

Fifty-sixth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2033

Introduced by

Legislative Council

(Budget Committee on Long-Term Care)

1 A BILL for an Act to create and enact a new subsection to section 50-24.4-19 of the North
2 Dakota Century Code, relating to prohibited practices of nursing homes; to amend and reenact
3 section 50-24.4-01 of the North Dakota Century Code, relating to nursing facility rates; to repeal
4 section 50-06-14.3 of the North Dakota Century Code, relating to basic care rates; to provide an
5 effective date; and to declare an emergency.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 50-24.4-01 of the 1997 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **50-24.4-01. Definitions.** For the purposes of this chapter:

- 10 1. "Actual allowable historical operating cost per diem" means the per diem operating
11 costs allowed by the department for the most recent reporting year.
- 12 2. "Actual resident day" means a billable, countable day as defined by the
13 department.
- 14 3. "Department" means the department of human services.
- 15 4. "Depreciable equipment" means the standard movable resident care equipment
16 and support service equipment generally used in long-term care facilities.
- 17 5. "Direct care costs" means the cost category for allowable nursing and therapy
18 costs.
- 19 6. "Final rate" means the rate established after any adjustment by the department,
20 including, ~~but not limited to,~~ adjustments resulting from cost report reviews and
21 audits.
- 22 7. "Fringe benefits" means workers' compensation insurance, group health or dental
23 insurance, group life insurance, retirement benefits or plans, and uniform
24 allowances, and medical services furnished at nursing home expense.

- 1 8. "General and administrative costs" means all allowable costs for administering the
2 facility, including, ~~but not limited to:~~ salaries of administrators, assistant
3 administrators, accounting personnel, data processing personnel, security
4 personnel, and all clerical personnel; board of directors' fees; business office
5 functions and supplies; travel, except as necessary for training programs for
6 dietitians, nursing personnel and direct resident care related personnel required to
7 maintain licensure, certification, or professional standards requirements; telephone
8 and telegraph; advertising; membership dues and subscriptions; postage;
9 insurance, except as included as a fringe benefit ~~under subsection 6;~~ professional
10 services such as legal, accounting, and data processing services; central or home
11 office costs; management fees; management consultants; employee training, for
12 any top management personnel and for other than direct resident care related
13 personnel; and business meetings and seminars.
- 14 9. "Historical operating costs" means the allowable operating costs incurred by the
15 facility during the reporting year immediately preceding the rate year for which the
16 payment rate becomes effective, after the department has reviewed those costs
17 and determined them to be allowable costs under the medical assistance program,
18 and after the department has applied appropriate limitations such as the limit on
19 administrative costs.
- 20 10. "Indirect care costs" means the cost category for allowable administration, plant,
21 housekeeping, medical records, chaplain, pharmacy, and dietary, exclusive of food
22 costs.
- 23 11. "Managed care organization" means a medicaid managed care organization as
24 that term is defined in section 1903(m) of the Social Security Act [42 U.S.C.
25 1396b(m)].
- 26 12. "Nursing home" means a facility, not owned or administered by the state
27 government, ~~described~~ defined in ~~subsection 3 of~~ section 43-34-01 or a facility
28 owned or administered by the state, which agrees to accept a rate established
29 under this chapter.
- 30 ~~42-~~ 13. "Operating costs" means the day-to-day costs of operating the facility in
31 compliance with licensure and certification standards.

- 1 ~~43.~~ 14. "Other direct care costs" means the cost category for allowable activities, social
2 services, laundry, and food costs.
- 3 ~~44.~~ 15. "Payment rate" means the rate determined under section 50-24.4-06.
- 4 ~~45.~~ 16. "Payroll taxes" means the employer's share of Federal Insurance Contributions Act
5 taxes, governmentally required retirement contributions, and state and federal
6 unemployment compensation taxes.
- 7 ~~46.~~ 17. "Private-paying resident" means a nursing home resident on whose behalf the
8 nursing home is not receiving medical assistance payments and whose payment
9 rate is not established by any governmental entity with ratesetting authority,
10 including the veterans' administration or medicare, or whose payment rate is not
11 negotiated by any managed care organization contracting with a facility to provide
12 services for the resident.
- 13 ~~47.~~ 18. "Rate year" means the fiscal year for which a payment rate determined under this
14 chapter is effective, from January first to the next December thirty-first.
- 15 ~~48.~~ 19. "Real estate" means improvements to real property and attached fixtures used
16 directly for resident care.
- 17 ~~49.~~ 20. "Reporting year" means the period from July first to June thirtieth, immediately
18 preceding the rate year, for which the nursing home submits reports required under
19 this chapter.
- 20 ~~20.~~ 21. "Top management personnel" means owners, board members, corporate officers,
21 general, regional, and district managers, administrators, nursing home
22 administrators, and ~~any other person~~ persons performing functions ordinarily
23 performed by such personnel.

24 **SECTION 2.** A new subsection to section 50-24.4-19 of the North Dakota Century Code
25 is created and enacted as follows:

26 Charging a managed care organization a rate that is less than the rate approved
27 by the department for a medical assistance recipient in the same classification.

28 **SECTION 3. REPEAL.** Section 50-06-14.3 of the 1997 Supplement to the North
29 Dakota Century Code is repealed.

30 **SECTION 4. EMERGENCY - EFFECTIVE DATE.** Section 3 of this Act is declared to
31 be an emergency measure and is effective July 1, 1999.