

HEALTH AND SAFETY

CHAPTER 190

HOUSE BILL NO. 1418

(Representatives Devlin, Weisz)
(Senator Lee)

AN ACT to amend and reenact section 23-01-05 of the North Dakota Century Code, relating to qualifications of the state health officer.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²³ **SECTION 1. AMENDMENT.** Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties ~~—Advisory committee.~~

The governor shall appoint the state health officer who at the time of appointment must have had be a physician with substantive private or public administrative experience and demonstrated experience in the management of people public health experience. The state health officer is entitled to receive a salary commensurate with that person's individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. ~~If the governor does not appoint as state health officer a physician licensed in this state~~ When the office of the state health officer is temporarily filled, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all rules and regulations as promulgated by the health council.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.

¹²³ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, and section 1 of Senate Bill No. 2181, chapter 192.

3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.
8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
10. Comply with the state merit system policies of personnel administration.
11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 191

HOUSE BILL NO. 1118

(Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz)
(Senator Heckaman)

AN ACT to create and enact a new subsection to section 37-17.1-05 and a new section to chapter 54-03 of the North Dakota Century Code, relating to the governor's authority to issue executive orders and permitting a virtual meeting of the legislative management and a virtual session of the legislative assembly during a declared disaster or emergency; to amend and reenact subsection 12 of section 23-01-05 and subsection 3 of section 37-17.1-05 of the North Dakota Century Code, relating to the authority of the state health officer and the gubernatorial declaration of disaster or emergency; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁴ **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any ~~orders~~ a written order relating to a disease control measures ~~deemed measure~~ necessary to prevent the spread of a communicable disease. A disease control measures measure may include a special immunization activities activity and decontamination measures measure.
Written orders
 - a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - b. A written order issued under this section ~~shall have~~ has the same effect as a physician's standing medical order.
 - c. The state health officer ~~may~~ shall apply to the district court in a judicial district ~~wherein~~ which a communicable disease is present for an injunction canceling a public event event or closing places a place of business. On application of the state health officer showing the necessity of ~~such~~ the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

¹²⁵ **SECTION 2. AMENDMENT.** Subsection 3 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

¹²⁴ Section 23-01-05 was also amended by section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, section 1 of House Bill No. 1418, chapter 190, and section 1 of Senate Bill No. 2181, chapter 192.

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The
 - a. Except as provided in subdivision b, the state of disaster or emergency shall continuecontinues until the governor determines that the threat of an emergency has passed or the governor determines the disaster has been dealt with to the extent that emergency conditions no longer exist, whichever occurs first.
 - b. If a state of disaster or emergency relating to public health is declared and in effect and the legislative assembly is not in session, the legislative management may meet to vote on whether the legislative management should request the governor call a special session of the legislative assembly. If the governor does not call a special session within seven days after the legislative management sends a request to the governor, the declared state of disaster or emergency relating to public health terminates thirty days after the request from the legislative management was sent to the governor. If the governor calls a special session within seven days after the request from the legislative management was sent, the special session must be held within fifteen days of the governor's call for a special session. If the legislative assembly meets to address a declared state of disaster or emergency, the legislative assembly by concurrent resolution may terminate, extend, or modify the state of disaster or emergency.
 - c. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time.
 - d. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions ~~which~~that have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed promptly with the department of emergency services, the legislative council, the secretary of state, and the county or city auditor of the jurisdictions affected.

¹²⁶ **SECTION 3.** A new subsection to section 37-17.1-05 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding subsection 3, if a state of disaster or emergency relating to public health is declared and in effect, the governor may not issue an executive order under this section unless the executive order specifically

¹²⁵ Section 37-17.1-05 was also amended by section 3 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

¹²⁶ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

addresses the mitigation of the declared state of disaster or emergency relating to public health.

SECTION 4. A new section to chapter 54-03 of the North Dakota Century Code is created and enacted as follows:

Virtual session of the legislative management and legislative assembly during emergency or disaster.

1. If the legislative management meets to vote on whether the legislative management should request the governor call a special session of the legislative assembly, the legislative management may use any technology or electronic means available to conduct meetings and transact legislative business.
2. If the governor calls a special session of the legislative assembly to address a state of emergency or disaster or if the legislative assembly reconvenes to address a state of emergency or disaster, the legislative assembly may use any technology or electronic means available to conduct meetings and transact legislative business.
3. For purposes of section 7 of article IV of the Constitution of North Dakota, a meeting of the legislative assembly which occurs under this section is deemed to have occurred at the seat of the government, and all actions taken during the meeting have the same legal effect as if the members of the legislative assembly were physically present at the seat of government.

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

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 192

SENATE BILL NO. 2181

(Senators Clemens, Heitkamp, Larson)
(Representatives Paur, Satrom, Schauer)

AN ACT to amend and reenact subsection 12 of section 23-01-05 and section 37-17.1-05 of the North Dakota Century Code, relating to the state health officer's authority and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁷ **SECTION 1. AMENDMENT.** Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - a. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

¹²⁷ Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 107 of House Bill No. 1247, chapter 352, section 3 of House Bill No. 1410, chapter 92, and section 1 of House Bill No. 1418, chapter 190.

¹²⁸ **SECTION 2. AMENDMENT.** Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-05. The governor and disasters or emergencies - Penalty.

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.
4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of

¹²⁸ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1118, chapter 191, section 1 of House Bill No. 1180, chapter 272, and section 5 of House Bill No. 1410, chapter 92.

- any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
- b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.
 - j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
 - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
 8. Authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
 9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:

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- a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 193

SENATE BILL NO. 2248

(Senators Bell, K. Roers)
(Representative Rohr)

AN ACT to amend and reenact section 23-01-05.2 of the North Dakota Century Code, relating to epinephrine prescription, distribution, possession, or use and immunity from liability; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹²⁹ **SECTION 1. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.2. Administration of epinephrine - Liability
Epinephrine prescription, distribution, possession, or use - Immunity from liability.

1. ~~The state health officer shall adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction.~~
2. ~~An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for epinephrine administration from any licensed physician or pharmacist.~~
3. ~~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 an individual who has a severe adverse reaction, except when the conduct amounts to gross negligence. As used in this section:~~
 - a. "Epinephrine" means a single-use disposable device that automatically injects a premeasured dose of epinephrine.
 - b. "Health care professional" means a licensed or certified health care professional who is working within the scope of practice for that profession. The term may include a physician, physician assistant, advanced practice registered nurse, and pharmacist acting in the professional's scope of practice.
2. A health care professional acting in good faith may directly or by standing order prescribe, distribute, or dispense epinephrine, if the health care professional provides training to:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.

¹²⁹ Section 23-01-05.2 was also amended by section 109 of House Bill No. 1247, chapter 352.

3. A person acting in good faith may receive or possess epinephrine if that person is:
 - a. An individual at risk of experiencing a severe allergic reaction; or
 - b. A family member, friend, or other person in a position to assist an individual at risk of experiencing a severe allergic reaction.
4. An individual acting in good faith may self-administer epinephrine or administer epinephrine to another individual who the administering individual suspects is at risk of experiencing a severe allergic reaction.
5. A person may receive, possess, or administer epinephrine under subsection 3 or 4, regardless of whether the person is the individual for or the person to which the epinephrine is prescribed, distributed, or dispensed. A person in possession of epinephrine which is acting in good faith may provide training on how to use epinephrine.
6. A health care professional who prescribes, distributes, trains on the use of, or dispenses epinephrine as authorized under this section is not subject to professional discipline for such action. This section does not expand the scope of practice of a health care professional.
7. A person that prescribes, distributes, dispenses, receives, possesses, trains in the use of, or administers epinephrine as authorized under this section is immune from civil and criminal liability for such action. This subsection provides immunity to the person responsible for the site on which the epinephrine is located. Immunity from liability or discipline under this subsection does not apply if the person's actions constitute recklessness, gross negligence, or intentional misconduct.

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

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 194

SENATE BILL NO. 2241

(Senators J. Roers, Lee, K. Roers)
(Representative Weisz)

AN ACT to amend and reenact section 23-01-37 of the North Dakota Century Code, relating to review of health facility construction and renovation projects; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁰ **SECTION 1. AMENDMENT.** Section 23-01-37 of the North Dakota Century Code is amended and reenacted as follows:

23-01-37. Survey program - Health facilities construction or renovation projects - Innovation waivers - Continuing appropriation.

1. The state department of health shall conduct a life safety survey process for all health facilities licensed by the division of health facilities of the state department of health during and at the conclusion of a construction, renovation, or construction and renovation project.
 - a. In conducting a survey under this section, if the department uses a third party to review construction and renovation plans, the licensed provider shall negotiate and approve the price of the review services, the department shall contract with the third party, and the licensed provider shall pay the department for the review services.
 - b. The department shall deposit in the department's operating account any payments received from a licensed provider under subdivision a. There is appropriated to the department on a continuing basis any funds deposited under subdivision a for the purpose of paying a third-party reviewer.
2. The department may charge a reasonable fee for the review of plans for construction, renovation, or construction and renovation projects performed under this section based on the size of the project. Revenues derived from the fees collected under this subsection must be deposited in the department's operating fund in the state treasury.
3. The state department of health shall make an initial determination on a construction, renovation, or construction and renovation project of ~~no~~:
 - a. No more than one million dollars within ~~sixty~~twenty-eight days of receipt of a complete application;
 - b. More than one million dollars but no more than four million dollars within ~~forty-two~~ days of receipt of a complete application; and

¹³⁰ Section 23-01-37 was also amended by section 130 of House Bill No. 1247, chapter 352.

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- c. More than four million dollars within fifty-six days of receipt of a complete application.
 4. Following an initial determination under subsection 3, the state department of health shall make any followup determination on a construction, renovation, or construction and renovation project within fourteen days of receipt of the licensed provider's response to the initial determination.
 5. The state department of health may approve a request for a waiver of a state law or rule relating to an innovative construction, renovation, or construction and renovation project if the lack of compliance does not adversely affect health or safety.
 - 5-6. The department shall design and operate the program in a manner that will provide that the surveyor that performs a life safety survey under this section does not violate the federal requirements associated with Medicare-certified life safety surveys.

Approved March 25, 2021

Filed March 26, 2021

CHAPTER 195

HOUSE BILL NO. 1163

(Representatives Roers Jones, Dobervich, Guggisberg, O'Brien, Weisz)
(Senators Lee, Oban, K. Roers)

AN ACT to amend and reenact section 23-01-44 of the North Dakota Century Code, relating to the needle exchange program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³¹ **SECTION 1. AMENDMENT.** Section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

23-01-44. Syringe or needle exchange program - Authorization.

1. As used in this section:
 - a. "Program" means a syringe exchange program established and operated under this section.
 - b. "Qualified entity" means:
 - (1) A local health department;
 - (2) A city that operates a program within the boundaries of the city; or
 - (3) An organization that has been authorized to operate a program by the state department of health, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.
 - c. "Supplies" include needles, syringes, sterile disposal preparation spoons, cotton, sterile filters, alcohol wipes, sterile water, saline, tourniquets, disposal containers, wound care, testing strips, naloxone, and other items recognized as supporting safe drug use.
2. The state department of health, in collaboration with the department of human services behavioral health division, shall design a syringe exchange program. The state department of health shall administer the program.
3. The state department of health may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and

¹³¹ Section 23-01-44 was also amended by section 135 of House Bill No. 1247, chapter 352.

- c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.
4. A qualified entity operating a program under this chapter shall:
 - a. Register the program annually in the manner prescribed by the state department of health;
 - b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;
 - c. Store and dispose of all syringes ~~and~~, needles, and supplies collected in a safe and legal manner;
 - d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;
 - e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;
 - f. Provide addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol use disorder;
 - g. Provide syringe, needle, supply, and injection supply distribution and collection without collecting or recording personally identifiable information;
 - h. Operate in a manner consistent with public health and safety; and
 - i. Ensure the program is medically appropriate and part of a comprehensive public health response.
 5. The state department of health may terminate a program for failure to comply with any of the provisions in this section.
 6. A state agency may not provide general fund moneys to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.
 7. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes ~~and~~, needles, and supplies appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23.
 8. Each program shall file a semiannual report with the state department of health containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes ~~and~~, needles, and supplies:
 - a. The number of individuals served;

- b. The number of syringes ~~and~~, needles, and supplies collected;
- c. The number of syringes and needles distributed; and
- d. Any additional information requested by the state department of health.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 196

SENATE BILL NO. 2123

(Senators Bekkedahl, Anderson, Lee)
(Representatives Keiser, Porter, Pyle)

AN ACT to amend and reenact subsection 2 of section 23-02.1-27 of the North Dakota Century Code, relating to access to death records; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³² **SECTION 1. AMENDMENT.** Subsection 2 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician, or a genetic sibling for the purposes of researching family medical history, a funeral director reporting the facts of death, or a person with personal or real property interests that depend upon information contained in the complete death record 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 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 copy of 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.

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

Approved April 16, 2021

Filed April 16, 2021

¹³² Section 23-02.1-27 was also amended by section 157 of House Bill No. 1247, chapter 352, section 158 of House Bill No. 1247, chapter 352, and section 4 of Senate Bill No. 2035, chapter 56.

CHAPTER 197

HOUSE BILL NO. 1219

(Representatives Porter, Nathe, Rohr)
(Senators Anderson, Bekkedahl, Lee)

AN ACT to amend and reenact sections 23-07-02.3 and 23-07-15 of the North Dakota Century Code, relating to reportable conditions and post-mortem communicable diseases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³³ **SECTION 1. AMENDMENT.** Section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.3. Emergency reporting.

1. The state health officer may issue a temporary order for emergency reporting of disease conditions or information if the state health officer finds probable cause to believe there is a threat caused by an imminent or emerging condition affecting the public health, including actual or threatened terrorism.
2. The state health officer may designate who must report, what conditions or information must be reported, what information must be contained in the report, the methods and frequency of reporting, and may make any other pertinent requirement.
3. The temporary order may be issued and is effective without regard to chapter 28-32 for a period of ninety days, unless earlier revoked by the state health officer. Emergency rulemaking must be initiated under chapter 28-32 within ninety days of the order or the order expires. The temporary order and any emergency rulemaking under this section are effective without the necessity of approval from the health council.
4. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the state health officer shall consider whether to issue a temporary order or the health council shall consider whether to adopt rules or emergency rules to include this infectious disease as a reportable disease or condition or as a post-mortem communicable disease.

¹³⁴ **SECTION 2. AMENDMENT.** Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of ~~person afflicted individual with contagious or infectious disease~~ reportable disease or condition - Removal of ~~person~~ body of

¹³³ Section 23-07-02.3 was also amended by section 177 of House Bill No. 1247, chapter 352.

¹³⁴ Section 23-07-15 was also amended by section 182 of House Bill No. 1247, chapter 352.

individual who died of such disease reportable disease or condition - Prohibited - Declaration of emergency or disaster - Rulemaking authority.

No person, unless

1. Unless the person has a permit from the local board of health or state department of health, a person may not remove or cause to be removed from without this state into this state, or from one building to another within this state, or from or to any railroad car or motor vehicle, any person afflicted an individual with a contagious or infectious reportable disease or condition, or the body of any person an individual who died of any such a reportable disease or condition.
2. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the health council shall consider whether to adopt rules or emergency rules directing the state department of health to notify emergency medical services personnel of the presence of a reportable disease or condition and any person taking possession of a dead body of a post-mortem communicable disease. Notwithstanding state laws to the contrary, rules adopted under this section may provide for the disclosure of personally identifiable information.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 198

HOUSE BILL NO. 1323

(Representatives Hoverson, Magrum)
(Senator O. Larsen)

AN ACT to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to limitations on mask wearing requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-07 of the North Dakota Century Code is created and enacted as follows:

Limitations on requirements to wear a mask.

A statewide elected official or the state health officer may not mandate an individual in this state use a face mask, face shield, or other face covering. This section applies, notwithstanding authority granted under other provisions of law, including section 23-01-05 and chapter 37-17.1.

Disapproved April 21, 2021

Filed April 27, 2021

NOTE: The Governor's veto of House Bill No. 1323 was not sustained. For the text of the Governor's veto message, see chapter 508.

CHAPTER 199

SENATE BILL NO. 2226

(Senators Dever, Clemens, Poolman)
(Representatives Porter, Rohr, Weisz)

AN ACT to create and enact chapter 23-17.7 of the North Dakota Century Code, relating to regulation of residential end-of-life facilities; to amend and reenact subsection 1 of section 23-09-01, subsection 1 of section 50-32-01, and subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to the definition of assisted living facility and to a sales tax exemption for sales made to an eligible facility; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁵ **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility in this chapter includes a facility that is defined as an assisted living facility in any other part of the code. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or, chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

SECTION 2. Chapter 23-17.7 of the North Dakota Century Code is created and enacted as follows:

23-17.7-01. Definitions.

As used in this section, unless the context and subject matter otherwise require:

1. "Department" means the state department of health.
2. "Hospice patient" has the same meaning as provided under section 23-17.4-01.
3. "Hospice program" has the same meaning as provided under section 23-17.4-01.
4. "Hospice services" has the same meaning as provided under section 23-17.4-01.

¹³⁵ Section 23-09-01 was also amended by section 195 of House Bill No. 1247, chapter 352.

5. "Residential end-of-life facility" means a freestanding facility that provides twenty-four hour residential and support services in a home-like setting for no more than twelve hospice patients receiving hospice services from a third-party hospice program.

23-17.7-02. License required.

A person may not conduct, maintain, or operate a residential end-of-life facility in this state without a license issued by the department under this chapter. A licensed residential end-of-life facility is not a hospital, skilled nursing home, intermediate care facility, nursing facility, assisted living facility, home health agency, or hospice program.

23-17.7-03. License issuance and renewal - Evaluation and inspection - Rules.

1. Upon receipt of an initial or renewal license application on forms established by the department, the department or the department's authorized representative shall evaluate and inspect the residential end-of-life facility. The department shall issue or renew a license for an applicant that submits a complete application, submits the appropriate fee, and meets the minimum requirements of this chapter.
2. In consultation with stakeholders, the state health council shall adopt rules:
 - a. For the application, issuance, and renewal of a license under this chapter;
 - b. Establishing minimum standards for licensure of a residential end-of-life facility; and
 - c. Establishing the fee for issuance of a license and renewal of a license of a residential end-of-life facility.

23-17.7-04. Denial, suspension, or revocation of license.

The department may deny, suspend, or revoke the license of a residential end-of-life facility for noncompliance with this chapter or rules adopted under this chapter in accordance with the administrative hearings provisions of chapter 28-32.

¹³⁶ **SECTION 3. AMENDMENT.** Subsection 1 of section 50-32-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 or, chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

¹³⁶ Section 50-32-01 was also amended by section 478 of House Bill No. 1247, chapter 352.

¹³⁷ **SECTION 4. AMENDMENT.** Subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

- a. "Eligible facility" means any hospital, skilled nursing facility, intermediate care facility, residential end-of-life facility, or basic care facility licensed by the state department of health, or any assisted living facility licensed by the department of human services; and

SECTION 5. EFFECTIVE DATE. Section 4 of this Act is effective for taxable events occurring after June 30, 2021.

Approved March 29, 2021

Filed March 30, 2021

¹³⁷ Section 57-39.2-04 was also amended by section 503 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1351, chapter 472, and section 1 of Senate Bill No. 2152, chapter 471.

CHAPTER 200

SENATE BILL NO. 2119

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

AN ACT to create and enact section 23-09-16.1 of the North Dakota Century Code, relating to food and lodging establishment license renewals; and to amend and reenact sections 23-09-16 and 23-09-18 of the North Dakota Century Code, relating to food and lodging establishment licenses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-09-16 of the North Dakota Century Code is amended and reenacted as follows:

23-09-16. License - Application.

Before any food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility may be operated in this state, it must be licensed by the department. The department shall waive the license requirement for any food establishment, lodging establishment, or assisted living facility licensed by a city or district health unit if the local health unit's sanitation, safety, and inspection rules are approved by the department. ~~Application for license must be made to the department during December of every year, or before the operating of the food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility, as the case may be.~~ The application must be in writing on forms furnished by the department and must be accompanied by the required fee. ~~An additional amount of fifty percent of the license fee must be imposed upon renewal if the license was not renewed before February first following the expiration date. A reduced license fee in the amount of one-half the applicable license fee must be charged for a new food establishment, lodging establishment, pushcart, mobile food unit, or assisted living facility beginning operations after July first of each year and for changes in ownership and location of such existing establishments after July first of each year.~~ The department shall issue a license to an applicant that meets all of the requirements of this chapter and any rules established by the department. The department may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 2. Section 23-09-16.1 of the North Dakota Century Code is created and enacted as follows:

23-09-16.1. License renewal.

1. A license issued under this chapter expires on December thirty-first of each year.

2. A license may be renewed by December thirty-first by submitting a renewal application and a renewal fee established by the department by rule, provided the licensee is in compliance with this chapter and any rules established by the department.
3. If the renewal application and renewal fee are not received by December thirty-first, the license expires and the licensee may not operate.
4. Within sixty days after December thirty-first, an expired license may be renewed by submitting the renewal application, renewal fee, and a late fee established by the department by rule. The late fee is equal to fifty-percent of the license fee.
5. If the renewal application, renewal fee, and late fee are not received within sixty days after December thirty-first, the license may not be renewed, and the applicant shall apply and meet the requirements for licensure to be granted a license.
6. The department may extend the renewal deadlines for an application providing proof of hardship rendering the applicant unable to meet the deadline.

SECTION 3. AMENDMENT. Section 23-09-18 of the North Dakota Century Code is amended and reenacted as follows:

23-09-18. Failure to comply with chapter - Notice - How served.

Whenever the proprietor of any food establishment, lodging establishment, or assisted living facility fails to comply with this chapter, the proprietor must be given notice of the time within which the proprietor must meet the requirements. The department may deny an application or take disciplinary action against the license of an applicant or a licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the department. Before the department takes disciplinary action against a license for failure of a license, the department shall notify the licensee in writing of the reason disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. The notice must be in writing and delivered personally by an inspector of the department or sent by registered or certified mail. Action taken under the authority granted in this section must comply with chapter 28-32.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 201

HOUSE BILL NO. 1332

(Representatives Kreidt, Bellew)
(Senator Lee)

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 basic care and nursing facility bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹³⁸ **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, ~~2019~~2021, and July 31, ~~2024~~2023, except if:
 - 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 [80.47-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
 - d. 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.

¹³⁹ **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 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, ~~2019~~2021, and July 31, ~~2024~~2023. A nursing facility may not delicense

¹³⁸ Section 23-09.3-01.1 was also amended by section 201 of House Bill No. 1247, chapter 352.

¹³⁹ Section 23-16-01.1 was also amended by section 1 of House Bill No. 1065, chapter 205, and section 212 of House Bill No. 1247, chapter 352.

nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than ~~one time~~twice in a twelve-month period.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 202

HOUSE BILL NO. 1103

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

AN ACT to create and enact sections 23-10-06.1 and 23-10-06.2 of the North Dakota Century Code, relating to mobile home park, recreational vehicle park, and campground license renewals and transfers; to amend and reenact sections 23-10-01, 23-10-02, 23-10-02.1, 23-10-03, 23-10-04, 23-10-06, 23-10-07, 23-10-07.1, 23-10-09, 23-10-10, 23-10-10.1, 23-10-11, and 23-10-12 of the North Dakota Century Code, relating to mobile home parks, recreational vehicle parks, and campgrounds; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁰ **SECTION 1. AMENDMENT.** Section 23-10-01 of the North Dakota Century Code is amended and reenacted as follows:

23-10-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Campground" means any parcel of land containing three or more lots intended for occupancy by ~~travel trailers~~ recreational vehicles or tents.
2. "Department" means the state department of health.
3. "Lot" means any piece of land of required size intended for occupancy by a mobile home, ~~travel trailer~~ recreational vehicle, or tent.
4. "Mobile home" means any relocatable manufactured, modular, or prefabricated structure or unit ~~which~~ that is designed to be used as residential living quarters. The term does not include a recreational vehicle.
5. "Mobile home park" means any parcel of land containing three or more lots intended for occupancy by mobile homes.
6. "Person" means any individual, firm, trust, partnership, public or private association, corporation, or limited liability company.
7. ~~"Trailer park" means any parcel of land containing three or more lots intended for occupancy by travel trailers.~~
8. ~~"Travel trailer"~~ "Recreational vehicle" means ~~any portable unit~~ a vehicular-type unit primarily designed to be used as a temporary dwelling living quarters for travel or recreational purposes, camping, or travel use, which either has its own mode of power or is mounted on or towed by another vehicle. The term ~~travel trailer~~ includes the following:

¹⁴⁰ Section 23-10-01 was also amended by section 205 of House Bill No. 1247, chapter 352.

- a. An independent ~~travel trailer~~recreational vehicle, which is a travel trailer containing toilet and lavatory facilities.
 - b. A dependent ~~travel trailer~~recreational vehicle, which is a travel trailer ~~containing~~contains either toilet or lavatory facilities or having neither facility.
8. "Recreational vehicle park" means a parcel or tract of land under the control of a person, organization, or government entity where three or more lots are offered for use by members of the public or an organization for rent or lease, including park-owned recreational vehicles held out for rent or lease. A recreational vehicle park is primarily designed to accommodate recreational vehicles.

SECTION 2. AMENDMENT. Section 23-10-02 of the North Dakota Century Code is amended and reenacted as follows:

23-10-02. Department to make regulations - Compliance.

The department shall have general supervision over the health, safety, sanitary condition, and legal compliance as outlined in this chapter of all mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds in this state and may promulgate and enforce appropriate rules and regulations in accordance with chapter 28-32. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds constructed after July 1, 1977, must be constructed in accordance with the requirements of this chapter and the rules and regulations promulgated at the time of construction. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds constructed before July 1, 1977, shall meet the requirements of this chapter by July 1, 1985. All mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds shall meet rules and regulations duly promulgated after construction of the park or campground within eight years after the effective date of the rule or regulation.

SECTION 3. AMENDMENT. Section 23-10-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-02.1. Department authorized to accept local enforcement and inspection.

The department shall accept state, federal, city, or county enforcement of local sanitation, safety, zoning, and inspection requirements in lieu of the enforcement of sanitation, safety, and inspection requirements of the department under this chapter if the department determines that the state, federal, city, or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter. ~~Prior to~~Before accepting state, federal, city, or county enforcement of local requirements, the department shall determine that the state, federal, city, or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter.

SECTION 4. AMENDMENT. Section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

23-10-03. License required - Application.

1. A person may not establish, maintain, change use, mix use, or enlarge a mobile home park, ~~trailer~~recreational vehicle park, or campground in this state without first obtaining a license from the department.

2. The application for the license must be made in writing to the department and must state the location and type of the mobile home park, ~~trailer~~recreational vehicle park, or campground, the proposed water supply, the proposed method of sewerage and garbage disposal, and such other information as may be required by the department. Application forms must be prepared by the department and distributed upon request.
3. The department may not issue a license under this section if the proposed mobile home park, recreational vehicle park, or campground would prevent, interfere, or restrict proposed private development that is actively being pursued.
4. The department shall waive the license fee for any mobile home park, ~~trailer~~recreational vehicle park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, ~~trailer~~recreational vehicle park, or campground that is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds. The ~~department~~health council may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 5. AMENDMENT. Section 23-10-04 of the North Dakota Century Code is amended and reenacted as follows:

23-10-04. Inspection.

The department shall inspect the premises as soon as practical after receiving an application for a mobile home park, ~~trailer~~recreational vehicle park, or campground license. If the department is satisfied from the application and inspection that the mobile home park, ~~trailer~~recreational vehicle park, or campground will not be a source of danger to the health and safety of the occupants or the general public, ~~it~~the department shall notify the applicant of its approval of the application and of the amount of the license fee. The department ~~shall~~must have access to and may inspect mobile home parks, ~~trailer~~recreational vehicle parks, and campgrounds at reasonable times. The department ~~shall~~may inspect each mobile home park, ~~trailer~~recreational vehicle park, and campground ~~at least once every two years in response to a complaint, violation of state law, or on a routine schedule determined by the department.~~

SECTION 6. AMENDMENT. Section 23-10-06 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06. License issuance - ~~Transferability~~Fee.

An applicant seeking licensure shall apply to the department on forms prescribed by the department. The applicant shall enclose with the application an application fee as determined by rule. The department shall issue a license to ~~the~~an applicant ~~upon~~ approving the application and receiving the license fee. ~~The license must be upon a form prescribed by the department, must be for a term of one year from January first~~

~~to December thirty-first, and must be renewable upon the same basis as that upon which it was originally issued. A penalty of twenty-five percent of the license fee must be imposed if the license is not renewed on or before January thirty-first following the expiration date. The license must be transferred without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, trailer park, or campground will be operated in accordance with this chapter who meets all of the requirements of this chapter and any rules adopted by the health council.~~

SECTION 7. Section 23-10-06.1 of the North Dakota Century Code is created and enacted as follows:

23-10-06.1. License renewal.

1. A license issued under this chapter expires on December thirty-first of each year.
2. A license may be renewed by December thirty-first by submitting a renewal application, a renewal fee established rule, provided the licensee is in compliance with this chapter and any rules established by the health council.
3. If the renewal application and renewal fee are not received by December thirty-first, the license expires and the licensee may not operate.
4. Within sixty days after December thirty-first, an expired license may be renewed by submitting the renewal application, renewal fee, and a late fee. The late fee is equal to fifty percent of the license fee.
5. If the renewal application, renewal fee, and late fee are not received within sixty days after December thirty-first, the department may not renew the license, and the applicant shall apply and meet the requirements for licensure to be granted a license.
6. The department may extend the renewal deadline for applications providing proof of hardship rendering the applicant unable to meet the deadline.
7. The department may not renew a license if the mobile home park, recreational vehicle park, or campground is not actively conducting business at the site, and the applicant shall apply and meet the requirements for licensure to be granted a license.

SECTION 8. Section 23-10-06.2 of the North Dakota Century Code is created and enacted as follows:

23-10-06.2. License transferability.

The department shall transfer a license without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, recreational vehicle park, or campground will be operated in accordance with this chapter.

SECTION 9. AMENDMENT. Section 23-10-07 of the North Dakota Century Code is amended and reenacted as follows:

23-10-07. Sanitation and safety.

Every mobile home park, ~~trailer~~recreational vehicle park, and campground must be operated with strict regard for the health, safety, and comfort of its occupants. The following sanitary and safety regulations must be followed:

1. Location: Every mobile home park must be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water must be artificially drained and filled. ~~Trailer~~Recreational vehicle park and campground lots must be established and maintained upon dry, well-drained spaces.
2. Drinking water supply: An adequate supply of potable and safe drinking water must be provided. ~~Water from other than a municipal supply may not be used until inspected, tested, and certified by the department~~The operator of a mobile home park, recreational vehicle park, or campground shall supply drinking water at the mobile home park, recreational vehicle park, or campground which is obtained from an approved source that is a public water system or a nonpublic water system that is constructed, maintained, and operated according to law.
3. Towels: The placing of roller cloth towels for public use in any washroom or place within a mobile home park, ~~trailer~~recreational vehicle park, or campground is prohibited. Individual cloth towels, cloth towels provided in mechanical dispensers, individual paper towels, or roller paper towels must be placed for use.
4. Toilets: Modern sanitary flush toilets must be provided where a sewer connection is available. If a sewer connection is not available, sanitary flyproof privies must be maintained. All toilets and privies must be kept in a clean, sanitary condition. Separate toilets and privies must be provided for each sex. No privy or cesspool may be located less than one hundred feet [30.48 meters] from any well, kitchen, or sleeping quarters.
5. Garbage: All garbage and refuse must be stored in ~~metal flyproof~~durable, cleanable, insect- and rodent-resistant containers, and the contents removed and disposed of ~~on a regular basis~~at a frequency that will minimize the development of objectionable odors and other conditions that attract or harbor insects and rodents. All buildings within the mobile home park, ~~trailer~~recreational vehicle park, or campground must be screened against flies and kept in a clean and sanitary condition.
6. Plumbing installations: All plumbing installations in a mobile home park, ~~trailer~~recreational vehicle park, or campground must be made in accordance with the state plumbing code and state laws.
7. Electrical installations: All electrical installations in a mobile home park, ~~trailer~~recreational vehicle park, or campground must be made in accordance with the state electrical code.
8. Streets and roadways: Each mobile home park, ~~trailer~~recreational vehicle park, and campground ~~shall~~must have roadways or streets wide enough to facilitate the movement of traffic within the park or campground.
9. Lighting: Each mobile home park ~~must be well-lighted~~, recreational vehicle park, and campground must have adequate lighting as set forth in rule.

10. Fire protection: Each mobile home park shall, recreational vehicle park, and campground must have adequate fire protection in accordance with the state fire code.
11. Playgrounds: Each mobile home park containing twenty-five or more lots shall provide playground space equivalent to one lot for every twenty-five lots in the park.
12. Multiple-story parks: A multiple-story mobile home park or trailer park may not be constructed in this state.

SECTION 10. AMENDMENT. Section 23-10-07.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-07.1. Service fees.

Service fees that reasonably reflect the cost of the service provided in a mobile home park, ~~trailer~~recreational vehicle park, or campground may be charged. Fees may not be charged unless a service is actually provided.

SECTION 11. AMENDMENT. Section 23-10-09 of the North Dakota Century Code is amended and reenacted as follows:

23-10-09. Occupancy record.

The owner or manager of a mobile home park, ~~trailer~~recreational vehicle park, or campground shall maintain a current record of the names of the occupants of the park or campground.

SECTION 12. AMENDMENT. Section 23-10-10 of the North Dakota Century Code is amended and reenacted as follows:

23-10-10. Posting rules and regulations.

The owner or manager of a licensed mobile home park, recreational vehicle park, or campground conspicuously shall post or distribute a digital or hard copy of ~~this chapter~~ and the relevant rules and regulations to each tenant in the park. ~~The owner or manager of a trailer park or campground shall conspicuously post a copy of this chapter and the relevant rules and regulations in the trailer park or campground.~~ Material required to be distributed or posted under this section must be provided by the department free of charge.

SECTION 13. AMENDMENT. Section 23-10-10.1 of the North Dakota Century Code is amended and reenacted as follows:

23-10-10.1. Requirement of emergency response procedures in certain mobile home parks.

The owner of a mobile home park ~~that contains at least ten mobile homes,~~ recreational vehicle park, or campground shall establish a procedure for responding to emergencies and complaints ~~by tenants with respect to the mobile home park.~~ The procedure must include the ability to reach a person who has the authority to perform, or direct the performance of, duties imposed on the owner under this chapter. The procedure must be posted conspicuously in the mobile home park, recreational vehicle park, and campground or a copy must be provided to the tenants in writing ~~and a copy must be provided to the tenants.~~

SECTION 14. AMENDMENT. Section 23-10-11 of the North Dakota Century Code is amended and reenacted as follows:

23-10-11. Ejection from premises.

The owner or manager of a mobile home park, ~~trailer~~recreational vehicle park, or campground may eject any person from the premises for nonpayment of charges or fees for accommodations, for a violation of law, for disorderly conduct, for a violation of any regulation of the department, or for a violation of any reasonable rule of the mobile home park, ~~trailer~~recreational vehicle park, or campground which is publicly posted within the park or campground.

SECTION 15. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

23-10-12. Revocation of license - Penalty for operating without license.

The department may ~~revoke any license issued under this chapter~~deny an application or take disciplinary action, up to and including revocation, against any applicant or licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules adopted by the health council and regulations promulgated by the department. ~~Before any license may be revoked, the department takes disciplinary action against a license, the department~~ shall notify the licensee in writing of the reason ~~revocation~~disciplinary action is being considered and shall provide a reasonable amount of time for correction to be made. Action taken under the authority granted in this section must comply with chapter 28-32. Any person who maintains or operates a mobile home park, ~~trailer~~recreational vehicle park, or campground without first obtaining a license, or who operates the same after revocation of the license, is guilty of an infraction.

Approved April 22, 2021

Filed April 23, 2021

CHAPTER 203

HOUSE BILL NO. 1105

(Representatives Dobervich, P. Anderson, Buffalo, Hanson, Pyle)
(Senators Bakke, Heckaman, Hogan, Mathern, Oban)

AN ACT to amend and reenact sections 12.1-20-12.1 and 23-12-16 of the North Dakota Century Code, relating to breastfeeding; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-20-12.1 of the North Dakota Century Code is amended and reenacted as follows:

12.1-20-12.1. Indecent exposure.

1. ~~A person~~An individual, with intent to arouse, appeal to, or gratify that ~~person's~~individual's lust, passions, or sexual desires, is guilty of a class A misdemeanor if that ~~person~~individual:
 - a. Masturbates in a public place or in the presence of a minor;
 - b. Exposes ~~one's~~the individual's penis, vulva, or anus in a public place or to a minor in a public or private place;
 - c. Exposes ~~one's~~the individual's penis, vulva, or anus by unsolicited electronic means; or
 - d. Exposes ~~one's~~the individual's penis, vulva, or anus by any electronic means to a minor.
2. ~~A person~~An individual is guilty of a class C felony if the ~~person~~individual violates subsection 1 after a previous conviction for violating subsection 1, after a previous conviction for violating section 12.1-20-12.2, or after being required to register under section 12.1-32-15.
3. ~~A person~~An individual who commits a violation of subdivision a or b of subsection 1 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class C felony. ~~A person~~An individual who commits a violation of subsection 2 within fifty feet [15.24 meters] of or on the real property comprising a public or nonpublic elementary, middle, or high school is guilty of a class B felony.
4. ~~The act of a woman discreetly breastfeeding her child is not a violation of this section.~~
5. As used in this section, "electronic means" includes images and pictures transmitted via electronic mail, electronic messaging, or from an electronic communications device.

SECTION 2. AMENDMENT. Section 23-12-16 of the North Dakota Century Code is amended and reenacted as follows:

23-12-16. Right to breastfeed.

~~If the woman acts in a discreet and modest manner, a~~A woman may breastfeed her child in any location, public or private, where the woman and child are otherwise authorized to be.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 204

HOUSE BILL NO. 1465

(Representatives Westlind, Tveit, Weisz)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to vaccine information; to amend and reenact section 26.1-36-09.15 of the North Dakota Century Code, relating to coverage of telehealth services; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Vaccine and infection information.

1. Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status;
 - b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.

3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

SECTION 2. AMENDMENT. Section 26.1-36-09.15 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section:
 - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
 - b. "E-visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.
 - c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
 - e-d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - e-e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.
 - f. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
 - e-g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
 - f-h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end-to-end encryption, and

which allows only an individual and the person with whom the individual is communicating to see what is transmitted.

i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.

g-j. "Telehealth":

(1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.

(2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

(3) Does not include the use of ~~audio-only telephone~~, electronic mail, ~~or facsimile transmissions~~, or audio-only telephone unless for the purpose of e-visits or a virtual check-in.

k. "Virtual check-in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.

2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as ~~the insurer with the health services providers in the same manner as~~ the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;

- c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
- d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE NETWORKS.

1. During the 2021-22 interim, the legislative management shall consider studying health insurance networks, including narrow networks. The study must include:
 - a. Consideration of the use and regulation of broad and narrow networks in the state by individuals and employers, the sales and marketing of broad and narrow networks, opportunities for consumer choice-of-provider, and premium differentials among states with choice-of-provider laws;
 - b. A review of legislative and court history regarding the impact of choice-of-provider laws on exclusive provider organizations and preferred provider organizations and how choice-of-provider laws apply to risk-pooled health plans regulated by the federal Employee Retirement Income Security Act of 1974;
 - c. The impact of the consolidation of the health care market on consumer cash prices, insurance plan deductibles and premiums prices, and consumer options;
 - d. A comparison of health maintenance organizations provider network designs and other health insurer provider network designs;
 - e. A review of how vertical integrated networks utilize HMO plans; and
 - f. A comparison of premiums of health benefit plans offered in the individual and small group markets in relation to the provider network design associated with those plans along with the growth of value-based purchasing.
2. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Approved May 7, 2021

Filed May 10, 2021

CHAPTER 205

HOUSE BILL NO. 1065

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

AN ACT to amend and reenact section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on the expansion of long-term care bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴¹ **SECTION 1. AMENDMENT.** Section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

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, 2019, and July 31, 2021. 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, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than ~~one time~~two times in a twelve-month period.
2. Transfer of licensed nursing facility bed capacity from a 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 bed capacity must become licensed by an entity within seventy-two months of transfer. 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 seventy-two-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 seventy-two-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~~federally recognized tribal nation acquires nursing facility beds, the tribal facility must meet state licensing requirements for those beds

¹⁴¹ Section 23-16-01.1 was also amended by section 212 of House Bill No. 1247, chapter 352, and section 2 of House Bill No. 1332, chapter 201.

within seventy-two 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~~^{thirty} percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of forty-eight 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 forty-eight-month holding period ceases to exist.
7. During the forty-eight-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~~^{six} 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 a seventy-two-month period established at the time of transfer. 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 seventy-two-month period established at the time of transfer. The subsequent receiving entity must license the received bed capacity within the seventy-two-month period established at the time of transfer.
 - 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.
8. Notwithstanding any other provision of this section, a nursing facility bed transferred before July 1, 2019, must be relicensed by the receiving entity within a seventy-two-month period established at the time of transfer.
9. Notwithstanding any other provision of this section, a nursing facility bed in the layaway program before July 1, 2019, may remain in the program for forty-eight months from the time the bed was first laid away.

Approved April 8, 2021

Filed April 9, 2021

CHAPTER 206

SENATE BILL NO. 2334

(Senators Myrdal, Klein, Kreun)
(Representatives Dockter, Porter, Richter)

AN ACT to create and enact chapter 23-17.6 of the North Dakota Century Code, relating to the registration of extended stay centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-17.6 of the North Dakota Century Code is created and enacted as follows:

23-17.6-01. Definitions.

In this chapter, unless the context and subject matter otherwise require:

1. "Department" means the state department of health.
2. "Extended stay center" means a facility that provides extended stay services.
3. "Extended stay services" means postsurgical and postdiagnostic medical and nursing services provided to a patient recovering from a surgical procedure performed in an ambulatory surgical center.
4. "Operating room" has the meaning given that term in rules adopted by the health council.

23-17.6-02. Registration required - Rules.

A person may not conduct, maintain, or operate an extended stay center without a certificate of registration issued by the department. The health council shall adopt rules for the application, issuance, and renewal of a certificate of registration.

23-17.6-03. Issuance and renewal of certificate of registration - Evaluation.

Upon receipt of an initial or renewal certificate application, the department or the department's authorized agent shall evaluate the extended stay center. If minimum standards described in section 23-17.6-04 are met, the department shall issue the certificate.

23-17.6-04. Standards of registration.

1. An extended stay center shall meet the following minimum standards for registration:
 - a. Must be affiliated with one or more facilities certified by the centers for Medicare and Medicaid services as an ambulatory surgical center;
 - b. Must have no more than two recovery beds for each operating room in the affiliated ambulatory surgical center, not to exceed a total of sixteen recovery beds;

- c. Shall discharge patients within forty-eight hours from the time of admission to the extended stay center;
 - d. Shall conform to all patient safety and facility requirements adopted by the health council by rule;
 - e. Shall use admission criteria based only on the extended stay center's:
 - (1) Medical screening criteria;
 - (2) Evidence-based surgery guidelines; or
 - (3) Patient safety standards;
 - f. Orally and in writing, shall clearly notify patients with Medicare coverage of the services provided by the extended stay center which are not covered by Medicare; and
 - g. Shall report data and metrics to the department as prescribed by rule, including the:
 - (1) Types of procedures performed at the affiliated ambulatory surgical center for which patients are transferred to the extended stay center for recovery;
 - (2) Average duration of patient stays at the extended stay center;
 - (3) Medical acuity of the patients served by the extended stay center; and
 - (4) Frequency and cause of patient transfers from the extended stay center to a hospital.
2. An extended stay center only may accept a patient from an ambulatory surgical center. Each ambulatory surgical center must:
- a. Be separated physically from the extended stay center operations;
 - b. Have demonstrated safe operating procedures in an outpatient surgery setting for no less than twenty-four consecutive months; and
 - c. Be certified by the centers for Medicare and Medicaid services as participating in the ambulatory surgical center quality reporting program administered by the centers for Medicare and Medicaid services.

23-17.6-05. Denial, suspension, or revocation of certificate of registration.

The department may deny, suspend, or revoke the certificate of registration of an extended stay center for noncompliance with this chapter in accordance with the administrative hearing provisions of chapter 28-32.

23-17.6-06. Rulemaking.

The health council shall adopt necessary rules relating to the extended stay centers, including rules governing:

1. Licensure qualifications of professional and ancillary personnel;

2. Standards for the organization and quality of patient care performed at the extended stay center;
3. Procedures for maintaining records;
4. Procedures for application, issuance, and renewal of certificate of registration;
5. Procedures for denial, suspension, or revocation of certificate of registration; and
6. Reviews of registered extended stay centers.

23-17.6-07. Application and renewal fees.

The department shall adopt by rule the fee for registering an extended stay center, not to exceed an application fee of fifteen thousand dollars and an annual renewal fee of fifteen thousand dollars.

23-17.6-08. Reviews of extended stay center.

Before the issuance or renewal of an extended stay center certificate of registration, the department shall inspect the extended stay center for compliance with the standards established under this chapter. To the maximum extent possible, the department shall coordinate reviews made under this chapter with those made for the purposes of determining compliance with other licensing or registration requirements.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 207

SENATE BILL NO. 2133

(Senators Lee, K. Roers)
(Representatives Keiser, Porter, Westlind)

AN ACT to amend and reenact subsection 2 of section 23-27-02, subsection 2 of section 23-27-04, and sections 23-27-04.3, 23-27-04.9, and 50-24.1-38 of the North Dakota Century Code, relating to services provided by emergency medical services operations and emergency medical services personnel; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴² **SECTION 1. AMENDMENT.** Subsection 2 of section 23-27-02 of the North Dakota Century Code is amended and reenacted as follows:

2. "Emergency medical services" means the prehospital medical stabilization or transportation, including interfacility transportation, of an individual who is sick, injured, wounded, or otherwise incapacitated or helpless, or in a real or perceived acute medical condition, by a person that holds oneself out to the public as being in that service or that regularly provides that service. The term includes:
 - a. Assessing, stabilizing, and treating life-threatening and non-life-threatening medical conditions; or
 - b. Transporting a patient who is in a real or perceived acute medical condition to a hospital emergency room or other appropriate medical destination.

¹⁴³ **SECTION 2. AMENDMENT.** Subsection 2 of section 23-27-04 of the North Dakota Century Code is amended and reenacted as follows:

2. An officer, employee, or agent of any prehospital emergency medical services operation may refuse to transport an individual for which transport is not medically necessary and may recommend an alternative course of action to that individual if the prehospital emergency medical service has developed protocols ~~that include direct medical control~~ to refuse transport of an individual.

¹⁴⁴ **SECTION 3. AMENDMENT.** Section 23-27-04.3 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴² Section 23-27-02 was also amended by section 232 of House Bill No. 1247, chapter 352.

¹⁴³ Section 23-27-04 was also amended by section 234 of House Bill No. 1247, chapter 352.

¹⁴⁴ Section 23-27-04.3 was also amended by section 236 of House Bill No. 1247, chapter 352.

23-27-04.3. Emergency medical services personnel training, testing, certification, licensure, and quality review - Penalty.

The state health council shall adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, including community emergency medical services personnel, instructors, and training institutions. Rules adopted must include a definition of minimum applicable standards, a definition of emergency medical services personnel, provide for a mechanism for certifying or licensing persons who have met the required standards, provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel, and define minimum standards for emergency medical services training institutions. Licensing as an emergency medical services training institution is optional. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

SECTION 4. AMENDMENT. Section 23-27-04.9 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.9. Administration of influenza vaccinationvaccinations - Laboratory testing.

1. A licensed or certified emergency medical ~~technician-paramedicservices personnel~~ working for a hospital or an emergency medical services operation may administer the influenza vaccine to an individual who is at least eighteen years of age if:
 - a. The physician providing oversight for the emergency medical services operation or the hospital medical director has established protocols that meet department standards that may be based on the advisory committee on immunization practices of the federal centers for disease control and prevention; and
 - b. The emergency medical ~~technician-paramedicservices personnel~~ has satisfactorily completed a department-approved course on administering vaccines.
2. If a hospital or emergency medical services operation allows the administration of vaccines under this section, the hospital or emergency medical services operation shall maintain records documenting the emergency medical ~~technician-paramedic'sservices personnel's~~ completion of the training required under subsection 1. These records are subject to review by the department.
3. Licensed or certified emergency medical services personnel may perform laboratory testing authorized by rule adopted by the health council.

¹⁴⁵ **SECTION 5. AMENDMENT.** Section 50-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁵ Section 50-24.1-38 was also amended by section 453 of House Bill No. 1247, chapter 352.

50-24.1-38. Health-related services - Licensed community paramedic/emergency medical services personnel.

1. Medical assistance must cover services provided by community emergency medical services personnel, and other similarly licensed personnel who are licensed or certified under section 23-27-04.3, if the services are provided to an eligible recipient as defined by rule. Community emergency medical services personnel services may include health assessment, chronic disease monitoring and education, immunizations and vaccinations, laboratory specimen collection, followup care, comprehensive health and safety assessment, wound management, assess and report compliance with established care plan, medication management, and other interventions within the scope of practice for each licensure level as approved by a supervising physician, physician assistant, or advanced practice registered nurse.
2. The department of human services shall adopt rules governing payments to licensed community paramedic/emergency medical services personnel, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician, a physician assistant, or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic/emergency medical services personnel, an advanced emergency medical technician, or an emergency medical technician.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 208

HOUSE BILL NO. 1183

(Representatives Louser, Headland, Magrum, Mock, Roers Jones, Weisz)
(Senators Burckhard, Klein, Luick, Myrdal, Vedaa)

AN ACT to create and enact two new sections to chapter 23-35 of the North Dakota Century Code, relating to requiring public health units to adopt the technical guide for onsite wastewater recycling treatment and establishing the onsite wastewater recycling technical committee; to provide for a legislative management report; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Public health units to adopt onsite wastewater recycling treatment guide.

Each public health unit shall adopt the statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies established by the onsite wastewater recycling technical committee.

SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Onsite wastewater recycling technical committee - Appointment - Duties.

1. The onsite wastewater recycling technical committee consists of:
 - a. Three representatives from local public health units appointed by the governor from a list of names forwarded by local public health units;
 - b. Four individuals who must be installers appointed by the governor. The governor shall appoint the individuals from a list of names forwarded by a professional onsite wastewater recycling association. For purposes of this section, an installer means an individual licensed by a local public health unit to install onsite wastewater sewage treatment systems; and
 - c. One individual who must be a licensed environmental health practitioner appointed by the governor from a list of names forwarded by a professional onsite wastewater recycling association.
2. The director of the department of environmental quality or the director's designee shall provide input at the request of the committee.
3. The terms of the committee members are for four years, and members may be reappointed.
4. The committee shall:
 - a. Meet at the call of at least three of the members.

- b. Create a statewide technical guide for onsite wastewater recycling treatment technologies and sewage distribution technologies.
- c. Recommend standards and procedures for issuing an installer license.
- d. Recommend continuing education requirements for installer license renewal.
- e. Recommend reasonable fees for issuing or renewing an installer license.

SECTION 3. REPORT TO LEGISLATIVE MANAGEMENT - ONSITE WASTEWATER RECYCLING TECHNICAL COMMITTEE. Before November 1, 2022, the onsite wastewater recycling technical committee shall submit a report to the legislative management on the status of the statewide technical guide and the committee's recommendations.

SECTION 4. APPLICATION. The governor shall appoint individuals to fill the committee positions in accordance with this Act, and the terms of those appointees must be staggered so not more than two positions expire in any year. To accomplish the staggering, the initial term of those appointees may be for less than four years.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 209

HOUSE BILL NO. 1205

(Representatives Steiner, Lefor, Meier, Rohr, Skroch, Strinden)
(Senators Myrdal, Wardner)

AN ACT to create and enact chapter 23-51 of the North Dakota Century Code, relating to establishing the maternal mortality review committee; to provide for a continuing appropriation; and to provide for a report to the legislative management and other agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-51 of the North Dakota Century Code is created and enacted as follows:

23-51-01. Definitions.

As used in this chapter:

1. "Committee" means the maternal mortality review committee.
2. "Department" means the obstetrics and gynecology department of the university of North Dakota school of medicine and health sciences.
3. "Health care provider" means:
 - a. An individual licensed, certified, or otherwise authorized to provide health care services in the ordinary course of business in the state; or
 - b. A health facility licensed by the state department of health.
4. "Maternal mortality" means the death of a pregnant woman or a woman within one year postpartum.
5. "School" means the university of North Dakota school of medicine and health sciences.
6. "Severe maternal morbidity" means a condition occurring in a woman during pregnancy or within one year of the end of pregnancy which results in:
 - a. Admission to the intensive care unit of a health facility; or
 - b. Transfusion of four or more units of blood products.

23-51-02. Maternal mortality review committee.

The department shall appoint individuals to serve as members on the maternal mortality review committee. Committee membership must include representatives of multiple specialties and disciplines, including forensic pathology. In appointing members, the department shall endeavor to appoint individuals working in and

representing communities affected by pregnancy-related deaths, severe maternal morbidity, and a lack of access to relevant perinatal and intrapartum care services.

23-51-03. Powers and duties of committee.

1. The committee shall:
 - a. Identify maternal mortality cases in the state;
 - b. Obtain and conduct comprehensive reviews of medical records and other relevant data using best practices for case reviews to identify factors associated with the deaths;
 - c. Consult, as appropriate, with relevant experts to evaluate and interpret the records and data;
 - d. Consult, as appropriate, with family members and other affected or involved persons to collect additional relevant information;
 - e. Make determinations regarding the preventability of maternal deaths;
 - f. Develop policy recommendations to improve health care services for women and reduce the incidence of maternal mortality in the state;
 - g. Convene annually and provide committee members with the available information necessary to fully review each case; and
 - h. Compile annually a state report of fatalities reviewed.
2. The committee may review cases and trends in severe maternal morbidity.

23-51-04. Powers and duties of school - Continuing appropriation.

1. The school shall provide or arrange for administrative services to assist the committee in performing official duties, including collection and management of case review files, maintenance of records, collection and analysis of data, and the issuance of an annual state report on maternal mortality. The school is responsible for the confidentiality and security of data on the sharing site on which the documents are stored.
2. The school may accept gifts and grants from any source to fund the duties of the department and the committee under this chapter. The school shall apply for and use available federal money to fund the duties of the committee under this chapter. All moneys received by the school under this section are appropriated on a continuing basis to the school for the purpose of funding the duties of the committee and the department under this chapter.

23-51-05. Confidentiality.

1. Notwithstanding section 44-04-19, all portions of a meeting of the committee during which the committee reviews maternal mortality and severe maternal morbidity are closed to the public. Notwithstanding section 44-04-18, all documentation and reports of the committee which are related to committee review of maternal deaths are confidential, except for the annual state report, which may not disclose personally identifiable information of decedents.

Records deemed confidential under this section are not discoverable as evidence.

2. All proceedings and activities of the committee under this chapter; committee members' opinions formed as a result of the proceedings and activities; and records obtained, created, or maintained under this chapter, including records of interviews, written reports, and statements procured by the department, the committee, or any other person acting jointly or under contract with the department or committee in connection with requirements of this chapter, are confidential and not subject to section 44-04-18, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding. This section may not be construed to limit or restrict the right to discover or use information or records available from another source and independent of the proceedings of the committee in any civil or criminal proceeding.

23-51-06. Access to records.

1. The presiding officer of the committee may request from a health care provider all patient records of the provider from the most recent thirty-six-month period which pertain to an identified maternal mortality. Upon receipt of a written request for the information, a health care provider shall disclose the records. The presiding officer also may acquire the information from health care facilities, maternal mortality review programs, and other sources in other states to ensure the committee's records of North Dakota maternal mortality cases are accurate and complete.
2. The state department of health shall provide a certified copy of a complete death record to the committee upon request.

23-51-07. Immunity.

A member of the committee or person employed by or acting in an advisory capacity to the committee and which provides information, counsel, or services to the committee is not liable for damages for an action taken within the scope of the functions of the committee. Members of the committee may not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting or communication of the committee. A committee member or health care provider providing access to medical records pursuant to this chapter may not be held liable for civil damages or be subject to any criminal or disciplinary action for a good faith effort in providing the records.

23-51-08. Annual state report.

1. The committee's annual state report must include the identification of patterns, trends, and policy issues related to maternal mortality, but may not disclose personally identifiable information.
2. The committee shall provide the annual state report to the legislative management, the state department of health, the North Dakota society of obstetricians and gynecologists, and other entities as determined necessary by the committee to facilitate the objectives of the committee. The committee's findings and recommendations must be made available to health care providers and the public.

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