

SENATE BILL NO. 2145

Introduced by

Senators K. Roers, Mathern, Patten

Representatives Keiser, Rohr, Westlind

1 A BILL for an Act to create and enact chapter 50-10.3 of the North Dakota Century Code,
2 relating to access to long-term care facilities ~~in case of a declaration of disaster or emergency;~~
3 and to declare an emergency.

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

5 **SECTION 1.** Chapter 50-10.3 of the North Dakota Century Code is created and enacted as
6 follows:

7 **50-10.3-01. Definitions.**

8 As used in this chapter, unless the context clearly indicates otherwise:

- 9 1. "Declaration of disaster or emergency" means a disaster or emergency declared by
10 the governor under chapter 37-17.1.
- 11 2. "Department" means the department of human services.
- 12 3. "Designated caregiver" means an individual, ^{Essential} whether a family member or friend of a ^{Identified by a}
13 resident of a long-term care facility, ^{or the resident's designated decision maker} who is designated by the resident or appointed by
14 an individual with decisionmaking authority for the resident to provide in-person
15 physical, spiritual, or emotional support to the resident during a declaration of disaster
16 or emergency.
- 17 4. "Long-term care facility" means a skilled nursing facility, basic care facility, assisted
18 living facility, or swing-bed hospital approved to furnish long-term services.

19 **50-10.3-02. Scope.**

20 This chapter does not supersede federal authority regarding long-term care facilities or
21 prevent the department or state department of health from taking necessary actions to render
22 the state eligible for federal funds or reimbursement services provided in long-term care
23 facilities.

~~50-10.3-02~~ **50-10.3-03. Access to long-term care facilities for designated caregivers.** *essential*

1. ~~The department, in consultation~~ *working jointly* with the state department of health and the state long-term care ombudsman, *residents and tenants, families of residents and tenants, and long-term care facility representatives,* shall establish protocols to allow a resident of a long-term care facility or an individual with *the resident's designated decisionmaker* decisionmaking authority for ~~the resident to designate one or more individuals as the resident's designated~~ *essential* caregivers, *essential* including during a declaration of disaster or emergency. A designated caregiver shall meet the necessary qualifications to enter the long-term care facility to provide in-person physical, spiritual, or emotional support to a resident of a long-term care facility in accordance with the protocols established under this section.

2. The protocols must include:

- a. *essential* Safety measures for a designated caregiver, which may include restrictions on travel, enhanced testing for communicable diseases, and the necessary safety equipment required to protect the health and safety of the residents of the long-term care facility;
- b. *essential* Procedures to replace a designated caregiver due to necessary circumstances, *essential* including illness or death of the designated caregiver; and
- c. A duration, not to exceed thirty days, during which a long-term care facility may enter a lockdown phase for the purpose of establishing safety measures for residents of the long-term care facility and *essential* designated caregivers.

~~50-10.3-03~~ **50-10.3-04. Additional safety requirements for residents of long-term care facilities.**

A long-term care facility may establish additional safety requirements to protect the residents of the long-term care facility if the requirements ~~meet the following criteria:~~

- ~~1. The requirements are linked directly to a declaration of disaster or emergency; and~~
- ~~2. The requirements and cost~~ *OR* are not so burdensome and onerous as to substantially prevent a *essential* designated caregiver from being able to provide in-person physical, spiritual, or emotional support to a resident of the long-term care facility.

~~50-10.3-04~~ **50-10.3-05. Suspension of access for designated caregivers.** *essential*

If a long-term care facility suspends access to the long-term care facility for a *essential* designated caregiver who violates the protocols established under section ~~50-10.3-02~~ **50-10.3-03**, the long-

1 ~~term care facility shall allow the resident, or an individual with decisionmaking authority for the~~
2 ~~resident, to immediately designate a replacement designated caregiver.~~ *the resident's designated decisionmaker*
essential

3 ~~— 50-10.3-05. Personal protective equipment for designated caregivers.~~

4 ~~— A long-term care facility may require a designated caregiver to provide personal protective~~
5 ~~equipment for the designated caregiver or assume the cost of the personal protective~~
6 ~~equipment provided by the facility to allow the designated caregiver to provide in-person~~
7 ~~physical, spiritual, or emotional support.~~

8 ~~— 50-10.3-06. Applicability.~~

9 ~~— This chapter applies for the period commencing fifteen days after a declaration of disaster~~
10 ~~or emergency and sixty days after the termination or expiration of the declaration of disaster or~~
11 ~~emergency.~~

12 ~~— 50-10.3-07. Construction.~~

13 ~~— This chapter may not be construed to supersede federal authority regarding long-term care~~
14 ~~facilities or to prevent the department or department of human services from taking necessary~~
15 ~~actions to render the state eligible for federal funds or reimbursement services provided in long-~~
16 ~~term care facilities.~~

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

