

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2359
(Senators Tallackson, J. Lee)
(Representatives Damschen, Herbel)

AN ACT to amend and reenact sections 50-19-01, 50-19-02, 50-19-03, 50-19-03.1, 50-19-04, 50-19-05, 50-19-06, 50-19-07, 50-19-10, 50-19-11, 50-19-12, 50-19-13, and 50-19-14 of the North Dakota Century Code, relating to maternity homes; and to repeal sections 50-19-08 and 50-19-09 of the North Dakota Century Code, relating to births at maternity homes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-19-01 of the North Dakota Century Code is amended and reenacted as follows:

50-19-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Department" means the department of human services.
2. "Maternity home ~~for unmarried mothers~~" means any ~~hospital~~, home, or other premises, operating especially to provide social services ~~and~~, maternity care, and child care to unmarried pregnant or recently delivered mothers and their infants, which receives more than one unmarried woman during any period of six months for any length of time for shelter, or care, or treatment during pregnancy, or delivery, or within sixty one hundred twenty days after delivery. It does not include any ~~hospital~~, home, or other premises owned or operated by state or federal governments.

SECTION 2. AMENDMENT. Section 50-19-02 of the North Dakota Century Code is amended and reenacted as follows:

50-19-02. License required. Any person, partnership, voluntary association, corporation, or limited liability company which operates a maternity home ~~for unmarried mothers~~ shall secure ~~annually~~ from the department a license at least once every two years as required in this chapter.

SECTION 3. AMENDMENT. Section 50-19-03 of the North Dakota Century Code is amended and reenacted as follows:

50-19-03. Requirements for license. A license for the operation of a maternity home ~~for unmarried mothers~~ must be issued by the department to a reputable and responsible person, partnership, voluntary association, corporation, or limited liability company, upon showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the home and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The home is to be conducted for the public good and in accordance with sound social policy; and
4. The health and well-being of the infants ~~born therein and the health, morality, and well-being of the parties treated therein~~ who receive services will be properly safeguarded.

SECTION 4. AMENDMENT. Section 50-19-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-19-03.1. Conviction not bar to licensure - Exceptions. Conviction of an offense does not disqualify a person from licensure under this chapter unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or operator of a maternity home ~~for unmarried mothers~~, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 5. AMENDMENT. Section 50-19-04 of the North Dakota Century Code is amended and reenacted as follows:

50-19-04. Inspection and report by state department of health and state fire marshal. The department shall give notice to the state department of health and state fire marshal of ~~all applications~~ each application for a license to operate a maternity home ~~for unmarried mothers~~. Upon receipt of ~~such~~ the notice, the state department of health and the fire marshal shall inspect the facilities and premises of the applicant to determine ~~sanitary conditions and the adequacy of medical and nursing services~~ compliance with health and fire safety standards and shall report ~~its~~ their findings to the department.

SECTION 6. AMENDMENT. Section 50-19-05 of the North Dakota Century Code is amended and reenacted as follows:

50-19-05. Contents of license. The license to operate a maternity home ~~for unmarried mothers~~ issued under the provisions of this chapter must set forth:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of patients who may be received in such premises at any one time.
4. The date of expiration of the license.

SECTION 7. AMENDMENT. Section 50-19-06 of the North Dakota Century Code is amended and reenacted as follows:

50-19-06. Regulation by department. The department may prescribe forms for the registration and record of ~~persons cared for~~ any individual who receives services in maternity homes ~~for unmarried mothers~~ and may adopt reasonable rules for the conduct of such homes as are necessary to carry out the purposes of this chapter. The department shall require reports from the licensee which must include a statement of plans made for the ~~unmarried~~ mother and her child.

SECTION 8. AMENDMENT. Section 50-19-07 of the North Dakota Century Code is amended and reenacted as follows:

50-19-07. Inspection of maternity home ~~for unmarried mothers~~ and the records thereof. The department and its authorized agents may inspect any maternity home ~~for unmarried mothers~~ licensed under this chapter at any time. The department and its agents shall have free access to every part of such home and to the records thereof, and they may see and interview ~~the patients therein~~ any individual who receives services from the maternity home.

SECTION 9. AMENDMENT. Section 50-19-10 of the North Dakota Century Code is amended and reenacted as follows:

50-19-10. Records of maternity home confidential. Except as otherwise authorized by law, no agent of the state department of health, the state fire marshal, or the department, or the licensee, under this chapter, may disclose the contents of the records of a maternity home ~~for unmarried mothers~~ nor of the reports received from them, except:

1. In a judicial or administrative proceeding in response to an order of a court or administrative tribunal; or

2. For a law enforcement purpose to a law enforcement official or a health oversight agency for oversight activities authorized by law.

SECTION 10. AMENDMENT. Section 50-19-11 of the North Dakota Century Code is amended and reenacted as follows:

50-19-11. Offer or advertise to ~~dispose of infants~~ place a child for adoption prohibited.

No maternity home ~~for unmarried mothers~~ licensed under ~~the provisions of~~ this chapter may in any way offer to ~~dispose of any~~ place a child, or advertise that it will give children for adoption, or hold itself out, directly or indirectly, as being able to ~~dispose of~~ place children for adoption, but may inform ~~an~~ an ~~unmarried~~ a mother of licensed child-placing agencies.

SECTION 11. AMENDMENT. Section 50-19-12 of the North Dakota Century Code is amended and reenacted as follows:

50-19-12. Revocation of license. The department may revoke a license of any maternity home ~~for unmarried mothers~~ upon a proper showing of any of the following:

1. Any of the conditions set forth in section 50-19-03 as requirements for the issuance of the license no longer exists.
2. The license was issued upon fraudulent or untrue representations.
3. The owner or operator has violated any of the rules of the department.
4. The owner or operator of the maternity home has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the department determines, following the owner's or operator's conviction of any other offense, that the owner or operator is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 12. AMENDMENT. Section 50-19-13 of the North Dakota Century Code is amended and reenacted as follows:

50-19-13. Hearing on denial or revocation of license. Before any application for a license to conduct a maternity home ~~for unmarried mothers~~ is denied or before the revocation of any such license by the department, written charges as to the reasons therefor must be served upon the applicant or licensee, who has the right to a hearing before the department, if a hearing is requested within ten days after service of the written charges.

SECTION 13. AMENDMENT. Section 50-19-14 of the North Dakota Century Code is amended and reenacted as follows:

50-19-14. Cooperation of interested persons and agencies. The licensee of a maternity home ~~for unmarried mothers, the physician, or other responsible person in attendance at birth,~~ the state department of health and its agents, the state fire marshal and the fire marshal's designees, and the department and its agents shall cooperate in all measures and services for improving and safeguarding the health and social well-being of ~~maternity patients~~ mothers and their infants ~~care for~~ who receive services in a maternity home ~~for unmarried mothers.~~

SECTION 14. REPEAL. Sections 50-19-08 and 50-19-09 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2359.

Senate Vote: Yeas 45 Nays 0 Absent 2

House Vote: Yeas 87 Nays 0 Absent 7

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at _____ o'clock _____ M.

Secretary of State