

# HEALTH AND SAFETY

## CHAPTER 180

### HOUSE BILL NO. 1266

(Representatives Porter, Weisz)  
(Senators J. Lee, Lyson)

AN ACT to create and enact a new section to chapter 23-01.2 of the North Dakota Century Code, relating to a state department of health emergency medical services and trauma medical director; and to provide an appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 23-01.2 of the North Dakota Century Code is created and enacted as follows:

**Medical director.**

The state health officer may appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the state department of health.

**SECTION 2. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the state department of health for the support of the comprehensive state trauma system, for the biennium beginning July 1, 2011, and ending June 30, 2013, as follows:

Advanced trauma life support training	\$20,000
Trauma designation site visits	\$30,000
Contracted emergency medical services and trauma medical director	\$50,000

Approved April 27, 2011  
Filed April 24, 2011

## CHAPTER 181

### HOUSE BILL NO. 1159

(Representatives Delmore, Hawken, N. Johnson, Weisz, S. Meyer)  
(Senator J. Lee)

AN ACT to amend and reenact section 23-01-05.2 of the North Dakota Century Code, relating to administration of epinephrine.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

**23-01-05.2. ~~State health officer may authorize the administration~~ Administration of epinephrine - Liability.**

1. The state health officer ~~may~~shall adopt rules to authorize ~~laypersons~~layperson to administer epinephrine to ~~persons~~an individual who ~~have~~has a severe ~~adverse reactions to insect stings~~allergic reaction.
2. ~~A person~~An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for ~~the~~epinephrine administration from any licensed physician or pharmacist.
3. ~~A person~~An individual authorized to administer epinephrine by the state health officer, and the employer of such an individual, is not civilly or criminally liable for any act or omission of that individual when acting in good faith while rendering emergency treatment to ~~persons~~an individual who ~~have~~has a severe adverse ~~reactions to insect stings~~reaction, except when the conduct amounts to gross negligence.

Approved April 4, 2011  
Filed April 4, 2011

## CHAPTER 182

### SENATE BILL NO. 2276

(Senators J. Lee, Dever, Heckaman)  
(Representatives Kaldor, Weisz)

AN ACT to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to the North Dakota immunization program; to amend and reenact section 23-01-05.3 of the North Dakota Century Code, relating to reporting immunization data; and to provide an appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-01-05.3. Immunization data.**

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
  - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
  - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

**SECTION 2.** A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

### **Immunization program - Provider choice - Purchasing.**

1. As used in this section:
  - a. "Department" means the state department of health.
  - b. "North Dakota immunization advisory committee" means the group of private health care providers, local public health units, department staff, and other applicable individuals which makes immunization and vaccine selection recommendations to the North Dakota immunization program.
  - c. "North Dakota immunization program" means the program administered by the department to provide vaccinations to North Dakota children consistent with state and federal law.
  - d. "Program-eligible child" means any child, who is under nineteen years of age, whose custodial parent or legal guardian resides in this state.
  - e. "Vaccine" means any vaccine recommended by the federal advisory committee on immunization practices of the centers for disease control and prevention.
  - f. "Vaccines for children program" is a federally funded program that provides vaccines at no cost to eligible children pursuant to section 1928 of the Social Security Act [42 U.S.C. 1396s].
2. As part of the North Dakota immunization program:
  - a. The department shall implement a provider choice system as part of the state's implementation of the vaccines for children program. This provider choice system must provide a health care provider participating in the state's vaccines for children program or in any other immunization program for children, adolescents, or adults which is administered through the state using federal or state funds, may select any licensed vaccine, including combination vaccines, and any dosage forms that have in effect a recommendation from the federal advisory committee on immunization practices. This subsection does not apply in the event of a disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.
  - b. The department shall establish a program through which the department purchases vaccines through the federal vaccine purchasing contract.
    - (1) The department shall supply public health units with the purchased vaccines. A public health unit that receives vaccines under this subdivision shall administer the vaccines to program-eligible children.
    - (2) A public health unit that receives vaccines under this purchasing program may not bill an insurer for the cost of the vaccine but may charge an administration fee.
    - (3) The department shall fund this purchasing program through participation in the vaccines for children program, the federal section 317 vaccine program, and state funds appropriated for this purpose. If it appears there will be inadequate funds to fund this

purchasing program, the department shall petition the emergency commission for a transfer from the state contingency fund. The emergency commission may grant the transfer request, or so much thereof as may be necessary, to fund this purchasing program.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,500,000, or so much of the sum as may be necessary, to the state department of health for the purpose of funding the program through which the department purchases vaccines through the federal vaccine purchasing contract, for the biennium beginning July 1, 2011, and ending June 30, 2013.

Approved May 17, 2011  
Filed May 17, 2011

## CHAPTER 183

### HOUSE BILL NO. 1422

(Representatives Weisz, Devlin, Kilichowski)  
(Senators Dever, Uglen, Heckaman)

AN ACT to create and enact a new section to chapter 23-01 of the North Dakota Century Code, relating to electronic drug prior authorization standards; and to provide for a report to the legislative management.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

##### **Electronic drug prior authorization and transmission - Limitations.**

1. Effective August 1, 2013, a drug prior authorization request must be accessible to a health care provider with the provider's electronic prescribing software system and must be accepted electronically, through a secure electronic transmission, by the payer, by the insurance company, or by the pharmacy benefit manager responsible for implementing or adjudicating or for implementing and adjudicating the authorization or denial of the prior authorization request. For purposes of this section, a facsimile is not an electronic transmission.
2. Effective August 1, 2013, electronic transmission devices used to communicate a prescription to a pharmacist may not use any means or permit any other person to use any means, including advertising, commercial messaging, and popup advertisements, to influence or attempt to influence through economic incentives the prescribing decision of a prescribing practitioner at the point of care. Such means may not be triggered by or be in specific response to the input, selection, or act of a prescribing practitioner or the prescribing practitioner's staff in prescribing a certain pharmaceutical or directing a patient to a certain pharmacy. Any electronic communication sent to the prescriber, including advertising, commercial messaging, or popup advertisements must be consistent with the product label, supported by scientific evidence, and meet the federal food and drug administration requirements for advertising pharmaceutical products.
3. Electronic prescribing software may show information regarding a payer's formulary if the software is not designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

**SECTION 2. ELECTRONIC DRUG PRIOR AUTHORIZATION STANDARDIZATION AND TRANSMISSION - REPORT TO LEGISLATIVE MANAGEMENT.** During the 2011-12 interim, the health information technology advisory committee shall establish an outline on how best to standardize drug prior authorization request transactions between providers and the payers, insurance companies, and pharmacy benefit managers responsible for adjudicating the authorization or denial of the prescription request. The outline must be designed with

the goal of maximizing administrative simplification and efficiency in preparation for electronic transmissions and alignment with standards that are or will potentially be used nationally. By June 30, 2012, the health information technology advisory committee shall provide a report to the legislative management regarding the outline on how best to standardize drug prior authorization request transactions.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 184

### SENATE BILL NO. 2293

(Senators O'Connell, Berry, Lyson)  
(Representatives Hunskor, Monson, Porter)

AN ACT to amend and reenact sections 23-02.1-19 and 23-02.1-20 of the North Dakota Century Code, relating to signature requirements for death certificates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-02.1-19. Death registration.**

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the state department of health using the electronic death registration system. All registration and issuing of copies of death records will be completed by the state department of health.
2. The funeral director shall obtain the facts of death from the next of kin or the best qualified person or source available and must file the facts of death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the person responsible for the medical certification.
3. The medical certification must be completed and filed using the electronic death registration system within fifteen days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.
4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within fifteen days after taking charge of the case using the electronic death registration system.
5. If the cause of death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
6. When a death is presumed to have occurred within this state but the body cannot be located, a death record may be prepared by the state registrar upon

receipt of findings of a court of competent jurisdiction, including the facts of death and medical certification required to complete the death record. The death record must be marked "presumptive" and must show on its face the date of registration and must identify the court and the date of the decree.

7. Each death record must include the social security number of the decedent, if the information is available. A social security number included on a death record is confidential and may be disclosed only to a relative or authorized representative of the individual named on the record or by an order of a court of competent jurisdiction.

**SECTION 2. AMENDMENT.** Section 23-02.1-20 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-20. Fetal death registration.**

1. A fetal death record for each fetal death which occurs in this state after a gestation period of twenty completed weeks or more or of less than twenty completed weeks of gestation when provided by rules of the state department of health must be filed with the state registrar.
2. The funeral director who first assumes custody of a fetus shall file the fetal death record. In the absence of such a person, the physician or other person in attendance at or after delivery shall file the fetal death record. The person filing the fetal death record shall obtain the facts of death from the next of kin or the best qualified person or source available and must file the facts of death information within fifteen days of the occurrence using the electronic death registration system. The person filing the fetal death record shall obtain the medical certification of death from the person responsible for the medical certification.
3. The medical certification must be completed and filed using the electronic death registration system by the physician, physician assistant, or a nurse practitioner in attendance at the delivery within fifteen days after the delivery except when inquiry is required by the local health officer or coroner.
4. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death, and shall obtain medical information about the individual from that individual's medical records or last-known physician or physician assistant and file the medical certification within fifteen days after taking charge of the case using the electronic death registration system.
5. If the cause of fetal death cannot be determined within fifteen days after death, the medical certification may be filed after the prescribed period of time in accordance with rules adopted by the state department of health. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.
6. The provision for entering the name of the father of the fetus on the fetal death record and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in section 23-02.1-13.

## CHAPTER 185

### HOUSE BILL NO. 1084

(Judiciary Committee)

(At the request of the State Department of Health)

AN ACT to amend and reenact sections 14-03-20.1 and 23-02.1-27 of the North Dakota Century Code, relating to surname options on marriage applications and disclosure of birth and death records; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 14-03-20.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **14-03-20.1. Surname options.**

1. Every person has the right to adopt any surname by which that person wishes to be known by using that surname consistently and without intent to defraud.
2. A person's surname does not automatically change upon marriage. Neither party to the marriage must change the party's surname. Parties to a marriage need not have the same surname.
3. One party or both parties to a marriage may elect to change the surname by which that party wishes to be known after the solemnization of the marriage by entering the new surname in the space provided on the marriage license application. The entry on the application must consist of one of the following surnames:
  - a. The surname of the other spouse;
  - b. Any former surname of either spouse;
  - c. A name combining into a single surname all or a segment of the premarriage surname or any former surname of either spouse; or
  - d. A combination name separated by a hyphen or space, provided that each part of the combination surname is the premarriage surname or former surname of either spouse.
4. Use of the option under subsection 3 has the effect of providing a record of the surname change. The marriage certificate containing the new surname, if any, constitutes proof that the use of the new surname, or the retention of the former surname, is lawful.
5. Neither the use of nor the failure to use the option of selecting a new surname by means of a marriage license application, as provided in subsection 3, abrogates the right of either party to adopt a different surname through usage at a future date.

6. Compliance with the surname provisions of this section is sufficient to meet the satisfactory evidence requirements of section 39-06-07.1.

<sup>74</sup> **SECTION 2. AMENDMENT.** Section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

**23-02.1-27. Disclosure of records.**

Birth, death, and fetal death records, filings, data, or other information related to birth, death, and fetal death records are confidential and may not be disclosed except as authorized under this chapter. The state registrar shall restrict access to all vital records to protect vital records from loss, mutilation, or destruction and to prevent disclosure of the information contained in these records except as authorized under this chapter.

1. A certified copy of a birth record may be issued to the individual named on the record if that individual is at least sixteen years old, to a parent named on the record, to an authorized representative, or by the order of a court of competent jurisdiction. If the individual named on a birth record is deceased, a certified copy of that record may also be issued to a relative. If the date of birth on any birth record is more than one hundred years old, that record is an open record and a certified copy may be issued to anyone, except that adoption records remain confidential.
2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, ~~or a licensed physician for the purposes of researching family medical history,~~ a funeral director reporting the facts of death, or by the order of a court of competent jurisdiction and may include the cause of death and the social security number. A certified copy of ~~the facts of~~ the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified ~~informational~~ copy of ~~an informational~~ an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.
3. A certified copy of a fetal death record may be issued to a parent named on the record, an authorized representative, or by the order of a court of competent jurisdiction. A person authorized to receive a certified copy of a fetal death record may request the certified copy be issued in the form of a certification of birth resulting in stillbirth.
4. A noncertified informational copy of a marriage record may be issued to the general public.
5. Any individual authorized to receive a certified copy of any specific record may grant another individual the same authority by completing a written authorization on a form prescribed by the state department of health.
6. The state department of health may grant limited access to birth and death information to divisions and programs of the state department of health, the department of transportation, the protection and advocacy project, and to the

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<sup>74</sup> Section 23-02.1-27 was also amended by section 4 of House Bill No. 1214, chapter 127.

department of human services necessary for the purpose of completing ~~it~~their respective official duties.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 28, 2011

Filed March 28, 2011

## CHAPTER 186

### SENATE BILL NO. 2116

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to create and enact subsection 5 to section 23-06-03 of the North Dakota Century Code, relating to the designation of a person authorized to direct disposition of a decedent's remains in the event of death while in military service.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Subsection 5 to section 23-06-03 of the North Dakota Century Code is created and enacted as follows:

5. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

Approved April 19, 2011  
Filed April 20, 2011

## CHAPTER 187

### SENATE BILL NO. 2084

(Human Services Committee)  
(At the request of the State Department of Health)

AN ACT to amend and reenact sections 23-07.1-01.1, 23-07.1-05, and 23-07.1-15 of the North Dakota Century Code, relating to orders for the treatment of individuals with tuberculosis; and to repeal sections 23-07.1-01, 23-07.1-06, 23-07.1-07, 23-07.1-08, 23-07.1-09, 23-07.1-10, 23-07.1-11, and 23-07.1-12 of the North Dakota Century Code, relating to orders for the treatment of individuals with tuberculosis.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-07.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-07.1-01.1. Definitions.**

As used in this chapter:

1. "Appropriate facility" includes a licensed hospital, a public or private outpatient clinic, a long-term care facility, a correctional facility, or ~~a person's~~ an individual's home, and may also include directly observed therapy under the supervision of the department.
2. "Department" means the state department of health, including local public health ~~boards~~ units.
3. "Infectious tuberculosis" means tuberculosis disease in any part of the body, capable of producing infection or disease in others as demonstrated by laboratory evidence of tuberculosis bacteria in a specimen from any source in an individual's body or by radiographic or clinical findings.
4. "Medically approved course of treatment" means ongoing monitoring for a disease, treatment regimen, or therapy prescribed by a licensed physician and approved by the department.
5. "Noninfectious tuberculosis" or "latent TB infection" means the presence of tuberculosis bacteria in the body of an individual as evidenced by testing, such as significant reaction to a tuberculin skin test or a positive interferon gamma release assay, but without any other clinical findings of illness and without the capability of producing infection or disease in others.
6. "Substantial threat to the public health" means an individual with infectious or suspect tuberculosis who has not completed a medically approved course of therapy and does not adhere or threatens to not adhere to a recommended treatment regimen or does not adhere or threatens to not adhere to infection control measures.

7. "Suspect tuberculosis" means an illness marked by symptoms and laboratory tests that may be indicative of tuberculosis, such as a prolonged cough, prolonged fever, hemoptysis, compatible roentgenographic findings, or other appropriate medical imaging findings.
- 4-8. "Tuberculosis" includes these—casesinfectious tuberculosis, suspect tuberculosis, noninfectious tuberculosis, and any other case in which a personan individual is found to have tuberculosis based upon laboratory testing, clinical evidence, or as diagnosed by a physician, the department, or a local health officer.

**SECTION 2. AMENDMENT.** Section 23-07.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**23-07.1-05. Reports - Orders for the custody of personsindividuals.**

1. ~~Upon the receipt of a report to or receipt of information by the state health officer or any physician in the state that any person~~individual is reasonably suspected to have or to have been exposed to tuberculosis, ~~a report must be made to the state health officer. Upon the receipt of the report,~~ the state health officer shall investigate the matter and if the state health officer is ~~convinced~~determines that the ~~person~~individual may have, or may have been exposed to, tuberculosis, the state health officer shall request the ~~person~~individual to voluntarily seek appropriate evaluation and care and a medically approved course of treatment. If the ~~person~~individual refuses to accept voluntary evaluation and care and a medically approved course of treatment, and the individual has infectious or suspect tuberculosis, the state health officer may issue ~~a temporary order for care and treatment as determined by the state health officer. If the state health officer's temporary order is ignored,~~ the state health officer may issue an order directing the sheriff or any peace officer of the county where the person alleged to have tuberculosis resides to compel the attendance of the person and may provide for suitable housing and care of the person until a hearing is held pursuant to section 23-07.1-08.

~~Prior to issuing a final order, the state health officer or a designee shall hear all relevant testimony for or against the final order. The examination and hearing on the order must be in the presence of the person alleged to have tuberculosis. The alleged tubercular person and any relative may resist the order and the parties may be represented by counsel.~~order the individual or group of individuals into confinement under sections 23-07.6-02 and 23-07.6-03, and may order further isolation or quarantine as authorized under chapter 23-07.6. An order under this section may designate an appropriate facility for confinement, including the individual's home.

2. The state health officer may immediately investigate all reported or suspected cases of tuberculosis in the state and determine the sources of those infections.
3. The state health officer may conduct screening programs of populations that are at increased risk of developing tuberculosis or having latent tuberculosis infection and offer treatment as appropriate. Any such screening program may be implemented by a local health officer with the approval of the state health officer.

**SECTION 3. AMENDMENT.** Section 23-07.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**23-07.1-15. Penalty.**

1. ~~A person~~An individual is guilty of a class A misdemeanor if:
  - a. That ~~person~~individual fails to undertake diagnostic examination for tuberculosis upon the request of the state health officer which is based upon the reasonable suspicion that ~~that person~~the individual has or has been exposed to tuberculosis;
  - b. That ~~person~~individual has been diagnosed with infectious or suspect tuberculosis and fails to undertake a medically approved course of treatment for tuberculosis; or
  - c. That ~~person~~individual is the parent of a minor or guardian of a ~~person~~an individual who violates subdivision a or b.
2. Upon conviction, the court may order that ~~person~~individual to obtain a supervised medically approved course of treatment for tuberculosis until the treatment is completed, in addition to other penalties or conditions provided by law.

**SECTION 4. REPEAL.** Sections 23-07.1-01, 23-07.1-06, 23-07.1-07, 23-07.1-08, 23-07.1-09, 23-07.1-10, 23-07.1-11, and 23-07.1-12 of the North Dakota Century Code are repealed.

Approved April 25, 2011  
Filed April 25, 2011

## CHAPTER 188

### HOUSE BILL NO. 1040

(Legislative Management)  
(Long-Term Care Committee)

AN ACT to amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity; and to provide for a report to the legislative management.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>75</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2009~~2011, and July 31, ~~2014~~2013, except when:
  - a. A nursing facility converts nursing facility beds to basic care;
  - b. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.4672-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
  - c. If the state department of health and the department of human services grant approval of new basic care beds to an entity, the approved entity shall license the beds within forty-eight months from the date of approval.

<sup>76</sup> **SECTION 2. AMENDMENT.** Subsection 1 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2009~~2011, and July 31, ~~2014~~2013. A nursing facility may not convert licensed nursing bed capacity to basic care bed capacity or convert basic care

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<sup>75</sup> Section 23-09.3-01.1 was also amended by section 1 of House Bill No. 1325, chapter 189.

<sup>76</sup> Section 23-16-01.1 was also amended by section 2 of House Bill No. 1325, chapter 189.

beds back to nursing facility beds more than one time in a twelve-month period if the beds have been licensed as basic care.

**SECTION 3. HEALTH CARE BED RECOMMENDATIONS - REPORT TO LEGISLATIVE MANAGEMENT.** During the 2011-12 interim, the state health council shall review current health care bed recommendations and determine if changes should be made to better serve the population of North Dakota. The state health council shall report its findings to the legislative management by July 1, 2012.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 189

### HOUSE BILL NO. 1325

(Representatives Kreidt, Bellew, Heller, Rohr)  
(Senator Dever)

AN ACT to amend and reenact subsection 1 of section 23-09.3-01.1 and section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the expansion of basic care and long-term care bed capacity; and to provide an appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA,:

<sup>77</sup> **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2009~~2011, and July 31, ~~2014~~2013, except when:
  - a. A nursing facility converts nursing facility beds to basic care;
  - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
  - c. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
  - e.d. ~~If the~~The state department of health and the department of human services grant approval of new basic care beds to an entity, ~~the~~The approved entity shall license the beds within forty-eight months from the date of approval.

<sup>78</sup> **SECTION 2. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

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<sup>77</sup> Section 23-09.3-01.1 was also amended by section 1 of House Bill No. 1040, chapter 188.

<sup>78</sup> Section 23-16-01.1 was also amended by section 2 of House Bill No. 1040, chapter 188.

### 23-16-01.1. Moratorium on expansion of long-term care bed capacity.

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, 2009, 2011, and July 31, 2014-2013. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity or convert, revert licensed basic care beds bed capacity back to nursing facility beds bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than one time in a twelve-month period if the beds have been licensed as basic care.
2. ~~Transfers of beds~~ Transfer of licensed nursing facility bed from one nursing facility to another entity is permitted. The nursing facility may transfer the bed capacity either as nursing facility bed capacity or basic care bed capacity. ~~Transferred nursing facility beds bed capacity must become licensed by an entity as the type of bed capacity originally transferred within forty-eight months of transfer. Nursing facility beds transferred before August 1, 2005, which are awaiting nursing facility licensure, may be converted to basic care licensure. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the forty-eight-month period originally established at the time the nursing facility first transferred the licensed nursing facility bed capacity. The subsequent receiving entity must license the received bed capacity within the forty-eight-month period originally established at the time of the first transfer.~~
3. A nursing facility may convert licensed nursing facility bed capacity to basic care. If the converted beds remain in the same facility and are not transferred, the beds may revert to nursing facility status after one year of licensure as basic care beds.
4. Nursing facility beds that are converted to basic care may be transferred as basic care beds. However, upon the transfer, the basic care beds may not be relicensed as nursing facility beds.
5. If an Indian tribe acquires nursing facility beds, the tribal facility must meet state licensing requirements for those beds within forty-eight months of acquisition. A tribal facility may seek to participate in the medical assistance programs. Medical assistance payments may only be made to a medicaid certified tribal facility that agrees to participate and adhere to all federal and state requirements of the medical assistance program, including participation, screening, ratesetting, and licensing requirements.
6. A nursing facility, upon prior written notice to the state department of health, may delicense a maximum of twenty-five percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of twenty-four months. The total delicensed nursing facility bed capacity that may be held for a nursing facility at no time may be greater than fifty percent of the number of currently licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess of fifty percent of the nursing facility's licensed capacity may not be held and is not eligible for the provisions of subsection 7. Delicensed bed capacity not sold or relicensed at the conclusion of the twenty-four-month holding period ceases to exist.

7. During the twenty-four-month holding period established at the time of delicensure, delicensed nursing facility bed capacity that is being held for the nursing facility may be:
- a. Relicensed by the nursing facility. Relicensing of nursing facility bed capacity may not occur for twelve months from the time of delicensure.
  - b. Transferred to another entity as nursing facility bed capacity or basic care bed capacity. The receiving entity must license the transferred bed capacity as the type of bed capacity transferred within the forty-eight-month period originally established at the time of delicensure. Bed capacity transferred as basic care bed capacity may not be reverted to nursing facility bed capacity at any time. A receiving entity may transfer the received bed capacity to another entity within the forty-eight-month period originally established at the time of delicensure. The subsequent receiving entity must license the received bed capacity within the forty-eight-month period originally established at the time of delicensure.
  - c. Licensed as basic care beds by the same facility. If the licensed basic care beds remain in the same facility and are not transferred, the beds may be reverted to licensed nursing facility bed capacity after twelve months.

**SECTION 3. APPROPRIATION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$546,786, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$679,193, or so much of the sum as may be necessary, to the department of human services for the purpose of providing for payments for nursing facilities as provided for in sections 1 and 2 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013.

Approved April 20, 2011  
Filed April 20, 2011

## CHAPTER 190

### HOUSE BILL NO. 1174

(Representatives Keiser, Ruby)  
(Senators Andrist, Klein)

AN ACT to amend and reenact sections 23-12-14 and 26.1-41-12 of the North Dakota Century Code, relating to copies of medical records and medical bills.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-12-14 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-12-14. Copies of medical records and medical bills.**

1. As used in this section, "health care provider" means a licensed individual or licensed facility providing health care services. Upon the request of a health care provider's patient or any person authorized by a patient, the provider shall provide a free copy of a patient's health care records to a health care provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient's health care to another health care provider for the continuation of treatment.
2. Except as provided in subsection 1, upon the request for medical records or medical bills with the signed authorization of the patient, the health care provider shall provide medical records and any associated medical bills either in paper or facsimile format at a charge of no more than twenty dollars for the first twenty-five pages and seventy-five cents per page after twenty-five pages or in an electronic, digital, or other computerized format at a charge of thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages. This charge includes any administration fee, retrieval fee, and postage expense.

**SECTION 2. AMENDMENT.** Section 26.1-41-12 of the North Dakota Century Code is amended and reenacted as follows:

##### **26.1-41-12. Discovery of facts about an injured person.**

1. Every employer or claimant, if a written request is made by a basic no-fault insurer against whom a claim has been made, shall furnish forthwith, in a form approved by the insurance commissioner, a sworn statement of the earnings, since the time of the accidental bodily injury and for a twelve-month period before the injury, of the individual upon whose injury the claim is based.
2. Every physician, coroner or medical officer, hospital, clinic, or other medical institution providing, before or after an accidental bodily injury upon which a claim for basic or optional excess no-fault benefits is based, any products, services, or accommodations in relation to the injury, or in relation to a condition claimed to be connected with the injury, if requested in writing to do so by the basic no-fault insurer against whom the claim has been made, shall:

- a. Promptly furnish a written report of the history, condition, treatment, and dates and costs of treatment.
  - b. Permit the inspection and copying of its records regarding the history, condition, treatment, and dates and costs of treatment.
  - c. Promptly furnish autopsy reports.
3. In the event of any dispute regarding a basic no-fault insurer's right to discovery of facts about an injured person's earnings or about history, condition, treatment, and dates and costs of such treatment, a court of record may enter an order for such discovery as justice requires.
  4. A person may not charge more than twenty dollars for the first twenty-five pages and seventy-five cents per page for every page beyond twenty-five pages for providing a copy of medical records ~~provided~~ or medical bills in paper or facsimile format to a basic no-fault insurer pursuant to this chapter. If providing an electronic, digital, or other computerized format, a person may charge thirty dollars for the first twenty-five pages and twenty-five cents per page after twenty-five pages for providing a copy of medical records or medical bills to a basic no-fault insurer pursuant to this chapter. This charge includes any administrative fee, retrieval fee, and postage expense.

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 191

### HOUSE BILL NO. 1104

(Industry, Business and Labor Committee)  
(At the request of the State Department of Health)

AN ACT to amend and reenact subsection 7 of section 23-20.3-03.1 of the North Dakota Century Code, relating to financial assurance requirements for property subject to institutional controls or responsibility exemptions.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 7 of section 23-20.3-03.1 of the North Dakota Century Code is amended and reenacted as follows:

7. Before agreeing to any institutional controls or responsibility exemptions, the department may require insurance coverage or other financial assurance for any additional environmental monitoring or remediation that may become necessary on the property after the site-specific responsibility exemptions and institutional controls are established, and must require such insurance coverage or other financial assurance when the projected cost of an active monitoring or remediation program exceeds five hundred thousand dollars. The department may terminate the requirement for financial assurance if the person required to have financial assurance demonstrates to the department that the property no longer presents a significant threat to public health or the environment. The department may enter a joint agreement with affected political subdivisions, state or federal agencies, property owners, lenders, the administrator of the petroleum tank release compensation fund, or any responsible or potentially responsible party concerning payment for or funding of any insurance coverage or other financial assurance for any additional environmental monitoring or remediation that may become necessary on contaminated or affected properties. Such agreements do not waive the liability limitations that apply by law to the state, to state agencies, or to political subdivisions, except up to the amounts, and subject to the terms, conditions, and limitations, of any insurance policy or any financial assurance fund created by the joint agreement of the parties under this subsection. Any financial assurance fund must comply with chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 and be managed for the benefit of the affected persons or community, but liability of the fund may not exceed the amount deposited with the fund.

Approved March 28, 2011  
Filed March 28, 2011

## CHAPTER 192

### HOUSE BILL NO. 1188

(Representatives Porter, DeKrey, Maragos)  
(Senator Dever)

AN ACT to create and enact a new subdivision to subsection 2 of section 39-06.1-06 of the North Dakota Century Code, relating to fees for depositing rubbish on highways; to amend and reenact sections 20.1-01-25, 23-29-05.1, and 39-10-59 of the North Dakota Century Code, relating to littering on game refuges or recreation areas, open burning, and depositing rubbish on highways; to provide a penalty; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 20.1-01-25 of the North Dakota Century Code is amended and reenacted as follows:

##### **20.1-01-25. Deposit of refuse unlawful - Penalty.**

The deposit of litter, refuse, rubbish, bottles, cans, or other waste materials, on or in the vicinity of ~~any~~ game refuge, lake, river, public park, or recreation area is prohibited. ~~Police officers, sheriffs, deputies, and game and fish department personnel~~ All law enforcement officers of this state shall enforce this section. ~~Any~~ A person who willfully violates this section is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed.

**SECTION 2. AMENDMENT.** Section 23-29-05.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-29-05.1. Littering and open burning prohibited - Penalty.**

1. ~~No~~ A person may not discard and abandon ~~any~~ litter, furniture, or major appliances upon public property or upon private property not owned by that person, unless the property is designated for the disposal of litter, furniture, or major appliances and that person is authorized to use the property for that purpose.
2. ~~No~~ A person may not engage in the open burning of solid waste, unless the burning is conducted in accordance with rules adopted by the department.
3. A person violating this section is guilty of an infraction for which a minimum fine of one hundred dollars must be imposed, except if the litter discarded and abandoned amounted to more than one cubic foot [0.0283 cubic meter] in volume or if the litter consisted of furniture or a major appliance, the offense is a class B misdemeanor.

<sup>79</sup> **SECTION 3.** A new subdivision to subsection 2 of section 39-06.1-06 of the North Dakota Century Code is created and enacted as follows:

A violation of section 39-10-59, a fee of one hundred dollars.

**SECTION 4. AMENDMENT.** Section 39-10-59 of the North Dakota Century Code is amended and reenacted as follows:

**39-10-59. Garbage, glass, rubbish, and injurious materials on highway prohibited.**

1. An individual may not deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, rubbish, or any other litter. In addition, an individual may not deposit upon ~~any~~ highway any other substance likely to injure ~~any~~ person, animal, or vehicle.
2. An individual who deposits, or permits to be deposited, upon ~~any~~ highway ~~any~~ destructive or injurious material shall immediately remove or cause to be removed the ~~same~~material.
3. An individual removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from the vehicle.

**SECTION 5. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 25, 2011  
Filed April 25, 2011

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<sup>79</sup> Section 39-06.1-06 was also amended by section 3 of Senate Bill No. 2207, chapter 268, section 1 of House Bill No. 1195, chapter 279, and section 1 of Senate Bill No. 2157, chapter 280.

## CHAPTER 193

### SENATE BILL NO. 2347

(Senators Oehlke, Wardner, Robinson)  
(Representatives Keiser, Hofstad, S. Meyer)

AN ACT to create and enact a new subsection to section 23-37-17 of the North Dakota Century Code, relating to financial responsibility; and to amend and reenact subsection 1 of section 23-37-18 of the North Dakota Century Code, relating to the petroleum compensation fund.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 23-37-17 of the North Dakota Century Code is created and enacted as follows:

If a registration payment is not received within sixty days of July first by the commissioner, a late fee of twenty-five dollars per tank per month must be imposed on the tank owner or operator.

**SECTION 2. AMENDMENT.** Subsection 1 of section 23-37-18 of the North Dakota Century Code is amended and reenacted as follows:

1. The administrator shall reimburse an eligible owner or operator for ninety percent of the costs of corrective action, including the investigation, which are greater than five thousand dollars and less than one million dollars per occurrence and two million dollars in the aggregate. An eligible tank owner or operator may not be liable for more than twenty thousand dollars out-of-pocket expenses for any one release. A reimbursement may not be made unless the administrator determines that:
  - a. At the time the release was discovered the owner or operator and the tank were in compliance with state and federal rules and rules applicable to the tank, including rules relating to financial responsibility, rules relating to infrastructure compatibility, and all rules relating to health and safety which were in effect at the time of the release;
  - b. The department was given notice of the release as required by federal and state law;
  - c. The owner or operator has paid the first five thousand dollars of the cost of corrective action; and
  - d. The owner or operator, to the extent possible, fully cooperated with the department and the administrator in responding to the release.

Approved April 27, 2011  
Filed April 27, 2011

## CHAPTER 194

### SENATE BILL NO. 2094

(Human Services Committee)  
(At the request of the State Department of Health)

AN ACT to amend and reenact section 23-40-02 of the North Dakota Century Code, relating to the deadline by which an emergency medical services operator must file its application for funding with the state department of health; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 23-40-02 of the North Dakota Century Code is amended and reenacted as follows:

##### **23-40-02. Application.**

~~Before November first of each year, the~~The licenseholder of an emergency medical services operation shall file a complete application with the state department of health on a form provided by the department. The application must include an affirmation of the operation's billing levels, documentation of the availability of local matching funds, and other information as may be required by the department.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 19, 2011  
Filed April 19, 2011

## CHAPTER 195

### HOUSE BILL NO. 1041

(Legislative Management)  
(Long-Term Care Committee)

AN ACT to create and enact a new chapter to title 23, subsection 13 to section 43-12.1-04, and section 43-12.1-16.1 of the North Dakota Century Code, relating to a nurse aide registry, individuals exempt from regulation by the state board of nursing, and supervision of nursing interventions; to amend and reenact subsection 9 of section 43-12.1-02 and sections 43-12.1-16 and 50-30-02 of the North Dakota Century Code, relating to definitions, individuals exempt from regulation by the state board of nursing, delegation of medication administration, and the health care trust fund; and to provide an appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

##### **Definitions.**

As used in this chapter, unless the context otherwise requires, the following definitions apply:

1. "Certified nurse aide" means an individual who is registered on the nurse aide registry and who has either successfully completed the requirements for the department-approved training and competency evaluation program or has successfully completed the requirements of the department-approved competency evaluation program.
2. "Department" means the state department of health.
3. "Home health aide" means an individual who is registered on the nurse aide registry and who renders personal related service under the supervision of a registered professional nurse.
4. "Medication assistant" means an individual who is registered on the nurse aide registry and who has successfully completed the requirements of a department-approved medication assistant program for a specific employment setting. A medication assistant may be designated a medication assistant I or a medication assistant II.
5. "Nurse aide" means an individual who is registered on the nurse aide registry and who has successfully completed the competency requirements identified by the department to provide nursing or nursing-related services to an individual in a health care facility or other setting.
6. "Nurse aide registry" means a listing of individuals who the department has determined have successfully completed the requirements established by the department to be designated as certified nurse aide, home health aide, nurse aide, or medication assistant.

### **Nurse aide registry - Rules.**

1. The department shall establish and administer a nurse aide registry. The registry must include disciplinary findings, including findings of abuse, neglect, or misappropriation of property, and must include the eligibility of the individual to be employed.
2. The health council shall adopt rules to regulate and register an individual who receives compensation for engaging in the provision of nursing or nursing-related services to an individual in a health care facility or other setting. The rules do not apply to a licensed health care professional practicing within the scope of that profession, an unlicensed assistive person under chapter 43-12.1, or a volunteer in the course of providing services without pay. In developing the rules, the health council shall consult with the state board of nursing and other key stakeholders.
3. The rules required under subsection 2 must include the regulation of certified nurse aides, home health aides, medication assistants, and nurse aides. For each category of regulated individuals, the rules must address:
  - a. Nurse aide registry requirements:
  - b. Training and competency requirements:
  - c. Approval of training programs:
  - d. Initial registration and renewal of registration of individuals who have met training and competency requirements:
  - e. Reporting and investigation of complaints regarding individuals on the registry; and
  - f. A disciplinary process for a validated finding of abuse, neglect, or misappropriation of resident or client property and for other misconduct that has the potential to be harmful to a resident or client by an individual on the nurse aide registry.
4. The department shall collect registration fees of twenty-five dollars per individual under this chapter from the individual or the individual's employer.
5. Registration fees collected by the department must be deposited in the department's operating account.

**SECTION 2. AMENDMENT.** Subsection 9 of section 43-12.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Unlicensed assistive person" means an assistant to the nurse, other than an individual who is registered on the state department of health nurse aide registry, who regardless of title is authorized by the board to perform nursing interventions delegated and supervised by a nurse.

<sup>80</sup> **SECTION 3.** Subsection 13 to section 43-12.1-04 of the North Dakota Century Code is created and enacted as follows:

<sup>80</sup> Section 43-12.1-04 was also amended by section 3 of House Bill No. 1092, chapter 123, and section 4 of House Bill No. 1092, chapter 123.

13. An individual who is registered on the state department of health nurse aide registry, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

**SECTION 4. AMENDMENT.** Section 43-12.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**43-12.1-16. Delegation of medication administration.**

A licensed nurse may delegate medication administration to a person exempt under ~~subsections~~subsections 9 and 13 of section 43-12.1-04.

**SECTION 5.** Section 43-12.1-16.1 of the North Dakota Century Code is created and enacted as follows:

**43-12.1-16.1. Supervision and delegation of nursing interventions.**

A nurse may supervise and delegate nursing interventions to an individual exempt under subsection 13 of section 43-12.1-04.

**SECTION 6. AMENDMENT.** Section 50-30-02 of the North Dakota Century Code is amended and reenacted as follows:

**50-30-02. North Dakota health care trust fund created - Uses - Continuing appropriation.**

1. There is created in the state treasury a special fund known as the North Dakota health care trust fund. The fund consists of revenue received from government nursing facilities for remittance to the fund under former section 50-24.4-30. The department shall administer the fund. The state investment board shall invest moneys in the fund in accordance with chapter 21-10, and the income earned must be deposited in the North Dakota health care trust fund. All moneys deposited in the North Dakota health care trust fund are available to the department for:
  - a. Transfer to the long-term care facility loan fund, as authorized by legislative appropriation, for making loans pursuant to the requirements of this chapter.
  - b. Payment, as authorized by legislative appropriation, of costs of other programs authorized by the legislative assembly.
  - c. Repayment of federal funds, which are appropriated and may be spent if the United States department of health and human services determines that funds were inappropriately claimed under former section 50-24.4-30.
  - d. Operation and maintenance of the nurse aide registry.
2. The department shall continue to access the intergovernmental transfer program if permitted by the federal government and if use of the program is found to be beneficial.
3. Moneys in the fund may not be included in draft appropriation acts under section 54-44.1-06, except for the operation and maintenance of the nurse aide registry as provided for in this section.

**SECTION 7. APPROPRIATION.** There is appropriated out of any moneys in the state department of health operating fund in the state treasury, not otherwise appropriated, the sum of \$130,000, or so much of the sum as may be necessary, to the state department of health for the purpose of maintaining a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013. This appropriation includes funding for an additional one and one-half full-time equivalent positions provided to the state department of health to maintain the nurse aide registry.

**SECTION 8. APPROPRIATION.** There is appropriated out of any moneys in the health care trust fund in the state treasury, not otherwise appropriated, the sum of \$155,000, or so much of the sum as may be necessary, to the state department of health for the purpose of one-time costs to establish a nurse aide registry, for the biennium beginning July 1, 2011, and ending June 30, 2013.

Approved April 28, 2011  
Filed April 28, 2011

## CHAPTER 196

### SENATE BILL NO. 2215

(Senators Sitte, Berry, Kilzer)  
(Representatives Delmore, Devlin, Rohr)

AN ACT to provide for umbilical cord blood donation information.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

##### SECTION 1.

##### Umbilical cord blood - Patient information - Definition.

1. If a health care professional is providing prenatal care to a patient, the health care professional may inform the patient of the following options relating to stem cells that are contained in the umbilical cord blood after the delivery of her child:
  - a. Discard the stem cells.
  - b. Donate the stem cells to a public umbilical cord blood bank.
  - c. Store the stem cells in a family umbilical cord blood bank for use by the immediate and extended family members.
  - d. Store the stem cells for family use through a family or sibling donor banking program that provides free collection, processing, and storage where there is a medical need.
2. The method a health care professional uses to provide the information under subsection 1 may include verbally or in writing or by providing the patient with a publication prepared by the state department of health under section 2 of this Act.
3. This section does not impose an obligation on a health care professional to inform a pregnant patient regarding the option of umbilical cord blood collection.
4. A health care professional who acts in good faith under this section is not subject to civil or criminal liability or professional discipline for those acts.
5. For purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

##### SECTION 2.

##### Umbilical cord blood - Information pamphlet - Distribution.

1. By January 1, 2012, the state department of health shall prepare a pamphlet that includes information regarding the following:

- a. The medical processes involved in the collection of umbilical cord blood.
  - b. The medical risks of umbilical cord blood collection to the mother and her newborn child.
  - c. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to a mother, her newborn child, and the mother's biological family.
  - d. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to individuals who are not biologically related to a mother or her newborn child.
  - e. Any costs that may be incurred by a patient who chooses to make an umbilical cord blood donation.
  - f. Options for ownership and future use of the donated material.
  - g. The average cost of public and private umbilical cord blood banking.
2. As necessary, the department shall update the pamphlet prepared under this section.
  3. The department shall make the pamphlet available on the department's website and upon request, the department shall distribute the pamphlet at no charge.
  4. A hospital that treats a patient during the delivery of her child shall permit her to arrange for an umbilical cord blood donation as provided under section 23-16-15.
  5. For purposes of this section, "umbilical cord blood" means the blood that remains in the umbilical cord and placenta after the birth of a newborn child.

Approved April 26, 2011  
Filed April 26, 2011

## CHAPTER 197

### HOUSE BILL NO. 1044

(Legislative Management)  
(Public Safety and Transportation Committee)

AN ACT to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to ambulance operations areas, an emergency medical services advisory council, emergency medical services funding areas, and state financial assistance for emergency medical services; to amend and reenact subsection 1 of section 23-27-01 of the North Dakota Century Code, relating to emergency medical services operations service areas; to repeal chapter 23-40 of the North Dakota Century Code, relating to emergency medical services allocations; to provide a statement of legislative intent; to provide an appropriation; and to provide an effective date.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 1 of section 23-27-01 of the North Dakota Century Code is amended and reenacted as follows:

1. The state department of health shall license emergency medical services operations. ~~After June 30, 2001, the~~ and may designate their service areas. The department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area ~~if the applicant for the new license was licensed before July 1, 2001, and was subsequently relicensed under section 23-27-04.5.~~ A license for an emergency medical services operation is nontransferable.

**SECTION 2.** A new chapter to title 23 of the North Dakota Century Code is created and enacted as follows:

#### **Definitions.**

For purposes of this chapter:

1. "Emergency medical services funding area" means a geographic area eligible for state assistance and includes one or more licensed ambulance operations.
2. "Minimum reasonable cost" means the cost of operating one transporting ambulance service or the sum of the cost to operate one transporting ambulance service and any combination of one substation and one quick response unit.
3. "Required local matching funds" means revenue generated by the provision of emergency medical services, local mill levies, local sales tax, local donations, and in-kind donations of services.

#### **Emergency medical services advisory council.**

The state department of health shall establish an emergency medical services advisory council. The council must include at least three representatives appointed by

an emergency medical services organization, one individual to represent basic life support and one individual to represent advanced life support, both appointed by the state health officer, and other members designated by the state health officer, not to exceed a total of fourteen members. The department shall consider the recommendations of the council on the plan for integrated emergency medical services in the state, development of emergency medical services funding areas, development of the emergency medical services funding areas application process and budget criteria, and other issues relating to emergency medical services as determined by the state health officer. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department shall establish by policy the length of terms and the method for rotation of membership.

### **Emergency medical services funding areas.**

The state department of health shall establish and update biennially a plan for integrated emergency medical services in this state. The plan must identify ambulance operations areas, emergency medical services funding areas that require state financial assistance to operate a minimally reasonable level of emergency medical services, and a minimum reasonable cost for an emergency medical services operation. The department shall designate emergency medical services funding areas based on criteria adopted by the health council and published in the North Dakota Administrative Code.

### **State financial assistance for emergency medical services - Confidential information - Annual allocation.**

Emergency medical services operations that request financial assistance from the state must provide requested fiscal information to the state department of health for use in financial assistance determinations. All information provided to the department under this section is confidential. The state department of health shall determine annually the allocation amount of state financial assistance for each emergency medical services funding area based on the department's determination of:

1. The minimum annual funding necessary to operate the emergency medical services operation or service designated to operate in the ambulance funding area, based on the financial needs unique to each emergency medical services funding area.
2. Required local matching funds commensurate with at least ten dollars per capita within the emergency medical services funding area.

### **State financial assistance for emergency medical services - Distribution limit.**

During the first year of the biennium, the state department of health may not distribute more than one million two hundred fifty thousand dollars of the biennial legislative appropriation for state financial assistance for emergency medical services.

**SECTION 3. REPEAL.** Chapter 23-40 of the North Dakota Century Code is repealed.

**SECTION 4. STATEMENT OF LEGISLATIVE INTENT.** The \$3,000,000 appropriation in section 5 of this Act is in addition to the \$1,250,000 appropriation in 2011 House Bill No. 1004. The combined appropriations must be used as the base level for the purpose of budgeting for the 2013-15 executive budget.

**SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much of the sum as may be necessary, to the state department of health, for the purpose of providing state assistance grants to emergency medical services operations and related administrative costs, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 6. EFFECTIVE DATE.** Section 3 of this Act becomes effective on June 30, 2012.

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