37 to 326.45.

*History: 1969 c 898 s 9; 1973 c 123 art 5 s 7; 1989 c 209 art 2 s 1*

**326.66** [Repealed, 1988 c 629 s 64]

**ASBESTOS ABATEMENT ACT**

**326.70 TITLE.**

Sections 326.70 to 326.81 may be cited as the "asbestos abatement act."

*History: 1987 c 303 s 1; 1990 c 594 art 3 s 16*

**326.71 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 326.70 to 326.81.

Subd. 2. **Asbestos.** "Asbestos" means the asbestiform varieties of chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, and actinolite.

Subd. 3. **Asbestos-containing material.** "Asbestos-containing material" means material that contains more than one percent asbestos by microscopic visual estimation by area.

Subd. 4. **Asbestos-related work.** "Asbestos-related work" means the enclosure, removal, or encapsulation of asbestos-containing material in a quantity that meets or exceeds 260 lineal feet of friable asbestos-containing material on pipes, 160 square feet of friable asbestos-containing material on other facility components, or, if linear feet or square feet cannot be measured, a total of 35 cubic feet of friable asbestos-containing material on or off all facility components in one facility. In the case of single or multi-family residences, "asbestos-related work" also means the enclosure, removal, or encapsulation of greater than ten but less than 260 lineal feet of friable asbestos-containing material on pipes or ducts or greater than six but less than 160 square feet of friable asbestos-containing material on other facility components. This provision excludes asbestos-containing floor tiles and sheeting, roofing materials, siding, and all ceilings with asbestos-containing material in single family residences and buildings with no more than four dwelling units. Asbestos-related work includes asbestos abatement area preparation; enclosure, removal, encapsulation, or repair operations; and an air quality monitoring specified in rule to assure that the abatement and adjacent areas are not contaminated with asbestos fibers during the project and after completion.



For purposes of this subdivision, the quantity of asbestos containing material applies separately for every project permit fee paid under section 326.75, subdivision 3.

Subd. 4a. **Asbestos inspector.** "Asbestos inspector" means an individual who inspects a site for the presence and condition of asbestos-containing material, or who reinspects a site to assess the condition of previously identified asbestos-containing material or the presence of other asbestos-containing material.

Subd. 4b. **Asbestos management activity.** "Asbestos management activity" means the performance of periodic inspections to determine the existence and condition of asbestos-containing material, the development of site specific written programs for the maintenance of asbestos-containing material in a condition which prevents the release of asbestos fibers, the development of site specific written programs governing response procedures in the event of an asbestos fiber release episode, and the development of project specifications for asbestos-related work projects.

Subd. 4c. **Asbestos management planner.** "Asbestos management planner" means an individual who develops a written site specific asbestos-containing material maintenance plan and a written site specific asbestos fiber release episode response plan addressing asbestos-containing material at the site.

Subd. 4d. **Asbestos project designer.** "Asbestos project designer" means an individual who designs the asbestos-related work project specifications.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 6. **Contracting entity.** "Contracting entity" means a public or private body, board, natural person, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity that contracts with a person to do asbestos-related work for the benefit of the contracting entity.

Subd. 7. [Repealed, 1993 c 303 s 21]

Subd. 8. **Person.** "Person" means an individual, body, board, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity. This term also applies to the state, its political subdivisions, and any boards, commissions, schools, institutions, or authorities created or recognized by them.

**History:** 1987 c 303 s 2; 1990 c 594 art 3 s 16; 1993 c 303 s 1-9; 1994 c 567 s 19

### 326.72 ASBESTOS LICENSE.

Subdivision 1. **When license required.** A person within the state intending to directly perform or cause to be performed through subcontracting or similar delegation any asbestos-related work either for financial gain or with respect to the person's own property shall first apply for and obtain a license from the commissioner. The license shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and give the name and address of the person to whom it is issued.

The domiciled owner of a single family residence is not required to hold a license or pay a project permit fee to conduct asbestos-related work in the domiciled residence.

Subd. 2. **Display of license.** Licensees shall post a project permit, obtained from the commissioner after compliance with the provisions of section 326.74 and rules promulgated under section 326.78, in a conspicuous place outside of the asbestos abatement work area. The actual license or a copy shall be readily available at the work site for inspection by the commissioner, other public officials charged with the health, safety, and welfare of the state's citizens, and the contracting entity.

**History:** 1987 c 303 s 3; 1993 c 303 s 10

### 326.73 ASBESTOS CERTIFICATIONS.

Subdivision 1. **Asbestos-related work certification.** Before an individual performs asbestos-related work, the individual shall first obtain a certificate from the commissioner certifying that the individual is qualified to perform the work. No certificate shall be issued unless the individual has shown evidence of training or experience in the gen-

eral commercial construction trades, has taken a course of training in asbestos control and removal, passed an examination in those subjects, and demonstrated to the commissioner the ability to perform asbestos-related work safely in accordance with the current state-of-the-art technology. The commissioner shall specify the course of training necessary. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the individual to whom it is issued. The certificate shall be carried by the individual and be readily available for inspection by the commissioner, other public officials charged with the health, safety, and welfare of the state's citizens, and the contracting entity.

**Subd. 2. Asbestos inspector certification.** Before an individual performs an asbestos inspection, the individual shall first obtain a certificate from the commissioner. The commissioner shall issue an asbestos inspector certificate to an individual who has shown evidence of completion of training on asbestos inspection specified by the commissioner in rule, passed an examination in that subject, and has shown evidence of experience as required by rule. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the individual to whom it is issued.

**Subd. 3. Asbestos management planner certification.** Before an individual develops an asbestos management plan, the individual shall first obtain a certificate from the commissioner. The commissioner shall issue an asbestos management planner certificate to an individual who has shown evidence of completion of training on asbestos management plan development specified by the commissioner in rule, passed an examination in that subject, and has shown evidence of experience as required by rule. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the individual to whom it is issued.

**Subd. 4. Asbestos project designer certification.** Before an individual designs an asbestos-related work project, the individual shall first obtain a certificate from the commissioner. The commissioner shall issue an asbestos project designer certificate to an individual who has shown evidence of completion of training on asbestos project design specified by the commissioner in rule, passed an examination in that subject, and has shown evidence of experience as required by rule. The certificate issued by the commissioner shall be in writing, be dated when issued, contain an expiration date, be signed by the commissioner, and contain the name and address of the individual to whom it is issued.

**History:** 1987 c 303 s 4; 1988 c 689 art 2 s 233; 1993 c 303 s 11

### 326.74 REPORTING ASBESTOS WORK.

At least five calendar days before beginning any asbestos-related work, written notice shall be given to the commissioner of the project by the person holding the license issued under section 326.72, subdivision 1. The notice shall contain the following information:

- (1) a brief description of the work to be performed;
- (2) the name of the contracting entity;
- (3) the location and address of the project work site;
- (4) the approximate duration of the project;
- (5) the approximate amount of the asbestos involved in the project;
- (6) the name of any project manager; and
- (7) other information required by the commissioner.

**History:** 1987 c 303 s 5; 1993 c 303 s 12

### 326.75 FEES.

**Subdivision 1. Licensing fee.** A person required to be licensed under section 326.72

shall, before receipt of the license and before causing asbestos-related work to be performed, pay the commissioner an annual license fee of \$100.

Subd. 2. **Certification fee.** An individual required to be certified under section 326.73, subdivision 1, shall pay the commissioner a certification fee of \$50 before the issuance of the certificate. The commissioner may establish by rule fees required before the issuance of asbestos inspector, asbestos management planner, and asbestos project designer certificates required under section 326.73, subdivisions 2, 3, and 4.

Subd. 3. **Permit fee.** Five calendar days before beginning asbestos-related work, a person shall pay a project permit fee to the commissioner equal to one percent of the total costs of the asbestos-related work. For asbestos-related work performed in single or multifamily residences, of greater than ten but less than 260 linear feet of asbestos-containing material on pipes, or greater than six but less than 160 square feet of asbestos-containing material on other facility components, a person shall pay a project permit fee of \$35 to the commissioner.

Subd. 3a. **Asbestos-related training course fee.** The commissioner shall establish by rule a fee to be paid by a training course provider upon application for approval or renewal of approval of each asbestos-related training course required for certification or registration.

Subd. 4. **Deposit of fees.** Fees collected under this section shall be deposited in the state government special revenue fund.

**History:** 1987 c 303 s 6; 1990 c 594 art 3 s 13; 1993 c 303 s 13; 1Sp1993 c 1 art 9 s 73; 1994 c 567 s 20

### 326.76 DUTIES OF CONTRACTING ENTITIES.

A contracting entity intending to have asbestos-related work or asbestos management activity performed for its benefit shall include in the specifications and contracts for the work a requirement that the work be performed by contractors and subcontractors licensed or certified by the commissioner under sections 326.70 to 326.81 and in accordance with rules prescribed by the commissioner related to asbestos abatement and asbestos management activity. No contracting entity shall allow asbestos-related work or asbestos management activity to be performed for its benefit unless it has seen that the person has a valid license or certificate. A contracting entity's failure to comply with this section does not relieve a person from any responsibilities under sections 326.70 to 326.81.

**History:** 1987 c 303 s 7; 1990 c 594 art 3 s 16; 1993 c 303 s 14

### 326.77 INDOOR AIR STANDARD.

(a) The commissioner may adopt rules establishing an indoor air standard for asbestos.

(b) Until the rules become effective, asbestos remaining in the air following the completion of an abatement project shall not exceed .01 fibers greater than five microns in length per cubic centimeter of air.

**History:** 1987 c 303 s 8

### 326.78 DUTIES OF THE COMMISSIONER.

Subdivision 1. **Rulemaking.** The commissioner shall adopt and begin enforcement of rules necessary to implement sections 326.70 to 326.81. The rules adopted shall not be duplicative of rules adopted by the commissioner of the department of labor and industry. The rules shall include rules in the following areas:

- (1) application, enclosure, removal, and encapsulation procedures;
- (2) license and certificate qualification requirements;
- (3) examinations for obtaining a license and certificate;
- (4) training necessary for individual certification;
- (5) qualifications for managers of asbestos abatement projects;

- (6) abatement and asbestos management activity specifications;
- (7) any contractor bonding and insurance requirements deemed necessary by the commissioner;
- (8) license and certificate issuance and revocation procedures;
- (9) suspension or revocation of licenses or certificates;
- (10) license and certificate suspension and revocation criteria;
- (11) cleanup standards;
- (12) continuing education requirements; and
- (13) other rules necessary to implement sections 326.70 to 326.81.

**Subd. 2. Issuance of licenses and certificates.** The commissioner may issue licenses to persons and certificates to individuals who meet the criteria in sections 326.70 to 326.82 and the commissioner's rules. Licenses and certificates shall be valid for at least 12 months, except that the initial certificate will be issued to expire one year after the completion date on the approved training course diploma.

**Subd. 3. Delegation.** The commissioner may, in writing, delegate the inspection and enforcement authority granted in sections 326.70 to 326.82 to other state agencies regulating asbestos.

**Subd. 4.** [Repealed, 1993 c 206 s 25]

**Subd. 5. Subpoenas.** In matters under investigation by or pending before the commissioner under sections 326.70 to 326.82, the commissioner may issue subpoenas and compel the attendance of witnesses and the production of papers, books, records, documents, and other relevant evidentiary material. A person failing or refusing to comply with the subpoena or order may, upon application by the commissioner to the district court in any district, be ordered by the court to comply with the order or subpoena. The commissioner may also administer oaths and affirmations to witnesses. Depositions may be taken within or without the state in the manner provided by law for the taking of depositions in civil actions. A subpoena or other process or paper may be served upon any person anywhere within the state by an officer authorized to serve subpoenas in civil actions, with the same fees and mileage costs paid, and in the manner as prescribed by law, for process of the state district courts. Fees and mileage and other costs of persons subpoenaed by the commissioner shall be paid in the manner prescribed for proceedings in district court.

**Subd. 6.** [Repealed, 1993 c 206 s 25]

**Subd. 7.** [Repealed, 1993 c 206 s 25]

**Subd. 8.** [Repealed, 1993 c 206 s 25]

**Subd. 9. Penalties.** (a) A person who violates any of the requirements of sections 326.70 to 326.81 or any requirement, rule, or order issued under those sections is subject to a civil penalty of not more than \$10,000 per day of violation. Penalties may be recovered in a civil action in the name of the state brought by the attorney general.

(b) The commissioner may issue an order assessing a penalty of not more than \$10,000 per violation to any person who violates any of the requirements of sections 326.70 to 326.81 or any requirement, rule, or order issued under those sections. A person subject to an administrative penalty order may request a contested case hearing under chapter 14 within 20 days from date of receipt of the penalty order. If the penalty order is not contested within 20 days of receipt, it becomes final and may not be contested.

(c) The amount of the penalty shall be based on the past history of same or similar violations, the severity of violation, the culpability of the person, and other relevant factors. The history of past violations shall include previous violations received by the person licensed as a different entity.

(d) Penalties assessed under sections 326.70 to 326.81 shall be paid to the commissioner for deposit in the state government special revenue fund. Unpaid penalties shall be increased to 125 percent of the original assessed amount if not paid within 60 days after the penalty order becomes final. After 60 days, interest shall accrue on the unpaid penalty balance at the rate established in section 549.09.

**History:** 1987 c 303 s 9; 1989 c 282 art 2 s 183; 1990 c 594 art 3 s 16; 1993 c 303 s 15; 1994 c 465 art 3 s 70

**326.785 ASBESTOS CONTAINMENT BARRIERS.**

Notwithstanding Minnesota Rules, part 4620.3500, subpart 4, item B, subitem (5), containment barriers, in the case of tunnel abatement enclosures, are limited to double critical barriers.

*History: 1990 c 381 s 1; 1993 c 303 s 16*

**326.79** [Repealed, 1993 c 206 s 25]

**326.80** [Repealed, 1993 c 206 s 25]

**326.81 DISCRIMINATION; SANCTIONS.**

A person who discriminates against or otherwise sanctions an employee who complains to or cooperates with the commissioner in administering sections 326.70 to 326.81 is guilty of a misdemeanor.

*History: 1987 c 303 s 12; 1990 c 594 art 3 s 16; 1993 c 303 s 19*

**326.82** [Repealed, 1990 c 594 art 3 s 15]

**RESIDENTIAL CONTRACTORS****326.83 DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to sections 326.83 to 326.98.

Subd. 2. **Affiliate.** An "affiliate" of another person means any person directly or indirectly controlling, controlled by, or under common control with the other person.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 4. **Council.** "Council" means the builders state advisory council.

Subd. 5. **Gross annual receipts.** "Gross annual receipts" means the total amount derived from residential contracting or remodeling activities, and must not be reduced by cost of goods sold, expenses, losses, or any other amount.

Subd. 6. **Lessee.** "Lessee" means one who rents residential real estate pursuant to a written lease agreement of at least one year's duration.

Subd. 7. **Licensee.** "Licensee" means a residential building contractor, residential remodeler, manufactured home installer, or roofer licensed under sections 326.83 to 326.991.

Subd. 8. **Manufactured home.** "Manufactured home" has the meaning given it in section 327.31, subdivision 6.

Subd. 9. **Manufactured home installer.** "Manufactured home installer" has the meaning given it in section 327.31, subdivision 11.

Subd. 10. **Mechanical contractor.** "Mechanical contractor" means a person, sole proprietor, partnership, joint venture, corporation, or other organization which is in the business of erection, installation, alteration, repair, relocation, replacement, addition to, use, or maintenance of any heating, ventilating, cooling, process piping, plumbing, fire protection, or refrigeration systems, incinerators, or other miscellaneous heat-producing appliance, piping, or equipment or appliances associated with those systems.

Subd. 11. **Owner.** Except in section 326.91, subdivision 1, "owner" means a person who has any legal or equitable interest in real property. For purposes of sections 326.83 to 326.991, "owner" does not include a residential building contractor or residential remodeler who constructs or improves its own property for purposes of speculation. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if it constructs or improves more than one property within any 12-month period.

Subd. 12. **Person.** "Person" means a natural person, firm, partnership, limited liability company, corporation, or association, and the officers, directors, employees, or agents of that person.

Subd. 13. **Public member.** "Public member" means a person who is not, and never was, a residential building contractor, residential remodeler, residential roofer, or specialty contractor or the spouse of such person, or a person who has no, or never has had a, material financial interest in acting as a residential building contractor, residential remodeler, or specialty contractor or a directly related activity.

Subd. 14. **Qualifying person.** "Qualifying person" means the individual who fulfills the examination and education requirements for licensure on behalf of the licensee.

Subd. 15. **Residential building contractor.** "Residential building contractor" means a person in the business of building residential real estate, or of contracting or offering to contract with an owner to build residential real estate, by providing two or more special skills as defined in this section. A residential building contractor may also contract or offer to contract with an owner to improve existing residential real estate.

Subd. 16. **Residential remodeler.** "Residential remodeler" means a person in the business of contracting or offering to contract with an owner to improve existing residential real estate by providing two or more special skills as defined in this section.

Subd. 17. **Residential real estate.** "Residential real estate" means a new or existing building constructed for habitation by one to four families, and includes detached garages.

Subd. 18. **Roofer.** "Roofer" means a person engaged in the business of doing work on residential real estate in roof coverings, roof sheathing, roof weatherproofing and insulation, and repair of roof systems, but not construction of new roof systems.

Subd. 19. **Special skill.** "Special skill" means one of the following eight categories:

(a) **Excavation.** Excavation includes work in any of the following areas:

- (1) excavation;
- (2) trenching;
- (3) grading; and
- (4) site grading.

(b) **Masonry and concrete.** Masonry and concrete includes work in any of the following areas:

- (1) drain systems;
- (2) poured walls;
- (3) slabs and poured-in-place footings;
- (4) masonry walls;
- (5) masonry fireplaces;
- (6) masonry veneer; and
- (7) water resistance and waterproofing.

(c) **Carpentry.** Carpentry includes work in any of the following areas:

- (1) rough framing;
- (2) finish carpentry;
- (3) siding;
- (4) doors, windows, and skylights;
- (5) exterior covering;
- (6) porches and decks;
- (7) wood foundations;
- (8) insulation and vapor barrier;
- (9) drywall installation, excluding taping and finishing;
- (10) cabinet and counter top installation;
- (11) wood floors;
- (12) installation of roofing materials, excluding roofing; and
- (13) soffit, fascia, and trim.

(d) **Interior finishing.** Interior finishing includes work in any of the following areas:

- (1) floor covering;
  - (2) wood floors;
  - (3) cabinet and counter top installation;
  - (4) insulation and vapor barriers;
  - (5) interior or exterior painting;
  - (6) ceramic, marble, and quarry tile;
  - (7) ornamental guardrail and installation of prefabricated stairs; and
  - (8) wallpapering.
- (e) **Exterior finishing.** Exterior finishing includes work in any of the following areas:
- (1) siding;
  - (2) doors, skylights, and windows;
  - (3) soffit, fascia, and trim;
  - (4) exterior plaster and stucco;
  - (5) painting; and
  - (6) rain carrying systems, including gutters and down spouts.
- (f) **Drywall and plaster.** Drywall and plaster includes work in any of the following areas:
- (1) installation;
  - (2) taping;
  - (3) finishing;
  - (4) interior plaster;
  - (5) painting; and
  - (6) wallpapering.
- (g) **Roofing.** Roofing includes work in any of the following areas:
- (1) roof coverings;
  - (2) roof sheathing;
  - (3) roof weatherproofing and insulation; and
  - (4) repair of roof support system, but not construction of new roof support system.
- (h) **General installation specialties.** Installation includes work in any of the following areas:
- (1) garage doors and openers;
  - (2) pools, spas, and hot tubs;
  - (3) fireplaces and wood stoves;
  - (4) asphalt paving and seal coating;
  - (5) exterior plaster and stucco; and
  - (6) ornamental guardrail and prefabricated stairs.

Subd. 20. **Specialty contractor.** "Specialty contractor" means a person in the business of contracting or offering to contract to build or improve residential real estate by providing one special skill as defined in this section.

**History:** 1991 c 306 s 7; 1993 c 9 s 1-3; 1993 c 145 s 2-4; 1993 c 245 s 2-13; 1993 c 366 s 18

### 326.84 LICENSING REQUIREMENTS.

Subdivision 1. **Persons required to be licensed.** A person who meets the definition of a residential remodeler as defined in section 326.83, subdivision 16, or a residential building contractor as defined in section 326.83, subdivision 15, must be licensed as a residential building contractor or residential remodeler.

Subd. 1a. **Persons who may be licensed.** A person who meets the definition of a specialty contractor as defined in section 326.83, subdivision 20, may be licensed as a resi-

dential building contractor or residential remodeler unless required to be licensed by the state as a specialty contractor.

Subd. 1b. **Prohibition.** Except as provided in subdivision 3, no persons required to be licensed by subdivision 1 may act or hold themselves out as residential building contractors or residential remodelers for compensation without a valid license issued by the commissioner.

Subd. 1c. **Licensing criteria.** The examination and education requirements for licensure under sections 326.84 to 326.991 must be fulfilled by a qualifying person designated by the potential licensee. If the qualifying person is a managing employee, the qualifying person must be an employee who is regularly employed by the licensee and is actively engaged in the business of residential contracting or residential remodeling on behalf of the licensee. For a sole proprietorship, the qualifying person must be the proprietor or managing employee. For a partnership, the qualifying person must be a general partner or managing employee. For a limited liability company, the qualifying person must be a chief manager or managing employee. For a corporation, the qualifying person must be a chief executive officer or managing employee. A qualifying person for a corporation may act as a qualifying person for one additional corporation if one of the following conditions exists:

(1) there is a common ownership of at least 25 percent of each licensed corporation for which the person acts in a qualifying capacity; or

(2) one corporation is a subsidiary of another corporation for which the same person acts in a qualifying capacity. "Subsidiary," as used in this section, means a corporation of which at least 25 percent is owned by the parent corporation.

Subd. 2. [Repealed, 1993 c 245 s 40]

Subd. 3. **Exemptions.** The license requirement does not apply to:

(1) an employee of a licensee performing work for the licensee;

(2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;

(3) an owner or owners of residential real estate who build or improve residential real estate and who do the work themselves or jointly with the owner's own employees or agents. This exemption does not apply to a person who engages in a pattern of building or improving real estate for purposes of resale. Such a pattern is presumed to exist if the person sells more than one property so built or improved within any 12-month period;

(4) an architect or engineer engaging in professional practice as defined in this chapter;

(5) a person whose total gross annual receipts from projects regulated under this section do not exceed \$15,000;

(6) a mechanical contractor;

(7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of licensure;

(8) specialty contractors who provide only one special skill as defined in section 326.83;

(9) a school district, or a technical college governed under chapter 136C; and

(10) manufactured housing installers.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensing from the commissioner.

A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from contracting activities during the calendar year for which the exemption is requested.

To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calen-



dar year, and the applicant does not expect to exceed \$15,000 in gross annual receipts during the calendar year for which the exemption is requested.

If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for this exemption for the next calendar year.

**History:** 1991 c 306 s 8; 1993 c 245 s 14,15

### **326.841 MANUFACTURED HOME INSTALLERS.**

Manufactured home installers are subject to all of the requirements of sections 326.83 to 326.98, except for the following:

(1) manufactured home installers are not members of the advisory council under section 326.85;

(2) manufactured home installers are not subject to the continuing education requirements of section 326.87;

(3) the examination requirement of section 326.89, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination designed specifically for manufactured home installers. The examination must be designed by the commissioner in conjunction with the state building code division. The commissioner and state building code division shall seek advice on the grading, monitoring, and updating of examinations from the Minnesota manufactured housing association;

(4) the amount of the bond required by section 326.94 shall be \$2,500 for manufactured home installers;

(5) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers; and

(6) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326.83 to 326.98.

**History:** 1993 c 9 s 4

### **326.842 ROOFERS.**

Roofers are subject to all of the requirements of sections 326.83 to 326.98 and 326.991, except the recovery fund in section 326.975.

**History:** 1993 c 145 s 5; 1993 c 366 s 19

### **326.85 ADVISORY COUNCIL.**

Subdivision 1. **Builders advisory council.** The commissioner shall appoint eight persons to the builders advisory council. At least three members of the council must reside in greater Minnesota, as defined in section 116O.02, subdivision 5. At least one member of the council must be a residential building contractor, one a residential remodeler, one a specialty contractor, one a representative of the commissioner, one a local building official, one a public member, and one a representative of organized labor designated by the AFL-CIO, this member shall not be subject to the membership term limits under section 15.059.

Subd. 2. **Membership terms.** The membership terms, compensation, removal, and filling of vacancies of the council are as provided in section 15.059.

Subd. 3. **Duties.** The council shall advise the commissioner on matters related to sections 326.83 to 326.98.

**History:** 1991 c 306 s 9; 1993 c 245 s 16

### **326.86 FEES.**

Subdivision 1. **Licensing fee.** The licensing fee for persons licensed pursuant to sec-

tions 326.83 to 326.991 is \$75 per year. The commissioner may adjust the fees under section 16A.128 to recover the costs of administration and enforcement. The fees must be limited to the cost of license administration and enforcement and must be deposited in the state treasury and credited to the general fund. A fee of \$25 will be charged for a duplicate license or an amended license reflecting a change of business name, address, or qualifying person.

**Subd. 2. Local surcharge.** A local government unit may place a surcharge in an amount no greater than \$5 on each building permit that requires a licensed residential building contractor, residential remodeler, or specialty contractor for the purpose of license verification. The local government may verify a license by telephone or facsimile machine.

**History:** 1991 c 306 s 10; 1993 c 245 s 17

### 326.87 CONTINUING EDUCATION.

**Subdivision 1. Standards.** The commissioner, in consultation with the council, may adopt standards for continuing education requirements and course approval. The standards must include requirements for continuing education in the implementation of energy codes applicable to buildings and other building codes designed to conserve energy. Except for the course content, the standards must be consistent with the standards established for real estate agents and other professions licensed by the department of commerce. At a minimum, the content of one hour of any required continuing education must contain information on lead abatement rules and safe lead abatement procedures.

**Subd. 2. Hours.** A qualifying person of a licensee must provide proof of completion of seven hours of continuing education per year. To the extent the commissioner considers it appropriate, courses or parts of courses may be considered to satisfy both continuing education requirements under this section and continuing real estate education requirements.

**Subd. 3. Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

**History:** 1991 c 306 s 11; 1992 c 522 s 23; 1992 c 595 s 25; 1992 c 597 s 17; 1993 c 245 s 18

### 326.875 NOTICE OF CHANGE.

Written notice must be given to the commissioner by each licensee of any change in personal name, trade name, qualifying person, address, or business location not later than 15 business days after the change. The commissioner shall issue an amended license, if required, for the unexpired period.

**History:** 1993 c 245 s 19

### 326.88 LOSS OF QUALIFYING PERSON.

Upon the departure or disqualification of a licensee's qualifying person because of death, disability, retirement, position change, or other reason, the licensee must notify the commissioner within 15 business days. The licensee shall have 120 days from the departure of the qualifying person to obtain a new qualifying person. Failure to secure a new qualifying person within 120 days will result in the automatic termination of the license.

**History:** 1991 c 306 s 12; 1993 c 245 s 20

### 326.89 APPLICATION AND EXAMINATION.

**Subdivision 1. Form.** An applicant for a license under sections 326.83 to 326.98 must submit an application to the commissioner, under oath, on a form prescribed by the commissioner. Within 30 business days of receiving all required information, the

commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must state the reason. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

**Subd. 2. Contents.** The application must include the following information regarding the applicant:

- (1) Minnesota workers' compensation insurance certificate;
- (2) employment insurance account number;
- (3) certificate of liability insurance;
- (4) type of license requested;
- (5) name and address of the applicant:
  - (i) name and address of the applicant's qualifying person, if other than applicant; and
  - (ii) if the applicant is a sole proprietorship, the name and address of the sole proprietor; if the applicant is a partnership, the name and address of each partner; if the applicant is a limited liability company, the name and address of each governor and manager; if the applicant is a corporation, the name and address of each of the corporate officers, directors, and all shareholders holding more than ten percent of the outstanding stock in the corporation;
- (6) whether the applicant, any employee, or qualifying person has ever been licensed in this or any other state and has had a professional or vocational license refused, suspended, or revoked, or has been the subject of any administrative action;
- (7) whether the applicant, qualifying person, or any of the applicant's corporate or partnership directors, limited liability company governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the share of the corporation that have been issued, or all members holding more than ten percent of the voting power of the membership interests that have been issued, has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, negligence, or breach of contract, or conversion within the ten years prior to the submission of the application; or has had any government license or permit suspended or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;
- (8) the applicant's and qualifying person's business history for the past five years and whether the applicant, any employee, or qualifying person has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant, employee, or qualifying person;
- (9) where the applicant is a firm, partnership, sole proprietorship, limited liability company, corporation, or association, whether there has been a sale or transfer of the business or other change in ownership, control, or name in the last five years and the details thereof, and the names and addresses of all prior, predecessor, subsidiary, affiliated, parent, or related entities, and whether each such entity, or its owners, officers, directors, members or shareholders holding more than ten percent of the stock, or an employee has ever taken or been subject to an action that is subject to clause (6), (7), or (8) in the last ten years; and
- (10) whether the qualifying person is the qualifying person for more than one licensee.

For purposes of this subdivision, "applicant" includes employees who exercise management or policy control over the residential contracting and remodeling activities in the state of Minnesota, including affiliates, partners, directors, governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the shares that have been issued, a shareholder holding more than ten percent of the voting power of the shares that have been issued, or all members holding more than ten percent of the membership interests that have been issued or more than ten percent of the voting power of the membership interests that have been issued.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

**Subd. 3. Examination.** Each qualifying person must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

- (1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and
- (2) understanding of the general principles of business management and other pertinent state laws.

Each examination must be designed for the specified type of license requested. The council shall advise the commissioner on the grading, monitoring, and updating of examinations.

**Subd. 3a. Eligibility.** Any person may take the license examination. After satisfactorily completing the examination, an individual may be designated as the qualifying person for a licensee at any time, if the individual has also fulfilled the continuing education requirements set forth in section 326.87 in the manner required for the qualifying person of a licensee.

**Subd. 4. Competency skills.** The commissioner shall, in consultation with the council, determine the competency skills and installation knowledge required for the licensing of specialty contractors.

**Subd. 5. Exemption.** A general retailer whose primary business is not being a residential building contractor, remodeler, or specialty contractor and who has completed a comparable license examination in another state is exempt from subdivisions 3 and 4 and sections 326.87 and 326.88.

**Subd. 6. Additional licensing requirements.** As an alternative to denying an application for licensure pursuant to section 326.91, subdivision 1, the commissioner may, as a condition of licensure and based upon information received pursuant to section 326.89, subdivision 2, clauses (6) to (8), or a finding pursuant to section 326.91, subdivision 1, clauses (1) to (9), impose additional insurance, bonding, reporting, record keeping, and other requirements on the applicant as are reasonable to protect the public.

**History:** 1991 c 306 s 13; 1993 c 245 s 21-24

### 326.90 LOCAL LICENSES.

**Subdivision 1. Local license prohibited.** Except as provided in sections 326.991 and 326.90, subdivision 2, a political subdivision may not require a person licensed under sections 326.83 to 326.991 to also be licensed under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

**Subd. 2. Exception.** This section does not prohibit a political subdivision from requiring licensure or certification under any ordinance, law, rule, or regulation of the political subdivision for persons who engage in the installation of an on-site sewage treatment system.

**History:** 1991 c 306 s 14; 1993 c 245 s 25

### 326.91 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

**Subdivision 1. Cause.** The commissioner may by order deny, suspend, or revoke any license or may censure a licensee, and may impose a civil penalty as provided for in section 45.027, subdivision 6, if the commissioner finds that the order is in the public interest, and that the applicant, licensee, or affiliate of an applicant or licensee, or other agent, owner, partner, director, governor, shareholder, member, officer, qualifying person, or managing employee of the applicant or licensee or any person occupying a similar status or performing similar functions:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98 or any rule or order under sections 326.83 to 326.98;

(6) has been shown to be incompetent, untrustworthy, or financially irresponsible;

(7) has been convicted of a violation of the state building code;

(8) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 17, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;

(9) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;

(10) has engaged in conduct which was the basis for a contractor's recovery fund payment pursuant to section 326.975, which payment has not been reimbursed;

(11) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit arising out of their activities as a licensee under this chapter; or

(12) has had a judgment entered against them for failure to make payments to employees or subcontractors.

**Subd. 2. Administrative action.** Section 45.027 applies to any action taken by the commissioner in connection with the administration of sections 326.83 to 326.991.

Nothing in this section prevents the commissioner from denying, suspending, revoking, or restricting a license, or from censuring a licensee based on acts or omissions not specifically enumerated in this subdivision.

**History:** 1991 c 306 s 15; 1993 c 245 s 26,27

### 326.92 PENALTIES.

**Subdivision 1. Misdemeanor.** A person required to be licensed under sections 326.83 to 326.991 who performs unlicensed work is guilty of a misdemeanor.

**Subd. 2. Lien rights.** An unlicensed person who knowingly violates sections 326.83 to 326.98 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

**Subd. 3. Commissioner action.** The commissioner may bring actions, including cease and desist actions, against any person licensed or required to be licensed under sections 326.83 to 326.991 to protect the public health, safety, and welfare.

**History:** 1991 c 306 s 16; 1993 c 245 s 28,29

### 326.921 BUILDING PERMIT CONDITIONED ON LICENSURE.

A political subdivision shall not issue a building permit to an unlicensed person who is required to be licensed under sections 326.83 to 326.991. The political subdivision shall report the person applying for a building permit to the commissioner who may bring an action against the person.

**History:** 1993 c 245 s 30

**326.93 SERVICE OF PROCESS; NONRESIDENT LICENSING.**

Subdivision 1. **License.** A nonresident of Minnesota may be licensed as a residential building contractor or residential remodeler upon compliance with all the provisions of sections 326.83 to 326.991.

Subd. 2. **Service of process.** Service of process upon a person performing work in the state of a type that would require a license under sections 326.83 to 326.98 may be made as provided in section 45.028.

**History:** 1991 c 306 s 17; 1993 c 245 s 31

**326.94 BOND; INSURANCE.**

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed roofers must post a license bond with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The annual bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days written notice mailed to the commissioner by regular mail.

(b) A licensed roofer must post a bond of at least \$5,000.

Subd. 2. **Insurance.** Licensees must have public liability insurance with limits of at least \$100,000 per occurrence, which must include at least \$10,000 property damage coverage. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

**History:** 1991 c 306 s 18; 1993 c 245 s 32

**326.945 RESIDENTIAL BUILDING CONTRACTORS AND REMODELERS; BOND MAINTENANCE UNTIL LICENSE RENEWAL.**

Subdivision 1. **Residential building contractors and remodelers licensed as of June 30, 1993.** A residential building contractor or remodeler licensed under section 326.84 who had a license in effect as of June 30, 1993, must, until the license is renewed, continuously maintain the license bond which was posted with the commissioner under section 326.94 when the person was initially licensed.

Subd. 2. **Residential building contractors and remodelers licensed on or after July 1, 1993.** A residential building contractor or remodeler who obtains a license on or after July 1, 1993, but before April 1, 1994, must post a license bond with the commissioner, conditioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into, and must continuously maintain the license bond until the license is renewed. The required license bond must be in the following amount:

(1) \$5,000 for a residential building contractor or remodeler with annual gross receipts of \$1,000,000 or less;

(2) \$10,000 for a residential building contractor or remodeler with annual gross receipts of more than \$1,000,000 but less than \$5,000,000; or

(3) \$15,000 for a residential building contractor or remodeler with annual gross receipts of \$5,000,000 or more.

Subd. 3. **Residential building contractors and remodelers; recovery fund fee pro-rated.** A residential building contractor or remodeler licensed under section 326.84, who does not maintain a license bond under section 326.94, shall pay a one-twelfth share of the contractor's recovery fund fee set in section 326.975, subdivision 1, paragraph (a), clause (1), in lieu of the license bond for each month or any portion of a month the licensee is not bonded prior to license renewal.

**History:** 1994 c 404 s 2

**326.95 LICENSE NUMBER; ADVERTISING.**

Subdivision 1. **License number must be displayed.** The license number of a licensee must be placed on all building permits and building permit applications made to or issued by the state or a political subdivision. In jurisdictions that have not adopted the state building code, the license number must be placed on the site plan review or zoning permit. License numbers must be on all business cards and all contracts to perform work for which a license is required.

Subd. 2. **Advertising.** The license number of a licensee must appear in any display advertising by that licensee.

Subd. 3. **Contracts.** Contracts entered into by a licensee must state that the person is licensed and must state the license number.

Subd. 4. **Notices.** License numbers must appear on each notice under section 514.011, and each statement under section 514.08.

**History:** 1991 c 306 s 19

**326.951 DISCLOSURES.**

If a licensee sells or offers to sell residential property, constructed by the licensee, which is or has been occupied by the licensee, the licensee must, prior to entering into a binding purchase agreement, provide to the buyer a written disclosure which states that any claims that arise as a result of the licensee's construction of the property: (1) will not be covered under the statutory warranty established by chapter 327A, and (2) if the licensee has occupied the residential property for one year or more, will not be eligible for reimbursement from the contractor's recovery fund.

**History:** 1993 c 245 s 33

**326.96 PUBLIC EDUCATION.**

The commissioner may develop materials and programs to educate the public concerning licensing requirements and methods for reporting unlicensed contracting activity.

**History:** 1991 c 306 s 20

**326.97 LICENSE RENEWAL.**

Subdivision 1. **Renewal.** Licensees whose applications have been properly and timely filed and who have not received notice of denial of renewal are considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Applications are timely if received or post-marked by March 1 of the renewal year. Applications must be made on a form approved by the commissioner.

Subd. 1a. **Annual renewal.** Any license issued or renewed after August 1, 1993, must be renewed annually.

Subd. 2. **Failure to apply.** A person who has failed to make a timely application for renewal of a license by March 31 of the renewal year is unlicensed until the license has been issued by the commissioner and is received by the applicant.

Subd. 3. **Reexamination not required.** An examination is not required for the renewal of a license, except that a licensee who has failed to renew a license for two years must retake the examination. The commissioner may stagger the dates of license renewal.

**History:** 1991 c 306 s 21; 1993 c 245 s 34,35

**326.975 CONTRACTOR'S RECOVERY FUND.**

Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.34 with the following exceptions:

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(1) each licensee who renews a license shall pay in addition to the appropriate renewal fee an additional fee which shall be credited to the contractor's recovery fund. The amount of the fee shall be based on the licensee's gross annual receipts for the licensee's most recent fiscal year preceding the renewal, on the following scale:

Fee	Gross Receipts
\$100	under \$1,000,000
\$150	\$1,000,000 to \$5,000,000
\$200	over \$5,000,000

Any person who receives a new license shall pay a fee based on the same scale;

(2) the sole purpose of this fund is to compensate any aggrieved owner or lessee of residential property who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(3) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$50,000 per licensee.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000.

**Subd. 2. Accelerated claims payment.** Recovery fund claims that do not exceed the jurisdiction limits for conciliation court matters as specified in section 491A.01 shall be paid on an accelerated basis if all of the following requirements have been satisfied:

(a) When any aggrieved person obtains a judgment in any court of competent jurisdiction, regardless of whether the judgment has been discharged by a bankruptcy court against a residential building contractor or residential remodeler on grounds specified in subdivision 1, paragraph (a), clause (2), the aggrieved person may file a verified application with the commissioner for payment out of the fund of the amount of actual and direct out-of-pocket loss in the transaction, but excluding any attorney fees, interest on the loss and on any judgment obtained as a result of the loss, up to the conciliation court jurisdiction limits, of the amount unpaid upon the judgment. For purposes of this section, persons who are joint tenants or tenants in common are deemed to be a single claimant.

(b) The commissioner has sent the licensee a copy of the verified application by first-class mail to the licensee's address as it appears in the records of the department of commerce with a notice that the claim will be paid 15 days from the date of the notice unless the licensee notifies the commissioner prior to that date of the commencement of an appeal of the judgment, if the time for appeal has not expired, and that payment of the claim will result in automatic suspension of the licensee's license.

(c) If the licensee does not notify the commissioner of the commencement of an appeal, the commissioner shall pay the claim at the end of the 15-day period.

(d) If an appeal is commenced, the payment of the claim is stayed until the conclusion of the appeal.

(e) The commissioner may pay claims which total no more than \$15,000 against the licensee under this accelerated process. The commissioner may prorate the amount of claims paid under this subdivision if claims in excess of \$15,000 against the licensee



are submitted. Any unpaid portions of such claims shall be satisfied in the manner set forth in subdivision 1.

Subd. 3. **Appropriation.** Money in the contractor's recovery fund is appropriated to the commissioner for the purposes of this section.

**History:** 1993 c 245 s 36; 1994 c 404 s 1; 1994 c 465 art 2 s 17

### **326.98 RULES.**

The commissioner may adopt rules to administer and enforce sections 326.83 to 326.98.

**History:** 1991 c 306 s 22

### **326.99 INITIAL TEMPORARY LICENSES.**

Residential building contractors and residential remodelers must obtain a temporary license, which is effective as of January 1, 1992. The commissioner may stagger the temporary licenses so that approximately one-half of the licenses will expire on March 31, 1993, and the other one-half on March 31, 1994. For residential building contractors and remodelers whose initial temporary license expires March 31, 1993, the commissioner upon receipt of a written request and upon payment of the appropriate license renewal fee by the licensee shall extend the examination deadline until March 31, 1994. In 1994, in addition to the established examination sites, and at no additional costs to the examination candidate, the examination must be made available at least once at five additional sites throughout the state. The additional examination sites must be located whenever possible at public schools or technical colleges.

**History:** 1991 c 306 s 23; 1993 c 245 s 37

### **326.991 EXCEPTION.**

Subdivision 1. The license requirement under section 326.84 does not apply to a residential building contractor, residential remodeler, or specialty contractor licensed by the city of St. Paul or the city of Minneapolis and who is performing work within the legal boundaries of one of those municipalities.

This subdivision expires March 31, 2000.

Subd. 2. The commissioner may contract with the city of Minneapolis and the city of St. Paul to administer this licensing program.

**History:** 1991 c 306 s 24,26; 1992 c 512 art 4 s 60; 1993 c 245 s 38; 1994 c 465 s 63,64