

HEALTH AND SAFETY

CHAPTER 231

SENATE BILL NO. 2255

(Senators Lee, Dever, Hogan)
(Representatives Porter, M. Ruby)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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.

1. The governor shall appoint ~~the~~ state health officer ~~who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience~~who has:
 - a. Education, training, or experience in public health; and
 - b. Relevant leadership experience.
2. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
- ~~2-3.~~ The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
- ~~3-4.~~ 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~~serves at the pleasure of the governor.
- ~~4-5.~~ ~~If the office of the state health officer is filled temporarily, the governor shall~~The commissioner of the department of health and human services may appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to advise the state health officer on matters of public health as requested by 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 governorcommissioner of the department of health and human services. A meeting of the advisory committee is not subject to open meeting requirements of chapter 44-04.
- ~~5-6.~~ The duties of the state health officer are as follows:

- a. Provide strategy and policy advice to improve health and wellness.
- b. Serve in an advisory capacity for local public health and local health officers.
- c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
- d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - (1) 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.
 - (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (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.
 - (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 232

HOUSE BILL NO. 1068

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 23-01-05.5, 43-10-10.1, and 44-04-18.18 of the North Dakota Century Code, relating to autopsy reports, working papers, funeral practice exceptions, and photographs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹³ **SECTION 1. AMENDMENT.** Section 23-01-05.5 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.5. Autopsy reports, working papers, and images - Confidential - Exceptions.

1. As used in this section:

- a. "Autopsy report" means the report of the forensic examiner or the examiner's designee on the post-mortem examination of a deceased individual to determine the cause and manner of death, including any written analysis, diagram, photograph, or toxicological test results.
- b. "Notes" means the notes or dictations taken or created by the state forensic examiner or the examiner's designee during the course of an investigation into the cause and manner of death of a decedent.
- c. "Report of death" means the official findings on the cause of death and manner of death issued by the state forensic examiner, the examiner's designee, county coroner, or pathologist performing an autopsy ordered by a county coroner or by the state forensic examiner and which is the face page of the autopsy report identifying the decedent and stating the cause of death and manner of death.
- d. "Working papers" means the medical records, investigatory records, law enforcement records, and other records or materials collected or compiled by the state forensic examiner or the examiner's designee and the notes or dictations created by the state forensic examiner or the examiner's designee during the course of an investigation into the cause and manner of death of a decedent. The term does not include autopsy photographs or other visual images or video or audio recordings of an autopsy taken by the state forensic examiner, the examiner's designee, prosecutor, criminal justice agency, any employee or agent of a criminal justice agency, or any other individual, or other photographs or visual images of the decedent which may have been taken by law enforcement or other individuals.

⁹³ Section 23-01-05.5 was also amended by section 2 of House Bill No. 1116, chapter 233.

2. ~~An autopsy report and any working papers and notes relating to an autopsy report are confidential and may be disclosed only as permitted by this section.~~ The report of death is subject to disclosure as follows:
 - a. ~~The~~ if requested before the report of death becomes a public record, the next of kin or authorized representative requesting the report of death is responsible for providing to the state forensic examiner or the examiner's designee satisfactory proof of relationship to the deceased and contact information for notification of the report of death.
 - b. When in receipt of the information in subdivision a, the state forensic examiner, examiner's designee, county coroner, or pathologist who performed the autopsy shall make a good faith effort to immediately notify the decedent's next of kin or authorized representative of the availability of the report of death. The notification or attempts to notify the next of kin or authorized representative must be recorded and must precede any public disclosure of the report of death.
 - c. The report of death becomes a public record eight days after the report of death is finalized.
3. ~~Subject to the limitations on the disclosure of an autopsy photograph or other visual image or video or audio recording of an autopsy required under section 44-04-18.18, any working~~ Working papers and notes relating to a final autopsy report may be disclosed pursuant to a court order in accordance with section 44-04-18.11 and as otherwise expressly provided by law subsection 5.
4. An autopsy report is confidential and may be disclosed in accordance with section 44-04-18.11 and subsections 5 and 6.
5. The state forensic examiner or the examiner's designee shall disclose a copy of the autopsy report and working papers to:
 - a. ~~To any~~ A county coroner, including a coroner in any state or Canadian province, with jurisdiction over the death, and the coroner may use or disclose these records for purposes of an investigation, inquest, or prosecution.
 - b. ~~To any state's attorney~~ A prosecutor or criminal justice agency, as defined by section 44-04-18.7, including a prosecutor or criminal justice agency of the United States, any state, or any Canadian province, with jurisdiction over an investigation of the death and the ~~state's attorney~~ prosecutor or criminal justice agency may use or disclose these records for the purposes of an investigation or prosecution.
 - c. ~~To workforce~~ Workforce safety and insurance if the death is related to the decedent's work, and to any other workers' compensation or other similar program, established by law, that provides benefits for work-related injuries or illness without regard to fault if there is no criminal investigation.
 - d. ~~To the~~ The child fatality review panel if there is no active criminal investigation.
 - e. The suicide fatality review commission if there is no active criminal investigation.

f. In accordance with a court order.

5-6. ~~The~~ If there is no active criminal investigation, the state forensic examiner or the examiner's designee upon request shall disclose a copy of the autopsy report to:

a. The decedent's personal representative ~~and to the~~

b. ~~The~~ decedent's spouse, child eighteen years of age or older, or parent, upon proof of the relationship, ~~if there is no active criminal investigation.~~

b-c. A physician or hospital ~~who~~that treated the ~~deceased~~decedent immediately ~~prior to~~before death ~~if there is no active criminal investigation.~~

e-d. An insurance company upon proof ~~that~~ the decedent's life was covered by a policy issued by the company ~~if there is no active criminal investigation.~~

d-e. The food and drug administration, the national transportation safety board, the occupational health and safety administration, and any other federal or state agency with authority to obtain an autopsy report to investigate a death resulting from the decedent's type of injury or illness.

e-f. A professional or research organization collecting data to initiate or advance death investigation standards, after the identifiers necessary to create a limited data set under title 45, Code of Federal Regulations, part 164, section 514, subsection e have been removed from the report.

g. The maternal mortality review committee.

6-7. An autopsy photograph or other visual image or a video or audio recording of an autopsy taken by the state forensic examiner, the examiner's designee, prosecutor, criminal justice agency, any employee or agent of a criminal justice agency, or any other individual is confidential and may be disclosed in accordance with section 44-04-18.11 and as provided in this subsection:

a. The state forensic examiner or the examiner's designee shall, upon request, disclose a copy of autopsy photographs or other visual images or video or audio recordings of an autopsy to any prosecutor or criminal justice agency as defined by section 44-04-18.7, including a prosecutor or criminal justice agency of the United States, any state, or any Canadian province, with jurisdiction over an investigation of the death and the prosecutor or criminal justice agency may use or disclose these records for the purposes of an investigation or prosecution.

b. After redacting all information identifying the decedent, including name, address, and social security number, and anonymizing facial recognition, a medical examiner, coroner, or physician may use an autopsy photograph, image, or video or audio recording for:

(1) Medical or scientific teaching or training purposes;

(2) Teaching or training of law enforcement personnel;

(3) Teaching or training of attorneys or others with a bona fide professional need to use or understand forensic science;

- (4) Conferring with medical or scientific experts;
- (5) Publication in a scientific or medical journal or textbook; or
- (6) Teaching or training of coroner personnel or other licensed or certified medical professionals.
- c. The decedent's spouse, child eighteen years of age or older, or parent, upon proof of the relationship, may view an autopsy photograph, image, or recording in the business office of a medical examiner, coroner, or physician who has possession of the materials, if there is not an active criminal investigation or prosecution.
- d. Upon receipt by the requestor of a court order requiring disclosure and a court-issued protective order in accordance with section 44-04-18.11, the state forensic examiner or the examiner's designee shall disclose a copy of autopsy photographs or other visual images or video or audio recordings of an autopsy to the decedent's spouse, child eighteen years of age or older, or parent, upon proof of the relationship.
- 8. Other photographs or visual images of the decedent in the possession of the forensic examiner, the examiner's designee, or any county coroner which may have been taken by law enforcement or other persons are confidential.
- 9. Notes are confidential records.
- 10. The forensic examiner, the examiner's designee, any county coroner or county medical coroner, and any public employee who, in good faith, discloses autopsy findings, an autopsy report, working papers, autopsy photograph, notes, other photographs or visual images of a decedent, or a video or audio recording of an autopsy, or other information relating to an autopsy report or cause of death to a person who the public official or employee reasonably believes is entitled to that information under this section is immune from any liability, civil or criminal, for making that disclosure. For the purposes of any proceeding, the good faith of any public employee who makes a disclosure under this section is presumed.

SECTION 2. AMENDMENT. Section 43-10-10.1 of the North Dakota Century Code is amended and reenacted as follows:

43-10-10.1. Funeral practice - Exceptions.

1. Nothing in this chapter may be construed to prevent a person from doing work within the standards and ethics of that person's profession and calling, provided that the person does not represent to the public that the person is engaging in the practice of funeral service.
2. Nothing in this chapter may be construed to prevent embalming by commissioned medical officers in the armed forces of the United States or under the United States public health service while on active duty in a respective service.
3. This chapter does not prevent the transportation of a dead human body in accordance with other applicable state and federal laws.

4. This chapter does not prohibit ambulance or other emergency transportation of a dead human body.
5. This chapter does not prohibit members of the clergy from performing funeral and gravesite or memorial services.
6. This chapter does not prohibit unlicensed individuals, employed by a funeral establishment, from performing gravesite or memorial services for cremated remains.
7. This chapter does not prohibit individuals licensed in other states, as embalmers or funeral directors, from assisting funeral practitioners.
- 7-8. This chapter does not prohibit individuals employed by a funeral establishment from performing nonprofessional tasks or activities that do not require independent, professional judgment under the supervision of an individual licensed to practice funeral service.

SECTION 3. AMENDMENT. Section 44-04-18.18 of the North Dakota Century Code is amended and reenacted as follows:

44-04-18.18. Autopsy images - Confidential - Exceptions.

1. ~~An autopsy photograph or other visual image or a video or audio recording of an autopsy is confidential. However, a criminal justice agency may use or disclose these materials for purposes of an investigation or prosecution.~~
2. a. ~~After redacting all information identifying the decedent, including name, address, and social security number, and anonymizing facial recognition, a medical examiner, coroner, or physician may use an autopsy photograph, image, or recording for:~~
 - (1) ~~Medical or scientific teaching or training purposes;~~
 - (2) ~~Teaching or training of law enforcement personnel;~~
 - (3) ~~Teaching or training of attorneys or others with a bona fide professional need to use or understand forensic science;~~
 - (4) ~~Conferring with medical or scientific experts;~~
 - (5) ~~Publication in a scientific or medical journal or textbook; or~~
 - (6) ~~Teaching or training of coroner personnel or other licensed or certified medical professionals.~~
- b. ~~A medical examiner, coroner, or physician who has in good faith complied with this subsection is not subject to any penalty or liability for using an autopsy photograph, image, or recording.~~
3. ~~The decedent's spouse, child, parent, or sibling, upon proof of the relationship, may view an autopsy photograph, image, or recording in the business office of a medical examiner, coroner, or physician who has possession of the materials, if there is not an active criminal investigation or prosecution.~~

4. ~~Disclosure of an autopsy photograph, image, or recording may be obtained under section 44-04-18.11.~~An autopsy photograph or other visual image or a video or audio recording of an autopsy taken by the state forensic examiner, the examiner's designee, prosecutor, criminal justice agency, any employee or agent of the criminal justice agency, or any other individual is confidential and may be disclosed in accordance with section 23-01-05.5.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 233

HOUSE BILL NO. 1116

(Judiciary Committee)

(At the request of the Department of Corrections and Rehabilitation)

AN ACT to create and enact a new subdivision to subsection 4 of section 23-01-05.5 of the North Dakota Century Code, relating to the disclosure of an autopsy report; and to amend and reenact subsection 4 of section 11-19.1-11 of the North Dakota Century Code, relating to authorizing the coroner and the state forensic examiner to disclose autopsy reports to the department of corrections and rehabilitation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 11-19.1-11 of the North Dakota Century Code is amended and reenacted as follows:

4. A report of death, an autopsy report, and any working papers, notes, images, pictures, photographs, or recordings in any form are confidential but the coroner may use or disclose these materials for purposes of an investigation, inquest, ~~or prosecution, or inspection by the department of corrections and rehabilitation.~~ The coroner may disclose a copy of the report of death in accordance with the authority of the state forensic examiner under section 23-01-05.5 and may disclose an autopsy photograph or other visual image or video or audio recording subject to limitations in section 44-04-18.18. The coroner shall disclose a copy of the autopsy report to the state forensic examiner.

⁹⁴ **SECTION 2.** A new subdivision to subsection 4 of section 23-01-05.5 of the North Dakota Century Code is created and enacted as follows:

To the department of corrections and rehabilitation if the decedent was an inmate in a county, regional, or state correctional facility.

Approved March 14, 2025

Filed March 14, 2025

⁹⁴ Section 23-01-05.5 was also amended by section 1 of House Bill No. 1068, chapter 232.

CHAPTER 234

HOUSE BILL NO. 1071

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact section 23-01-35 of the North Dakota Century Code, relating to tattooing, body piercing, branding, subdermal implants, and scarification; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-35 of the North Dakota Century Code is amended and reenacted as follows:

23-01-35. Tattooing, body piercing, branding, subdermal implants, or scarification - ~~Permit~~License - Fee - Adoption of rules - Exemptions - Injury reports - Penalty.

1. As used in this section:
 - a. "Body piercing" means any method of piercing the skin or mucosa to place jewelry through the skin or mucosa.
 - b. "Branding" means the process in which a mark or marks are burned into human skin tissue with the intention of leaving a permanent mark.
 - c. "Scarify" or "scarification" means the practice in which a mark or marks are cut into human skin tissue with the intention of leaving a permanent mark.
 - d. "Subdermal implant" means to insert a foreign object beneath the skin to decorate an individual's body.
 - e. "Tattoo" or "tattooing" means any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.
2. A person may not operate a facility providing tattooing, body piercing, branding, subdermal implant, or scarification services without a ~~permit~~license issued by the department under this section. ~~The holder of a permit shall display the permit in a conspicuous place at the facility for which the permit is issued. A permit issued under this section expires annually.~~
 - a. An applicant for a ~~permit~~license shall submit an application for a ~~permit~~license to the department, on a form provided by the department, with a ~~permit~~license fee established by the department. The application must include the name and complete mailing address and street address of the facility and any other information reasonably required by the department for the administration of this section.
 - b. The department shall inspect each facility to ensure compliance with this section and any rules adopted by the department prior to issuing a license.

The operator of a facility shall grant the department access to the premises of a facility during normal hours of operation, including access to customer and personnel records. The inspection must be conducted at a frequency determined by the department and as often as necessary to ensure compliance with this section and any rules adopted by the department.

- c. The holder of a license shall display the license in a conspicuous place at the facility for which the license is issued.
- d. A license issued under this section expires annually. 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.
- e. The license may not be transferable from one place or person to another.

2-3. ~~The department of health and human services shall adopt rules to regulate any person that receives compensation for engaging in the practice of tattooing, body piercing, branding, subdermal implants, or scarification. The rules must establish health and safety requirements and limitations with respect to the age of an individual who may receive a tattoo, body piercing, or scarification, branding, or subdermal implants and may prohibit any practice that the department of health and human services deems unsafe or a threat to public health.~~

3-4. ~~A facility is exempt from subsection 42 if the facility provides body piercing that is limited to the piercing of the noncartilaginous perimeter or lobe of the ear and the facility does not provide tattooing, branding, scarification, or subdermal implants. A person is exempt from regulation under subsection 23 if the person's practice under this section is limited to piercing of the noncartilaginous perimeter or lobe of the ear. A licensed health care professional acting within that professional's scope of practice and the associated medical facility are exempt from this section.~~

4-5. ~~If a customer of a facility regulated under this section reports to the facility an injury the customer or operator of the facility believes to have resulted from the tattooing, body piercing, branding, subdermal implanting, or scarification provided at the facility, the operator of the facility shall provide the customer with written information on how to report the alleged injury to the department of health and human services. If a licensed health care professional treats a patient for an injury the professional determines, in the exercise of professional judgment, occurred as a result of a service regulated under this section, the professional shall report the circumstances to the department of health and human services. A licensed health care professional is immune from liability for making or not making a report under this subsection.~~

5-6. ~~The fees established by the department must be based on the cost of conducting plan reviews, conducting routine and complaint inspections and enforcement actions, and preparing and sending license renewals. Fees collected under 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. The department shall waive all or a portion of the fee for any facility that is subject to local jurisdiction.~~

7. A person operating a facility providing tattooing, body piercing, branding, subdermal implant, or scarification services without first obtaining a license issued by the department under this section is guilty of a class B misdemeanor.
8. An individual that receives compensation for engaging in the practice of tattooing, body piercing, branding, subdermal implant, or scarification services who fails to comply with this section or any of the rules adopted by the department is guilty of a class B misdemeanor.
9. In addition to the criminal penalties provided in this section, the department may issue a cease and desist order or obtain a court order or injunction to restrain and enjoin violations of any provision of this section without proof of actual damages sustained by an individual and without the department being required to file an undertaking.
10. The department may deny a license application or, after notice and a hearing in accordance with chapter 28-32, suspend, revoke, or take other disciplinary action against the license of an individual who fails to comply with this section or with any of the rules adopted by the department.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 235

HOUSE BILL NO. 1069

(Human Services Committee)

(At the request of the Department of Health and Human Services)

AN ACT to repeal section 23-01-40 of the North Dakota Century Code, relating to diabetes goals and plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 23-01-40 of the North Dakota Century Code is repealed.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 236

HOUSE BILL NO. 1154

(Representatives M. Ruby, Frelich)
(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:

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, ~~2023~~2025, and July 31, ~~2025~~2029, 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 department 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 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 department 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.

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, ~~2023~~2025, and July 31, ~~2025~~2029. 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 two times in a twelve-month period.

Approved March 21, 2025

Filed March 24, 2025

CHAPTER 237

SENATE BILL NO. 2386

(Senators Van Oosting, Gerhardt, Roers)
(Representatives Motschenbacher, Holle, Hauck)

AN ACT to amend and reenact subsection 3 of section 23-09.5-02 of the North Dakota Century Code, relating to cottage food transactions; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 23-09.5-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Transactions under this section may not:

- a. ~~Involve interstate commerce;~~
- b. ~~Be conducted over the internet or phone, through the mail, or by consignment;~~
- e. Include the sale of uninspected products made from meat, except as provided under subdivision ~~eb~~; or
- ~~d-b.~~ Include the sale of uninspected products made from poultry, unless:
 - (1) The cottage food operator slaughters no more than one thousand poultry raised by the cottage food operator during the calendar year;
 - (2) The cottage food operator does not buy or sell poultry products, except products produced from poultry raised by the cottage food operator; and
 - (3) The poultry product is not adulterated or misbranded; or
- c. Include the sale of poultry products if the transaction involves interstate commerce.

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

Approved March 20, 2025

Filed March 20, 2025

CHAPTER 238

SENATE BILL NO. 2385

(Senators Paulson, Dever, Lee)
(Representatives Karls, Louser)

AN ACT to create and enact a new chapter to title 23 and a new section to chapter 47-32 of the North Dakota Century Code, relating to receivers for mobile home parks and a defense to an eviction from a mobile home; to amend and reenact sections 23-10-03, 23-10-04, 23-10-06, 23-10-06.2, 23-10-12, and 47-10-28 of the North Dakota Century Code, relating to licensure and regulation of mobile home parks; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Definitions.

For purpose of this chapter:

1. "Commissioner" means the commissioner of the department.
2. "Department" means the department of health and human services.

Conditions for appointment of receiver.

1. When the department revokes the license of a mobile home park, the department may file a petition with the district court to place the mobile home park under the control of a receiver for repeated or serious violations of chapter 23-10 or the administrative rules of the department, or to protect health or safety.
2. The court may grant the petition after finding:
 - a. The mobile home park committed, or is continuing to commit repeated or serious violations of chapter 23-10 or the administrative rules of the department; or
 - b. Health or safety would be seriously threatened if a condition existing at the time the petition was filed continues.

Appointment of receiver.

If the court grants the petition to place the mobile home park into receivership, the court shall appoint the commissioner as receiver. The commissioner may designate a qualified individual or a nonprofit organization to execute the receivership. An individual designated to execute the receivership may not be employed by this state or a political subdivision. The receiver shall use the income and assets of the mobile home park to maintain and operate the mobile home park and to attempt to correct the violations of chapter 23-10, the administrative rules of the department, or other condition which constitutes a threat to health or safety. The receiver may not liquidate the assets of the mobile home park.

Termination of receivership.

The receivership terminates when:

1. The receiver and the court certify the conditions that prompted the receivership are corrected;
2. The license to operate the mobile home park is restored;
3. A new license to operate a mobile home park is issued; or
4. The owner of the mobile home park discontinues operation and the residents of the mobile home park have secured other appropriate housing.

Accounting.

Upon termination of the receivership, the receiver shall render a complete accounting to the court and shall dispose of surplus funds as the court directs.

SECTION 2. AMENDMENT. Section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

23-10-03. License required - Application.

- A person may not establish, maintain, change use, mix use, or enlarge a mobile home park, recreational vehicle park, or campground in this state without first obtaining a license from the department.
- The application for the license must be made in writing to the department on forms furnished by the department, accompanied by the required fee, and must state the physical address of the proposed location and type of the mobile home park, recreational vehicle park, or campground, and include:
 - Evidence of approval from local officials as to the proposed mobile home park, recreational vehicle park, or campground applicant's compliance with local zoning laws, ordinances, or regulations for the physical address for its intended use;
 - The proposed water supply, ~~the~~including how water supply fee services are assessed or metered;
 - The proposed method of sewerage and garbage disposal; and ~~such other~~
 - Other information as may be required by the department. ~~Application forms must be prepared by the department and distributed upon request.~~
- Upon a change of ownership, a new owner shall obtain a license within thirty days from the date of sale. Failure of the owner to obtain licensure within thirty days from the date of sale may result in disciplinary action against the owner for operating without a license.

~~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 and inspection requirement for any mobile home park, recreational vehicle park, or campground owned by the state, ~~a municipality, or a nonprofit organization~~ political subdivision. The department shall waive all or a portion of the license fee for any mobile home park, 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, recreational vehicle parks, and campgrounds.~~ The department may adopt rules establishing the amount and the procedures for the collection of annual license and inspection fees. The fees must be based on the cost of reviewing construction plans, conducting preoperational, routine, and complaint inspections, followup and reinspection, and necessary enforcement action. ~~License fees~~ Fees collected ~~pursuant to~~ under 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 3. AMENDMENT. Section 23-10-04 of the North Dakota Century Code is amended and reenacted as follows:

23-10-04. Inspection.

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

SECTION 4. AMENDMENT. Section 23-10-06 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06. License issuance – 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 an applicant who meets all of the requirements of this chapter and any rules adopted by the department.~~

SECTION 5. AMENDMENT. Section 23-10-06.2 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06.2. License transferability.

The department shall transfer a license without charge if the proposed new owner applies in writing within thirty days of the date of sale 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. ~~A new owner applying for a transfer under this section and a person holding a license issued under section 23-10-03, shall provide the name, address, and telephone number for the mobile home park managers and any individual possessing more than a twenty percent ownership~~

~~interest in the entity subject to the license to the department once per calendar year. The department may assess a civil penalty not exceeding five thousand dollars for each violation of this section thirty days after issuing a notice of noncompliance. The civil penalty may be assessed without notice and a hearing. The civil penalty must be awarded to the department and deposited into the department's general operating fund for use in regulating compliance with this chapter. A person subject to a civil penalty pursuant to an order issued under this section may request a hearing before the department if a written request is made within ten days after the receipt of the order. Upon receipt of a proper and timely request for a hearing, the department shall conduct an adjudicative proceeding under this section in accordance with chapter 28-32, unless otherwise provided for by law. If the department prevails in an adjudicative proceeding under this section, the department may assess the nonprevailing party for all adjudicative proceeding and hearing costs, including reasonable attorney's fees, investigation fees, and costs and expenses of the action.~~

SECTION 6. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department may deny an application or take disciplinary action, up to and including suspension or revocation of a license for a mobile home park, recreational vehicle park, or campground, ~~and revocation of a license for a recreational vehicle park or campground~~, against any applicant or licensee upon the failure of the applicant or licensee to comply with this chapter or with any of the rules and regulations promulgated by the department.
2. Before the department takes disciplinary action against 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 thirty days for correction to be made. If the licensee demonstrates a good-faith effort to comply, the department may grant additional time before further enforcement action is taken. 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, recreational vehicle park, or campground without first obtaining a license, or who operates the same during suspension of the license, is guilty of an infraction.
3. The department may assess a civil penalty of one hundred dollars per day against a person who maintains or operates a mobile home park, recreational vehicle park, or campground without first obtaining a license. The civil penalty may not exceed ten thousand dollars. The proceeds of the civil penalty must be transferred to the department's general operating fund.

SECTION 7. AMENDMENT. Section 47-10-28 of the North Dakota Century Code is amended and reenacted as follows:

47-10-28. Mobile home park - Ownership - Transfer of ownership - Tenant rights - Penalty.

1. A person that owns or purchases an existing mobile home park shall:
 - a. Obtain an annual license under section 23-10-03;

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- b. Designate an official local office, except if the mobile home park contains fewer than twenty-six lots, which must be operational on the fifth business day after the change of ownership;
 - c. The mobile home park shall:
 - (1) Have a designated telephone number manned on weekdays between the hours of eight a.m. and five p.m.;
 - (2) Have an operational emergency contact number manned at all times;
 - (3) Designate at least one individual for the property who has the authority to make decisions on behalf of and perform, or direct the performance of, duties imposed on the owner; and
 - (4) Provide a tenant with the contact information of the individual under paragraph 3;
 - d. Provide written notice to a tenant of the mobile home park regarding the change of ownership within five business days after the change of ownership becomes effective. The written notice must include the information required under subdivision c;
 - e. Acknowledge receipt of tenant inquiries or complaints regarding the park, pursuant to section 23-10-10.1, within two business days of receiving the inquiry or complaint;
 - f. Provide to each tenant, upon a written request by the tenant or the tenant's agent, a copy of the existing lease terms along with any modifications or amendments, within ten business days of receipt of a written request;
 - g. Provide each tenant with the name, address, and telephone number of the legal entity that owns the mobile home park; and
 - h. Provide the telephone number of any existing property manager or designated site agent.
- 2. A person that owns or purchases an existing mobile home park may not require a tenant who owns a mobile home located on the property to sell or transfer ownership of the home to the owner of the mobile home park, except as otherwise provided by law.
 - 3. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules or regulations at least thirty days before the date the modifications take effect. Except for the rules and regulations under subsections 4 and 5, upon the effective date of modifications to park rules and regulations, an owner shall provide a tenant who owns a dwelling unit that fails to comply with the park rules and regulations written notice of the failure to comply and provide the tenant three months to remedy the failure or vacate the premises before initiating an action for eviction against the tenant. During the three-month period the tenant shall comply with the park rules and regulations that were in effect before the modifications became effective, including the payment of rent and any other financial obligations under the terms of the lease. During the three-month

period, if the tenant provides the owner a signed document from a person in the business of relocating mobile homes declaring it is not possible to relocate the tenant's dwelling unit within the three-month period, the three-month period must be extended to a date when the dwelling unit can be relocated or the date that is two months after the end of the three-month period, whichever date occurs first.

4. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules and regulations addressing sanitation and safety concerns at least thirty days before the date the modifications take effect.
5. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice at least thirty days before implementing a rule or regulation regarding the removal of a tongue hitch, or any other modification to the dwelling unit to comply with state or federal housing or financing requirements.
6. Mobile home park rules in effect on the date advance written notice regarding modifications is provided to a tenant remain in effect until the date the modified rules or regulations take effect.
7. A person that purchases an existing mobile home park may not increase the monthly tenant rental obligation for six months if the rental amount was increased within the sixty-day period before the date the new owner acquired ownership of the park. Any month-to-month tenancy agreement must provide a minimum of ninety days' notice to the tenant before any rent increase is effective.
8. A person that owns or purchases an existing mobile home park may purchase utility services, including water and sewer services on behalf of a tenant, and include the amount in the monthly rental obligation or bill the tenant as a separate charge based on actual usage. An owner may not charge a tenant more than the actual cost per unit amount paid by the landlord to the utility service provider, except for a reasonable administrative fee that may not exceed three dollars. An owner may not charge or back charge for the utility services of a tenant paying for the services as a portion of the tenant's monthly rental obligation, unless the cost of providing the services increases. If the cost of providing utility services increases, an owner of a mobile home park may charge a tenant a reasonable amount to cover the increased cost of providing the service. A mobile home park may not charge a fee for a utility without an individual meter for each mobile home. The owner shall provide the tenant access to the records of meter readings taken at the mobile home lot of the tenant.
9. A mobile home park owner shall provide a tenant with a summary outlining the tenant's lease and the rights and obligations of the tenant and mobile home park owner under state law.
10. A notice of intent to evict a tenant from a mobile home park under section 47-32-02 must include clear, boldfaced language stating: "You do not have to vacate immediately. You have the right to remain until a court issues an eviction order."

11. A mobile home park may not charge a monthly late fee of more than ten percent of the monthly rent. In addition to the monthly late fee, a mobile home park may not charge a daily late fee of more than five dollars per day.
- 9-12. A person that violates a provision of this section is subject to a civil penalty not less than two thousand five hundred dollars but not exceeding the greater of ten thousand dollars or actual damages, plus actual attorney's fees and costs.
- 40-13. A mobile home park license, issued under chapter 23-10, may be suspended by the district court of the county where the mobile home park is situated for a violation of this section. The holder of the mobile home park license must be assessed a civil penalty for each day the holder's license remains suspended. The amount of the daily penalty is equal to half of the total rent listed on the rent roll for the mobile home park divided by the number of days in that month. The license holder must prove each violation has been remedied and has satisfied all civil penalties assessed before the license holder's license may be reinstated. The district court has discretion over the terms to be satisfied before a license is reinstated. If a license holder fails to comply with the terms of the district court's order, the district court may revoke the holder's license. All park tenants must be allowed to continue to reside in the mobile home park through the duration of the license suspension, unless the department of health and human services takes further disciplinary action against the license under chapter 23-10. During the period of suspension, the license holder or the license holder's agent may not modify the park rules or regulations, modify any tenant's rental arrangement, increase any tenant's rental rate, or terminate any tenant's lease without cause.
- 44-14. In a dispute between a landlord and a tenant under this section, the district court of the county in which the dispute arose has original jurisdiction over the dispute relating to the suspension of a license. For the recovery of civil damages under subsection 9-12, the tenant may elect to commence the action in small claims court or district court. If an action between a landlord and tenant is commenced, the tenant shall continue paying rent and comply with all park rules and regulations in effect at the time the action was commenced. During a pending action under this section, the license holder or the license holder's agent may not modify the park rules or regulations, modify the tenant's rental arrangement, increase a tenant's monthly rental rate, or terminate a tenant's lease without cause.

SECTION 8. A new section to chapter 47-32 of the North Dakota Century Code is created and enacted as follows:

Defense to an eviction from a mobile home park.

During an eviction proceeding against a tenant of a mobile home park, a tenant may present a defense that the landlord violated a provision of section 47-10-28. If the court finds the landlord violated a provision of section 47-10-28, the court may not order an eviction. In a second or subsequent eviction proceeding, a tenant only may raise violations that arose after a prior order between the parties was entered, or violations that were unknown to the court at the time of the prior order.

Approved April 22, 2025

Filed April 23, 2025

CHAPTER 239

HOUSE BILL NO. 1440

(Representatives D. Ruby, Dockter, Headland, Kasper, Marschall, Porter, Rohr,
M. Ruby, Wolff)
(Senators Paulson, Weston, Wobbema)

AN ACT to amend and reenact subdivision d of subsection 3 of section 23-12-10 of the North Dakota Century Code, relating to cigar lounges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision d of subsection 3 of section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

- d. ~~A cigar lounge, which has a valid certificate issued by the tax commissioner under this subdivision; has a humidor on the premises; is enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas. A cigar lounge meeting the requirements of this subdivision may permit that permits the smoking of cigars and pipe tobacco purchased on the premises, but may not permit the smoking of any other product on the premises.~~
- (1) An applicant for a certificate to operate a cigar lounge shall report to the tax commissioner on a form prescribed by the commissioner that the premises in which the cigar lounge will be operated has a humidor; is enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas. The commissioner may not require an applicant to report information regarding income from the sale of cigars and pipe tobacco in an initial application. Upon receipt of a report asserting compliance with this paragraph, the commissioner shall issue the applicant a certificate to operate a cigar lounge.
- (2) A cigar lounge asserting the lounge meets the requirements of this subdivision paragraph 1 shall report to the tax commissioner before February first of each year following a full calendar year of operation, on a form prescribed by the commissioner, the revenue from the previous calendar year generated from the sale of cigars and pipe tobacco as a percentage of annual gross income from receipts or sales. Upon receipt of a report asserting compliance with the annual gross income requirements of this subdivision the cigar lounge generates fifteen percent or more of the business's annual gross income from receipts or sales from the sale of cigars and pipe tobacco, the commissioner shall issue or renew the annual certificate. The commissioner is not required to confirm the accuracy of information reported but may not issue or renew a certificate absent supporting documentation from the lounge.

(3) Information reported to the commissioner under this subdivision is subject to the confidentiality provisions of section 57-39.2-23.

~~(2)~~(4) For purposes of this subdivision:

- (a) "Cigar" means an individual roll of tobacco which has a wrapper or cover of whole leaf tobacco; does not contain filler other than tobacco filler; does not contain binder other than tobacco binder; does not contain additives other than water; does not contain a filter, tip, or nontobacco mouthpiece; weighs at least six pounds per thousand count; and is made by hand, except to allow for the use of a manually operated machine to assist in bunching, rolling, and binding.
- (b) "Cigar lounge" means a business dedicated, in whole or in part, to the smoking of cigars ~~which generates fifteen percent or more of the business's annual gross income from the sale of cigars and pipe tobacco, which has a valid certificate issued by the tax commissioner.~~
- (c) "Pipe tobacco" has the meaning provided in section 57-36-01.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 240

SENATE BILL NO. 2297

(Senators Roers, Barta, Lee, Sorvaag)
(Representative O'Brien)

AN ACT to amend and reenact subsection 3 of section 23-06.5-03 and section 23-12-13 of the North Dakota Century Code, relating to the determination of incapacity and informed consent of incapacitated patients and minors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 23-06.5-03 of the North Dakota Century Code is amended and reenacted as follows:

3. A health care directive, including the agent's authority, is in effect only when the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician, psychiatrist, or psychologist and filed in the principal's medical record, and ceases to be effective upon a determination that the principal has recovered capacity.

⁹⁵ **SECTION 2. AMENDMENT.** Section 23-12-13 of the North Dakota Century Code is amended and reenacted as follows:

23-12-13. ~~Persons~~Individuals authorized to provide informed consent to health care for incapacitated ~~persons~~patients and minors - Priority.

1. ~~Informed consent for health care for a minor patient or a patient who is determined by a physician to be an incapacitated person, as defined in subsection 2 of section 30.1-26-01, and unable to consent may be obtained from a person authorized to consent on behalf of the patient. Persons~~For purposes of this section:
 - a. "Incapacitated patient" means an adult unable to understand and appreciate the nature and consequence of a health care decision, including the benefits, harms, and reasonable alternatives to proposed health care, and unable to communicate a health care decision, as certified by the patient's attending physician, psychiatrist, or psychologist and filed in the patient's medical record.
 - b. "Minor" means an individual under eighteen years of age.
2. Unless a court of competent jurisdiction determines otherwise, individuals in the following classes and in the following order of priority may provide informed consent to health care on behalf of the ~~an~~incapacitated patient:
 - a. ~~The individual, if any, to whom the patient has given a durable power of attorney that encompasses the authority to make health care decisions,~~

⁹⁵ Section 23-12-13 was also amended by section 1 of Senate Bill No. 2291, chapter 318.

~~unless a court of competent jurisdiction specifically authorizes a guardian to make medical decisions for the incapacitated person;~~

- ~~b. The appointed~~ A health care agent appointed through a health care directive under chapter 23-06.5 or a similar instrument executed in another jurisdiction in accordance with the law in that jurisdiction;
 - ~~b. An appointed guardian or custodian of the patient, if any under chapter 30.1-28 or a similar instrument executed in another jurisdiction in accordance with the law in that jurisdiction;~~
 - ~~c. The patient's~~ A spouse of the patient who has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~
 - ~~d. Children~~ A child of the patient who ~~are~~ is at least eighteen years of age and who ~~have~~ has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~
 - ~~e. Parents~~ A parent of the patient, including a stepparent who has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~
 - ~~f. Adult brothers and sisters~~ An adult sibling of the patient who ~~have~~ has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~
 - ~~g. Grandparents~~ A grandparent of the patient who ~~have~~ has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~
 - ~~h. Grandchildren~~ A grandchild of the patient who ~~are~~ is at least eighteen years of age and who ~~have~~ has maintained significant ~~contacts~~ contact with the incapacitated person ~~patient;~~ ~~or~~
 - ~~i. A close relative or friend of the patient who is at least eighteen years of age and who has maintained significant ~~contacts~~ contact with the incapacitated person~~ ~~patient;~~ ~~or~~
 - ~~j. An interdisciplinary team consisting of at least three health care professionals.~~
- (1) An interdisciplinary team may include an employee or agent of a health care provider treating an incapacitated patient, including a member of the ethics committee, provided a member of the team is not directly involved with the treatment of the incapacitated patient.
 - (2) If consent is provided under this subdivision, a health care provider shall continue good faith efforts to identify and locate an individual in a preceding level of priority.
- 2-3. Unless otherwise determined by court order, a parent may make health care decisions for the parent's minor child. Individuals in the following classes and in the following order of priority may provide informed consent to health care on behalf of a minor patient if a parent is unable to provide informed consent:
- a. A guardian acting under a court order specifically authorizing the guardian to make health care decisions for the minor;

- b. An appointed guardian or custodian of the minor;
 - c. A noncustodial parent of the minor, including a stepparent who has maintained significant contact with the patient;
 - d. An adult sibling of the minor who has maintained significant contact with the minor;
 - e. A grandparent of the minor who has maintained significant contact with the minor;
 - f. A close relative or friend of the minor who is at least eighteen years of age and who has maintained significant contact with the minor; or
 - g. An interdisciplinary team consisting of at least three health care professionals.
 - (1) An interdisciplinary team may include an employee or agent of a health care provider treating a minor, including a member of the ethics committee, provided a member of the team is not directly involved with the treatment of the minor.
 - (2) If consent is provided under this subdivision, a health care provider shall continue good faith efforts to identify and locate an individual in a preceding level of priority.
4. A physician health care provider seeking informed consent for proposed health care for a minor patient or a patient who is an incapacitated person and an incapacitated patient or a minor who is unable to consent must make reasonable efforts to locate and secure authorization for the health care from a competent person individual in the first or succeeding class identified in subsection 42 for an incapacitated patient or subsection 3 for a minor. If the physician health care provider is unable to locate such person individual, authorization may be given by any person individual in the next class in the order of descending priority. A person An individual identified in subsection 42 for an incapacitated patient or subsection 3 for a minor may not provide informed consent to health care if a person an individual of higher priority has refused to give such authorization.
- 3-5. Before any person individual authorized to provide informed consent pursuant to under this section exercises that authority, the person individual must first determine in good faith that the patient, if not incapacitated, would consent to the proposed health care. If such a determination cannot be made, the decision to consent to the proposed health care may be made only after determining that the proposed health care is in the patient's best interests.
4. No person
6. An individual authorized to provide informed consent pursuant to in accordance with this section may not provide consent for sterilization, abortion, or psychosurgery or for admission to a state mental health facility for a period of more than forty-five days without a mental health proceeding or other court order.

- ~~5-7.~~ If a patient who is determined by a physician, psychiatrist, or psychologist to be an incapacitated ~~person~~patient, or a ~~person~~an individual interested in the patient's welfare, objects to a determination of incapacity made ~~pursuant to~~in accordance with this section, a court hearing pursuant to chapter 30.1-28 must be held to determine the issue of incapacity.

Approved April 29, 2025

Filed April 30, 2025

CHAPTER 241

HOUSE BILL NO. 1454

(Representatives Henderson, K. Anderson, Frelich, Hauck, Kasper)
(Senators Paulson, Clemens)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to an opt-out procedure for required vaccines.

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:

Required vaccine - Opt-out procedure.

1. Notwithstanding any other provision of law, a state agency, political subdivision, or any other government entity may not require an individual to take or receive a vaccine or similar product used to prevent a disease, unless there is a procedure made available for an opt-out for health, religious, or philosophical reasons.
2. For a school, day care center, child care facility, head start program, or nursery school, section 23-07-17.1 must be followed for vaccines and vaccine opt-out procedures.

Approved May 1, 2025

Filed May 2, 2025

CHAPTER 242

HOUSE BILL NO. 1219

(Representatives Mitskog, Schreiber-Beck)
(Senator Luick)

AN ACT to amend and reenact subsection 2 of section 23-21.1-03 of the North Dakota Century Code, relating to the perpetual care fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-21.1-03 of the North Dakota Century Code is amended and reenacted as follows:

2. To continue to operate as a perpetual care cemetery, ~~any such an~~ organization shall set aside and deposit in the perpetual care fund not less than the following amounts for lots of interment space ~~thereafter~~ sold or disposed of:
 - a. A minimum of ~~twenty~~ten percent of the gross selling price with a minimum of twenty dollars for each adult space, whichever is the greater.
 - b. A minimum of ~~twenty~~ten percent of the gross selling price for each child's space with a minimum of five dollars for each space up to forty-two inches [1006.8 millimeters] in length or ten dollars for each space up to sixty inches [1524 millimeters] in length, whichever is the greater.
 - c. A minimum of ~~twenty~~ten percent of the gross selling price with a minimum of one hundred dollars for each space or crypt in a mausoleum, whichever is ~~the~~ greater, except a mausoleum located in a cemetery covered by a perpetual care fund which consists of at least ~~twenty~~ten percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community mausoleum itself shall contain a minimum of ~~twenty~~ten percent of the cost of the construction of such public or community mausoleum.
 - d. A minimum of ~~twenty~~ten percent of the gross selling price with a minimum of ten dollars for each inurnment niche in a columbarium, except a columbarium located in a cemetery covered by a perpetual care fund which consists of at least ~~twenty~~ten percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community columbarium itself shall contain a minimum of ~~twenty~~ten percent of the cost of the construction of such public or community columbarium.
 - e. A minimum of ~~twenty~~ten percent of the gross selling price with a minimum of one hundred dollars, whichever is the greater, for each interment space in crypt gardens or any other structure or device by whatever name, established or constructed wholly or partially above the natural surface of the ground, for the interment of any dead human body.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 243

HOUSE BILL NO. 1394

(Representatives Heinert, Bosch, Hauck, Karls, Meier, Porter)
(Senators Axtman, Cleary, Roers)

AN ACT to amend and reenact sections 23-27-01 and 23-27-02 of the North Dakota Century Code, relating to the licensing of emergency medical services operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

23-27-01. License required - Licensing of emergency medical services operations - Exception - Waiver.

1. The department of health and human services shall license emergency medical services operations and may designate their service areas. The department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area. A license for an emergency medical services operation is ~~nontransferable~~ transferable upon approval of the department.
2. Emergency medical services may not be advertised, offered, or provided to the public except by an emergency medical services operator that provides the emergency medical services through emergency medical services personnel.
3. ~~Except as otherwise provided under subsection 4, an~~ An emergency medical services operator's services operation must be separately licensed for each of ~~the operator's emergency medical services operations and an operation that is headquartered from a separate location must be considered a separate operation~~ the designated service area of the operation. Under this subsection, ~~an operation with a single headquarters site may dispatch~~ vehicles and emergency medical services personnel from ~~at more than one location if calls requesting services are received and orders for vehicle dispatch are made at the single headquarters site~~ within the designated service area of an emergency medical services operation.
4. Notwithstanding subsection 3, an operator of an emergency medical services operation may operate one or more substation ambulance services operations under a single license if:
 - a. The substation ambulance services operation was designated before December 31, 2024, and remains continuously designated;
 - b. The headquarters ambulance services operation is not a substation ambulance services operation of another emergency medical services operation;

- ~~b-c.~~ The substation ambulance services operation area borders the headquarters ambulance services operation area or borders another substation of the headquarters ambulance services operation;
 - ~~e-d.~~ The headquarters ambulance services operation and the substation ambulance services operation are dispatched by the same entity; and
 - ~~d-e.~~ The operator of the emergency medical services operation pays a license fee for each of its substation ambulance services operations.
5. The provisions of this chapter do not apply to an operator from another state which is headquartered at a location outside of this state and transports patients across state lines, but the operator may not treat patients within this state or pick up patients within this state for transportation to locations within this state, except as provided by rule.
 6. The department of health and human services shall adopt rules for special licenses and waiver provisions for an operator of an emergency medical services operation intended for industrial sites not available to the general public.

SECTION 2. AMENDMENT. Section 23-27-02 of the North Dakota Century Code is amended and reenacted as follows:

23-27-02. Definitions.

For the purpose of this chapter, unless the context otherwise requires:

1. "Department" means the department of health and human services.
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.
3. "Emergency medical services operation" means an entity licensed to offer and provide emergency medical services by emergency medical services personnel with physician oversight. The term includes basic life support ambulance services, advanced life support ambulance services, air ambulance services, and quick response unit services.
4. "Emergency medical services personnel" means individuals who provide emergency medical services for emergency medical services operations. The term includes emergency medical services professionals, drivers, and department-certified emergency medical services providers, such as cardiopulmonary resuscitation drivers and first responders.

5. "Emergency medical services professional" means an individual licensed by the department under this chapter.
6. "Substation ambulance services" means an ambulance station that has its own service area designated by the department and is not individually licensed as an emergency medical services operation.

Approved March 26, 2025

Filed March 27, 2025

CHAPTER 244

SENATE BILL NO. 2101

(Senator Beard)
(Representative Richter)

AN ACT to amend and reenact subsection 1 of section 23-27-04 of the North Dakota Century Code, relating to emergency medical services response requirements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-27-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An emergency medical services operation ~~within this state~~ may not operate unless ~~the operation is licensed in accordance with~~ under this chapter ~~and the department shall adopt rules adopted by the department of health and human services. The rules for standards for operators which must include:~~
 - a. Time when operator's services must be available-;
 - b. Requirements for services to ensure a reliable response to 911 and emergent interfacility transports, while providing nonemergent services;
 - c. Type of motor vehicle operator's license needed for drivers of ground vehicles-;
 - ~~e-d.~~ Training standards for ~~operation~~ personnel-;
 - ~~d-e.~~ Equipment and ground vehicle standards-;
 - ~~e-f.~~ Annual license fees-;
 - ~~f-g.~~ Number of personnel required for each run-;
 - ~~g-h.~~ The scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals-;
 - ~~h-i.~~ Performance standards, which may include response time standards-; and
 - ~~i-j.~~ Other requirements as ~~may be found~~ necessary to carry out the ~~intent~~ requirements of this chapter.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 245

SENATE BILL NO. 2100

(Senator Beard)
(Representatives Fegley, Richter)

AN ACT to amend and reenact section 23-27-04.3 of the North Dakota Century Code, relating to emergency medical services personnel training.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-27-04.3 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department of ~~health and human services~~ 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.
2. 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.
3. Rules adopted must allow emergency medical services instructors to provide direct, entry-level certification training for the levels of emergency medical responder and emergency medical technician, under the oversight of the department and without the requirements of an emergency medical services training institute.
4. Licensing as an emergency medical services training institution is optional.
5. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel.
6. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

Approved March 18, 2025

Filed March 18, 2025

CHAPTER 246

HOUSE BILL NO. 1322

(Representative Weisz)
(Senator Roers)

AN ACT to create and enact a new section to chapter 23-27 and a new section to chapter 26.1-47 of the North Dakota Century Code, relating to ambulance service balanced billing and provider reimbursement; to amend and reenact section 23-27-04.8 of the North Dakota Century Code, relating to emergency medical services communication; to provide for a legislative management study; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-27-04.8 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.8. Emergency medical services operation communications.

The department may regulate the primary communications methods and protocols for emergency medical services operations ~~in a manner while permitting secondary communications through other devices, including cell phones. The regulations must be~~ consistent with the protocols established by the department of emergency services.

SECTION 2. A new section to chapter 23-27 of the North Dakota Century Code is created and enacted as follows:

Balance billing prohibited - Enforcement.

1. For purposes of this section, "ambulance service provider" means a service entity licensed under chapter 23-27 as a basic life support or advanced life support ambulance service. The term does not include an air ambulance provider.
2. An ambulance service provider may not collect or bill more than the covered individual's deductible, coinsurance, copayment, or other cost-sharing amount the covered individual would be responsible for if services were provided by a participating ambulance service provider.

SECTION 3. A new section to chapter 26.1-47 of the North Dakota Century Code is created and enacted as follows:

Ambulance insurance coverage - Direct payment required - Determination of reimbursement rate for out-of-network ambulance service providers.

1. As used in this section:
 - a. "Ambulance service provider" means a service entity licensed under chapter 23-27 as a basic life support or advanced life support ambulance service. The term does not include an air ambulance provider.

- b. "Covered person" means an individual eligible to receive coverage of covered services by a health care insurer under a health benefit plan.
 - c. "Covered services" means medically necessary patient care or transportation provided by ambulance service providers.
 - d. "Health care insurer" means an entity subject to state insurance regulation that provides health benefit coverage in this state. The term includes:
 - (1) An insurance company;
 - (2) A health maintenance organization;
 - (3) A hospital or medical service corporation; and
 - (4) A risk-based provider organization.
 - e. "Medicare reimbursement rate" means the reimbursement rate for a particular health care service provided under the Health Insurance for the Aged and Disabled Act, title XVIII of the federal Social Security Act of 1965 [42 U.S.C. 1395 et seq.], as amended.
- 2. All reimbursements made by a health care insurer for the provision of ambulance services to a covered person must be paid directly to the ambulance service provider or the provider's designee.
 - 3. If a covered person receives ambulance services from an out-of-network ambulance service provider, the health care insurer shall pay the ambulance service provider the lesser of:
 - a. Two hundred fifty percent of the Medicare reimbursement rate for the same service in the same geographic area; or
 - b. The ambulance provider's billed charges.
 - 4. Any rate the health care insurer pays under this section may not be required to include the coinsurance, copayment, and deductible owed or already paid by the covered person.
 - 5. The insurance commissioner may adopt rules to implement and enforce this section.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - DELINQUENT BILLING REIMBURSEMENT. During the 2025-26 interim, the legislative management shall consider studying the feasibility and desirability of establishing a delinquent billing reimbursement grant system for ambulance service providers. The study must include input from stakeholders, including the insurance department, and a survey of ambulance service providers. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

SECTION 5. APPROPRIATION - LEGISLATIVE COUNCIL - DELINQUENT BILLING REIMBURSEMENT - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$20,000, or so much of the sum as may be necessary, to the legislative council for the purpose of contracting for consulting services for the study provided for

in section 4 of this Act, for the biennium beginning July 1, 2025, and ending June 30, 2027. The appropriation provided in this section is considered a one-time funding item.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 247

SENATE BILL NO. 2033

(Legislative Management)
(Health Services Committee)

AN ACT to create and enact chapter 23-27.2 of the North Dakota Century Code, relating to the distressed ambulance service program; to provide for a legislative management report; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-27.2 of the North Dakota Century Code is created and enacted as follows:

23-27.2-01. Definitions.

As used in this chapter:

1. "Department" means the department of health and human services.
2. "Distressed ambulance service" means a licensee the department has declared a distressed ambulance service under section 23-27.2-05.
3. "Emergency medical services plan" or "plan" means a detailed improvement plan for a distressed ambulance service to deliver sustainable and reliable emergency medical response and transport services to a patient within an assigned service area.
4. "Licensee" means an emergency medical services operation as defined in section 23-27-02.
5. "Program" means the distressed ambulance service program.

23-27.2-02. Program creation and administration.

1. The distressed ambulance service program is hereby created.
2. The department shall:
 - a. Carry out the administrative functions of the program;
 - b. Adopt rules necessary to implement this chapter and manage the program;
 - c. Take reasonable measures to ensure reliable ambulance response within a distressed ambulance service's assigned service area;
 - d. Monitor the implementation of a response approved under section 23-27.2-04;

- e. Monitor the implementation of a plan approved under section 23-27.2-06; and
 - f. Annually evaluate issued waivers.
3. The department may:
- a. Waive specific provisions of chapter 23-27 or rules adopted under chapter 23-27 for a defined period of time, provided such waiver does not adversely affect the health and safety of the public; and
 - b. Suspend or revoke a distressed ambulance service's license in accordance with section 23-27.2-06.

23-27.2-03. Licensee evaluation - Notice.

1. The department shall identify and evaluate licensees that have:
- a. A substantial likelihood to fail to comply with federal or state law or regulation;
 - b. Indicated an intention to cease operation or change licensure level within sixty days; or
 - c. Indicated a substantial likelihood of failure to respond to requests for service.
2. Upon identification of a licensee that meets the criteria under subsection 1, the department may provide notice, in accordance with subsection 3, to the licensee by first-class mail. If provided, the notice must be sent to the:
- a. Licensee;
 - b. Service leader of record;
 - c. Medical director of record; and
 - d. Political subdivision that has jurisdiction over the licensee, if applicable.
3. The notice must include:
- a. The deadline for the licensee to respond in accordance with section 23-27.2-04;
 - b. A detailed description of the circumstances of the licensee under subsection 1;
 - c. The proposed corrective action that must be taken by the licensee; and
 - d. Any resources available to the licensee to assist in taking corrective action.

23-27.2-04. Licensee - Response.

1. A licensee that receives a notice under section 23-27.2-03 shall respond to the department within forty-five days of the date of the notice. The response must include:
 - a. The licensee's proposed corrective action to address the criteria under subsection 1 of section 23-27.2-03;
 - b. The licensee's proposed time frame in which to take corrective action and become fully compliant; and
 - c. If necessary, a request for a waiver.
2. Within fifteen days of the date of the response, the department shall:
 - a. Approve the response; or
 - b. Request the licensee amend the response.
3. The department may extend the deadline to respond if an amendment to the response is requested under subsection 2.

23-27.2-05. Distressed ambulance service - Declaration and notice.

1. The department may declare a licensee a distressed ambulance service if the licensee:
 - a. Failed to respond to the department in accordance with section 23-27.2-04;
 - b. Failed to make sufficient progress to address the circumstances described in the notice;
 - c. Failed to take corrective action in accordance with the approved response;
 - d. Indicated an intention to cease operation or change licensure level within sixty days; or
 - e. Indicated a substantial likelihood of failure to respond to requests for service.
2. The department shall provide notice of the declaration by first-class mail to the recipients under subsection 2 of section 23-27.2-03. The notice must include the department's basis for the declaration.

23-27.2-06. Distressed ambulance service - Procedure - Plan.

1. The department shall assign a coordinator to the distressed ambulance service within seven days of the date of the notice of declaration. The coordinator may be an employee of the department or a contractor. The coordinator shall develop, implement, and monitor an emergency medical services plan.
2. The emergency medical services plan must:

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- a. Include a detailed planning and implementation timeline to deliver sustainable and reliable emergency medical response and transport services to a patient within the assigned service area;
 - b. Evaluate the impact on the assigned and adjacent service areas; and
 - c. Consider input from stakeholders, including:
 - (1) The distressed ambulance service;
 - (2) The political subdivision that has jurisdiction over the distressed ambulance service;
 - (3) The county and city governments within the service area;
 - (4) Licensed medical facilities;
 - (5) Adjacent ambulance services;
 - (6) Other emergency medical services within the service area; and
 - (7) Other interested parties.
3. The coordinator shall present a proposed plan at a public meeting held in the distressed ambulance service's assigned service area within thirty days of the date of assignment. The coordinator shall allow stakeholders and the public the opportunity to provide input relating to the plan.
 4. The coordinator shall present a final plan at a second public meeting held in the distressed ambulance service's assigned service area within thirty days of the date of the first public meeting.
 - a. The distressed ambulance service shall approve or reject the department's final plan at the second public meeting.
 - (1) If the distressed ambulance service approves the plan, the distressed ambulance service shall comply with all aspects of the plan.
 - (2) If the distressed ambulance service rejects the plan, the service leader of record shall present an amended plan to the department within fourteen days after the date of the second public meeting.
 - b. The department shall approve or reject the amended plan within seven days of receipt.
 5. If the department and distressed ambulance service are unable to agree on a plan, or if the distressed ambulance service fails to comply with any aspect of an approved plan, the department may take action as necessary to protect the health, safety, and welfare of the public, in accordance with section 23-27.2-02.
 6. The department shall provide notice of a public meeting conducted under this section. The notice must be:
 - a. Published in a newspaper of general circulation within the service area between fourteen and seven days before the meeting; and

- b. Delivered by first-class mail to the county auditor of each county in the service area at least seven days before the meeting.
7. The department may request the distressed ambulance service reimburse the department for direct costs incurred in the administration of this section and for any reasonable measures taken to ensure reliable ambulance response within the distressed ambulance service's assigned service area. The distressed ambulance service shall reimburse the department within thirty days after receipt of the request.

23-27.2-07. Distressed ambulance service program - Continuing appropriation.

There is created in the state treasury a distressed ambulance service program fund. The fund consists of all moneys transferred to the fund and all interest and earnings upon moneys in the fund. Moneys in the fund are appropriated to the department on a continuing basis for the purposes of administering this chapter, including for the payment of contractor fees and expenses incurred by or for the operation of the program.

23-27.2-08. Distressed ambulance service program - Report to legislative management.

Each interim, the department shall provide a report to the legislative management regarding the status of the program. The report must include the provisions of the program, the number of distressed ambulance services, coordinated efforts and activities, program costs and expenses, and the overall effectiveness of the program.

Approved May 2, 2025

Filed May 2, 2025

CHAPTER 248

SENATE BILL NO. 2267

(Senators Myrdal, Klein, Magrum)
(Representatives K. Anderson, Koppelman)

AN ACT to create and enact a new chapter to title 23.1 of the North Dakota Century Code, relating to onsite wastewater treatment systems; to amend and reenact sections 23-35-02 and 23-35-08 of the North Dakota Century Code, relating to the powers and duties of the boards of health and public health units; to repeal sections 23-35-02.2 and 23-35-02.3 of the North Dakota Century Code, relating to the onsite wastewater recycling technical committee; to provide for a legislative management report; to provide a penalty; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35-02. Public health units - Core functions.

1. All land in the state must be in a public health unit.
2. At a minimum, a public health unit shall provide the following core functions:
 - a. Communicable disease control, which must include:
 - (1) Conducting of disease surveillance for the purpose of preventing and controlling communicable disease, with assistance from the department.
 - (2) Assurance of the availability of community-based programs to provide communicable disease prevention and control services.
 - (3) Recognition, identification, and response to a communicable disease event, in collaboration with the department.
 - b. Chronic disease and injury prevention, which must include conducting programs to reduce the burden of chronic disease and injury through policy, system, and environmental change approach; prevention screening; and education.
 - c. Environmental public health, which must include:
 - (1) Prevention of environmental hazards by the provision of information and education to facility operators and managers and to community members.
 - (2) Assurance of the availability of environmental health services to prevent and respond to community and residential environmental hazards.

(3) Permitting and inspections of onsite wastewater treatment systems in accordance with section 3 of this Act. A public health unit shall conduct a required in-person or virtual inspection of an onsite wastewater system within one business day of receiving the request for the inspection. A public health unit may enter a cooperative agreement with a county or city for the permitting and inspection of onsite wastewater treatment systems within the boundaries of the county or city. A cooperative agreement may be terminated as provided in the agreement, by joint action of all parties, or by an individual party no less than one year after providing written notice to the other party.

d. Maternal, child, and family health, which must include:

- (1) Assessment and monitoring of maternal and child health status to identify and address problems.
- (2) Implementation of programs to promote the health of women, children, and youth, and their families, through policy, system, and environmental change approaches; prevention screenings; and education.

e. Access to clinical care, which must include:

- (1) Collaboration with health care system partners to foster access to clinical care.
- (2) Facilitation of linkages and referrals for appropriate clinical care, services, and resources.

SECTION 2. AMENDMENT. Section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

23-35-08. Boards of health - Powers and duties.

Except when in conflict with a local ordinance or a civil service rule within a board of health's jurisdiction, or a tribal code, ordinance, or policy, each board of health:

1. Shall keep records and make reports required by the department.
2. Shall prepare and submit a public health unit budget.
3. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this chapter.
4. May accept and expend any gift, grant, donation, or other contribution offered to aid in the work of the board of health or public health unit.
5. May make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety, except rules regarding the licensing of onsite wastewater treatment system installers.
6. May establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this subsection. If a tribal board of health establishes fees for services rendered, the fees may not exceed the highest corresponding fee of any of the public health units that border the tribal public health unit.

7. May make rules in a health district or county public health department, as the case may be, and in the case of a city public health department may recommend to the city's governing body ordinances for the protection of public health and safety.
8. May adopt confinement, decontamination, and sanitary measures in compliance with chapter 23-07.6 which are necessary when an infectious or contagious disease exists.
9. May make and enforce an order in a local matter if an emergency exists.
10. May inquire into any nuisance, source of filth, or cause of sickness.
11. Except in the case of an emergency, may conduct a search or seize material located on private property to ascertain the condition of the property as the condition relates to public health and safety as authorized by an administrative search warrant issued under chapter 29-29.1.
12. May abate or remove any nuisance, source of filth, or cause of sickness when necessary to protect the public health and safety.
13. May supervise any matter relating to preservation of life and health of individuals, including the supervision of any water supply and sewage system.
14. May isolate, kill, or remove any animal affected with a contagious or infectious disease if the animal poses a material risk to human health and safety.
15. Shall appoint a local health officer.
16. May employ any person necessary to effectuate board rules and this chapter.
17. If a public health unit is served by a part-time local health officer, the board of health may appoint an executive director. An executive director is subject to removal for cause by the board of health. The board of health may assign to the executive director the duties of the local health officer, and the executive director shall perform these duties under the direction of the local health officer.
18. May contract with any person to provide the services necessary to carry out the purposes of the board of health.
19. Shall designate the location of a local health officer's office and shall furnish the office with necessary equipment.
20. May provide for personnel the board of health considers necessary.
21. Shall set the salary of the local health officer, the executive director, and any assistant local health officer and shall set the compensation of any other public health unit personnel.
22. Shall pay for necessary travel of the local health officer, the local health officer's assistants, and other personnel in the manner and to the extent determined by the board.

SECTION 3. A new chapter to title 23.1 of the North Dakota Century Code is created and enacted as follows:

Definitions.

For the purposes of this chapter:

1. "Department" means the department of environmental quality.
2. "Install" means to place or replace a part of an onsite waster treatment system, whether new or existing, to make it ready for use.
3. "License" means authorization by the department for an individual to engage in the business of installing an onsite wastewater treatment system.
4. "Onsite wastewater treatment system" means a wastewater treatment system or part thereof, serving a dwelling or building, or group thereof, which uses soil treatment and disposal. The term commonly may be known as a septic system.
5. "Permit" means authorization from a local public health unit or other political subdivision to install an onsite wastewater treatment system, in accordance with the specific site and rules adopted under this title.

Septic systems - Authority.

1. Except as otherwise provided by law, the department has the exclusive authority to adopt rules regarding licensing, permitting, and inspections of onsite wastewater treatment systems.
2. The department shall provide technical assistance and guidance to municipalities and local public health units on all matters related to onsite wastewater treatment systems.
3. An ordinance enacted or adopted by a county or city in accordance with a home rule charter, or an ordinance enacted or adopted by any other political subdivision, in conflict with a rule adopted under this section is void.

Licensing.

1. An individual may not engage in the business of installing an onsite wastewater treatment system unless the individual is licensed. To remain licensed in good standing, a licensee shall comply with this chapter and any rules adopted under this title.
2. An individual is exempt from the licensing requirements of this chapter if the individual is installing an onsite wastewater sewage treatment system on the individual's premises for the individual's use.
3. The department shall establish rules for the issuance, expiration, and renewal of licenses.
4. The department may revoke or suspend a license issued under this chapter if:
 - a. The licensee practices fraud or deception in obtaining the license or in the individual's performance of a licensed activity;

- b. Reasonable care, judgment, or the application of the licensee's knowledge or ability is not used in the performance of the licensee's duties; or
 - c. The licensee violates a state or federal environmental law, rule, standard, or permit when performing a licensed activity.
5. A license may not be revoked or suspended except after a hearing before the director of the department, or the director's designated representative. If a license is suspended or revoked, a new application for licensure may be considered by the department only after the conditions causing the suspension or revocation have been corrected, and evidence of this fact is submitted to the satisfaction of the department.

Standards for onsite wastewater treatment systems - Installation - Inspection.

1. The department shall establish rules relating to permitting onsite wastewater treatment systems.
2. The department may prescribe by rule a process for obtaining variances for existing nonconforming or nonfunctional onsite wastewater treatment systems. The process shall consider the:
 - a. Environmental impact;
 - b. Impact to public health;
 - c. Cost of compliance; and
 - d. Least restrictive means.
3. Onsite wastewater sewage treatment system installation and inspections must comply with the rules adopted in accordance with this title.

Appeal to the department.

1. An action of a political subdivision denying, modifying, or revoking a permit to install an onsite wastewater treatment system may be appealed to the department by petition for review. The appeal must be filed with the department within ten days of receiving notice of the denial, modification, or revocation.
2. Upon receipt of the petition, the department shall review the appealed decision and the petition to determine whether the denial, modification, or revocation was made in accordance with the provisions of this title and rules. The department shall provide its findings and recommendation to the political subdivision, the licensed installer, and the owner of the property where the proposed onsite wastewater treatment system is located.

Fees.

The department may provide for the payment and collection of reasonable fees for the issuance of licenses for onsite wastewater system installers by rule. The license fees must be based on the anticipated cost of filing and processing the application, taking action on the requested license, and conducting an oversight program to determine compliance or noncompliance with the license. Any moneys

collected for licensing fees must be deposited in the department operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

Enforcement.

1. An individual who violates a provision of this chapter or any rule, standard, order, or permit condition adopted in accordance with this chapter is subject to a civil penalty not to exceed twelve thousand five hundred dollars per violation.
2. An individual who willfully makes a false statement, false representation, or false certification in an application, record, report, plan, or other applicable requirement implementing this chapter or that falsifies, tampers with, or willfully renders inaccurate any monitoring device or sample, is subject to a civil penalty not to exceed five thousand dollars per violation.

Administrative procedure and judicial review.

1. A proceeding under this chapter to adopt or modify rules relating to licensing individuals for the installation or servicing of onsite wastewater treatment systems, or for determining compliance with rules of the department, must be conducted in accordance with the provisions of chapter 28-32.
2. An appeal of a decision issued under subsection 1, must be conducted in accordance with the provisions of chapter 28-32.

⁹⁶ **SECTION 4. REPEAL.** Sections 23-35-02.2 and 23-35-02.3 of the North Dakota Century Code are repealed.

SECTION 5. APPROPRIATION - DEPARTMENT OF ENVIRONMENTAL QUALITY - ONE-TIME FUNDING - REPORT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$99,500, or so much of the sum as may be necessary, to the department of environmental quality for the purpose of regulation of onsite wastewater treatment systems, for the biennium beginning July 1, 2025, and ending June 30, 2027. The department shall report to the legislative management prior to August 1, 2026. The appropriation in this section is considered a one-time funding item.

Approved April 22, 2025

Filed April 23, 2025

⁹⁶ Section 23-35-02.2 was amended by section 4 of Senate Bill No. 2308, chapter 479; section 23-35-02.3 was also repealed by section 39 of Senate Bill No. 2308, chapter 479.

CHAPTER 249

HOUSE BILL NO. 1597

(Representative Heinert)

AN ACT to provide an exemption; and to provide for the distribution of state financial assistance to eligible ambulance service operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. EXEMPTION - AMBULANCE SERVICE OPERATION FUNDING DISTRIBUTION. Notwithstanding section 23-46-04 relating to state financial assistance for emergency medical services, during the biennium beginning July 1, 2025, and ending June 30, 2027, the department of health and human services, in consultation with the emergency medical services advisory council, shall provide state financial assistance to each eligible ambulance service operation pursuant to the following calculation:

1. The minimum reasonable budget for each operation must be determined by adding the product of the operation's average number of runs for the two most recent calendar years multiplied by the cost of a run. The cost of a run for this biennium is two thousand twenty-three dollars. If the average runs multiplied by the cost of a run equals less than one hundred twenty-five thousand dollars, the minimum reasonable budget for that ambulance service is one hundred twenty-five thousand dollars. The grant amount must be the lesser of:
 - a. The calculation in subsection 2; or
 - b. The cost of a run multiplied by the average number of runs.
2. The operation's grant amount must be determined by deducting the following amounts from the operation's budget calculated under subsection 1:
 - a. The product of the operation's average number of runs for the two most recent calendar years multiplied by the reimbursement for a run. The reimbursement for a run is seven hundred ninety-five dollars; and
 - b. The product of the property tax valuation of the operation's response area for the most recent taxable year multiplied by five mills. The property tax valuation of the operation's response area must be provided by the county auditor annually no later than July thirty-first. If the response area covers multiple counties, the county auditor with the most response area is responsible for coordinating with the other county auditors.
3. The maximum total grant calculation for each operation, after accounting for the deductions in subsection 2, may not exceed two hundred twenty-five thousand dollars.
4. The maximum reimbursement for a run is two thousand twenty-three dollars. Notwithstanding subsection 5, for grant amounts distributed through June 30, 2027, the minimum total grant calculation for each operation, after accounting

for the deductions in subsection 2, must be at least fifty percent of the previous year's grant amount, but not more than the amount calculated in subsection 1.

5. The department shall distribute a prorated share of the operation's calculated grant amount if legislative appropriations for state financial assistance for emergency medical services is not sufficient to provide full grant funding calculated under this section.
6. An operation is not eligible to receive funding under this section if the operation does more than eight hundred runs per year.
7. A response area acquired after April 1, 2024, due to an adjacent ambulance service closure is not calculated in the operations response area for the purpose of the grant calculation.

Approved April 15, 2025

Filed April 17, 2025