

MENTAL AND PHYSICAL ILLNESS OR DISABILITY

CHAPTER 268

SENATE BILL NO. 2079

(Human Services Committee)

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

AN ACT to amend and reenact section 25-01-01 of the North Dakota Century Code, relating to the definition of a mental health professional.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

25-01-01. Definitions.

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

1. "Licensed physician" means an individual licensed under the laws of this state to practice medicine and also means a medical officer of the government of the United States while in this state in the performance of the physician's official duties.
2. "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs the individual's mental health.
3. "North Dakota vision services - school for the blind" means the North Dakota vision services - school for the blind as maintained under section 25-06-01.
4. "School for the deaf" means the school for the deaf of North Dakota.
5. "State hospital" means the state hospital for the mentally ill.
6. "Superintendent" means the superintendent of the state hospital, of the life skills and transition center, of North Dakota vision services - school for the blind, or of the school for the deaf, as the case may be.
7. "Supervising officer" means the commissioner of the department of health and human services or designee or the superintendent of public instruction, as the case may be.
8. "Tier 1 mental health professional" means a tier 1a or tier 1b mental health professional.
 - a. A tier 1a mental health professional is a psychiatrist licensed under chapter 43-17 or a psychologist licensed under chapter 43-32.

- b. A tier 1b mental health professional is a licensed physician or a physician assistant licensed under chapter 43-17 or an advanced practice registered nurse licensed under chapter 43-12.
9. "Tier 2 mental health professional" means a tier 2a or a tier 2b mental health professional.
- a. A tier 2a mental health professional is an independent clinician who is a licensed clinical social worker licensed under chapter 43-41, a licensed professional clinical counselor or licensed professional counselor licensed under chapter 43-47, or a licensed marriage and family therapist licensed under chapter 43-53.
 - b. A tier 2b mental health professional is an addiction counselor licensed under chapter 43-45 or a registered nurse licensed under chapter 43-12.
10. "Tier 3 mental health professional" means a licensed associate professional counselor licensed under chapter 43-47, a licensed master social worker or licensed baccalaureate social worker licensed under chapter 43-41, ~~a licensed professional counselor licensed under chapter 43-47~~, an associate marriage and family therapist licensed under chapter 43-53, an occupational therapist licensed under chapter 43-40, a licensed practical nurse licensed under chapter 43-12, a behavior analyst licensed or registered under chapter 43-32, a vocational rehabilitation counselor practicing under chapter 50-06.1, a school psychologist, or a human relations counselor.
11. "Tier 4 mental health professional" means a direct care associate ~~or~~ technician, or certified peer support specialist.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 269

SENATE BILL NO. 2078

(Human Services Committee)

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

AN ACT to amend and reenact sections 25-01.1-07, 25-02-01.1, and 25-02-03 of the North Dakota Century Code, relating to the North Dakota state hospital.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-01.1-07 of the North Dakota Century Code is amended and reenacted as follows:

25-01.1-07. Rules or policies for procedure and administration of institutions.

The supervising department shall make all necessary rules or policies for its own procedure and for the general administration, supervision, and management of the institutions under its control and management.

SECTION 2. AMENDMENT. Section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-02-01.1. Maintenance of state hospital accreditation - Governing body membership - ~~Rulemaking authority~~ Authority.

1. The department of health and human services shall seek appropriations and resources sufficient to ensure maintenance of the state hospital's accreditation by the joint commission and certification by the centers for Medicare and Medicaid services or by similar accrediting and certifying organizations and agencies possessing hospital standards recognized by the health care industry and accepted by the department.
2. The department, in consultation with the state hospital, shall create a state hospital governing body and shall by rules, policies, or bylaws describe the powers and duties of the governing body. The department shall compensate members not employed by the department in the amount of one hundred dollars per day and reimburse members for expenses incurred in attending meetings in the amounts provided by sections 44-08-04 and 54-06-09.
3. The governing body must be composed of the commissioner of the department of health and human services or designee; the director of the division of behavioral health of the department or designee, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the department's fiscal administration division; a behavioral health consumer selected by the mental health association; and a legislator selected by the legislative management. The governing body may include other persons as appointed by the governing body.

SECTION 3. AMENDMENT. Section 25-02-03 of the North Dakota Century Code is amended and reenacted as follows:

25-02-03. Object of state hospital.

The state hospital is an institution for mental diseases serving specialized populations of individuals with severe mental illness, including individuals with a substance use disorder. The state hospital is one component of the North Dakota mental health delivery system and serves as a resource to community-based treatment programs. The state hospital shall, pursuant to rules or policies adopted by the department of health and human services, receive and care for all eligible individuals with severe mental illness, including individuals with a substance use disorder, residing within this state in accordance with this title, and may furnish to those individuals all needed food, shelter, treatment, and support.

Approved March 18, 2025

Filed March 18, 2025

CHAPTER 270

SENATE BILL NO. 2171

(Senators Mathern, Roers)
(Representatives Porter, Rohr)

AN ACT to amend and reenact section 25-03.1-26 of the North Dakota Century Code, relating to an emergency mental health petition; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁹ **SECTION 1. AMENDMENT.** Section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-26. Emergency procedure - Acceptance of petition and individual - Notice - Court hearing set.

1. A public treatment facility immediately shall accept and a private treatment facility may accept on a provisional basis the application and the individual admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject ~~and,~~
2. ~~either within twenty-four hours, exclusive of holidays, after admission or within~~ Within ~~seventy-two hours after admission, exclusive of holidays, if the individual is admitted with a serious physical condition or illness that requires prompt treatment as medically necessary, the superintendent or director shall either:~~
 - a. Release the individual if the superintendent or director finds that the subject does not meet the emergency commitment standards; or
 - b. File a petition if one has not been filed with the court of the individual's residence or the court which directed immediate custody under subsection 2 of section 25-03.1-25, giving notice to the court and stating in detail the circumstances and facts of the case.
- 2-3. Upon receipt of the petition and notice of ~~the~~ emergency detention, the magistrate shall set a date for a preliminary hearing, if the respondent is alleged to be ~~a person~~ a person ~~an individual~~ who is mentally ill or ~~a person~~ a person ~~an individual~~ who is ~~both~~ mentally ill and has a substance use disorder, or a treatment hearing, if the respondent is alleged to be ~~a person~~ a person ~~an individual~~ who has a substance use disorder, to be held no later than four days, exclusive of weekends and holidays, after detention unless the ~~person~~ person ~~individual~~ has been released as ~~a person~~ a person ~~an individual~~ not requiring treatment, has been voluntarily admitted for treatment, has requested or agreed to a continuance, or unless the hearing has been extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

⁹⁹ Section 25-03.1-26 was also amended by section 9 of Senate Bill No. 2113, chapter 441.

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

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 271

HOUSE BILL NO. 1108

(Representatives Hager, Murphy)
(Senator Mathern)

AN ACT to amend and reenact section 25-03.1-34.2 of the North Dakota Century Code, relating to interstate contracts for treatment of mental illness or a substance use disorder; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-03.1-34.2 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34.2. Interstate contracts for treatment of mental illness or a substance use disorder.

1. For purposes of this section, "bordering state" means Minnesota, Montana, or South Dakota.
2. Unless prohibited by another law and subject to the exceptions in subsection ~~34~~, the department may contract with ~~any~~:
 - a. An appropriate treatment or detoxification facility in a bordering state for the treatment of mental illness or substance use disorders or for providing substance use disorder detoxification services for residents of North Dakota. ~~The department may also contract with any; or~~
 - b. A bordering state to allow for a public or private agency or facility to provide treatment of mental illness or substance use disorders or to provide substance use disorder detoxification services in North Dakota to residents of a bordering state.
3. An individual who receives treatment for mental illness or a substance use disorder or who receives substance use disorder detoxification services in another state under this section is subject to the laws of the state in which treatment or detoxification is provided. An individual who receives treatment or detoxification in another state under this section must be informed of the consequences of receiving treatment or detoxification in another state, including the implications of the differences in state laws.
- ~~3-4.~~ A contract may not be entered under this section for treatment or detoxification to ~~individuals~~ an individual who:
 - a. ~~Are~~ serving a sentence after conviction of a criminal offense;
 - b. ~~Are on probation or parole;~~
 - c. ~~Are~~ the subject of a presentence investigation; or
 - d. ~~Have~~

- c. Has been committed involuntarily in North Dakota under chapter 25-03.1 for treatment of mental illness or a substance use disorder, except as provided under subsection 56.

4.5. Contracts entered under this section must, at a minimum:

- a. Describe the services to be provided;
- b. Establish responsibility for the costs of services;
- c. Establish responsibility for the costs of transporting ~~individuals~~ an individual receiving services under this section;
- d. Specify the duration of the contract;
- e. Specify the means of terminating the contract;
- f. Specify the terms and conditions for refusal to admit or retain an individual; and
- g. Identify the goals to be accomplished by the placement of an individual under this section.

5.6. The department may enter negotiations with appropriate personnel of a bordering state to develop an agreement that conforms to the requirements of this section. An agreement with a bordering state may enable the placement in North Dakota of ~~individuals~~ an individual who ~~require~~ requires detoxification services, ~~are~~ is on an emergency ~~hold~~ hold, or who ~~have~~ has been involuntarily committed as mentally ill or having a substance use disorder in a bordering state and enable the temporary placement in a bordering state of ~~patients~~ a patient who ~~require~~ requires detoxification services or who ~~are~~ is on an emergency ~~hold~~ hold in North Dakota under chapter 25-03.1.

7. An agreement with a bordering state must ~~provide that the~~ specify that:

- a. North Dakota courts retain jurisdiction over North Dakota residents, and ~~that~~ the bordering state affords to North Dakota residents the rights afforded to the residents under North Dakota law; and
- b. Responsibility for payment for the cost of care of a resident of a bordering state remains with the bordering state of which that individual is a resident and the cost of care of a North Dakota resident remains with the state of North Dakota.

8. Individuals committed by a court of a bordering state and placed in North Dakota facilities continue to be in the legal custody of the bordering state. The bordering state's laws governing length of commitment, re-examinations, and extension of commitment must continue to apply to these residents. In all other respects, residents of a bordering state placed in North Dakota facilities are subject to North Dakota laws. ~~An agreement with a bordering state must specify that responsibility for payment for the cost of care of a resident of a bordering state remains with the bordering state of which that individual is a resident and the cost of care of a North Dakota resident remains with the state of North Dakota.~~

9. This section applies to detoxification services ~~regardless of whether the services are~~ provided on a voluntary or involuntary basis.
10. A public or private entity entering an agreement with a bordering state under this section shall provide the department a copy of the agreement and any future agreements or amendments within thirty days of the date of entering or amending the agreement.

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

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 272

SENATE BILL NO. 2112

(Human Services Committee)

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

AN ACT to amend and reenact sections 25-04-00.1, 25-04-02, 25-04-04, 25-04-04.1, 25-04-05, 25-04-05.1, 25-04-08, 25-04-08.1, 25-04-14, and 25-04-17 of the North Dakota Century Code, relating to the life skills and transition center; to provide for a legislative management report; to provide for a department of health and human services study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-04-00.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-00.1. Definitions.

For the purposes of this chapter:

1. "Department" means the department of health and human services.
2. "Eligible" means an individual has been deemed eligible by the department for developmental disability services.
3. "Individual served" is an eligible individual who is a legal resident of the state of North Dakota and is receiving services from the life skills and transition center.
4. "Noneligible" means a minor who is a legal resident of the state and has not been deemed eligible by the department for developmental disability services.
5. "Nonresident individual served" includes:
 - a. Any individual served by the life skills and transition center who is under eighteen years old and whose responsible relative is not a bona fide resident of this state.
 - b. Any enrolled member of a federally recognized Indian tribe for whom the United States government has, through its statutes and regulations, a responsibility for their care.
- ~~5-6.~~ "Nonresident responsible relative" includes the nonresident spouse, father, or mother of the individual served. It includes the bureau of Indian affairs in those cases involving an enrolled member of a federally recognized Indian tribe for whom the United States government has, through its statutes and regulations, a responsibility for their care.
- ~~6-7.~~ "Nonresidential services" means rehabilitative services and supports that are provided in a family home or community setting.

- ~~7-8.~~ "Residential services" are specialized services and supports provided at the life skills and transition center facility which include both room and board and rehabilitative services in accordance with an individual's care and support plan. Residential services provided at the life skills and transition center are available to address an individual's needs for stabilization.

SECTION 2. AMENDMENT. Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02. Purpose of life skills and transition center.

1. The purpose of the life skills and transition center is to serve as a specialty care and support resource for eligible individuals with developmental disabilities who are experiencing crisis or who would benefit from stabilization, and to work together with parent, guardian, or legal custodian and care teams to identify opportunities for each individual served to live in a family home or community setting of their choice when possible.
2. The life skills and transition center must be maintained to provide care, treatment, training, rehabilitation, and supervision for eligible individuals. For this purpose the department may introduce and establish such rehabilitative and support services as, in its judgment, will best prepare the individuals served to live in the most integrated, independent setting possible.
3. The life skills and transition center may provide both residential services and nonresidential services and effectuate its powers and duties to best serve eligible individuals who may benefit from those activities.
4. Upon approval of the commissioner of the department or designee and in the opinion of the superintendent of the life skills and transition center, the life skills and transition center may provide:
 - a. Residential services or nonresidential services and effectuate its powers and duties to best serve noneligible individuals who are experiencing crisis or who would benefit from stabilization and may benefit from those activities; or
 - b. Consultation services to public and private providers serving noneligible individuals.

SECTION 3. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04. Who may receive benefits of life skills and transition center.

1. Subject to this chapter and to any rules adopted by the department, the benefits of the life skills and transition center may be received only by:
 - a. Eligible individuals who may benefit from services provided by the life skills and transition center who, in the opinion of the superintendent of the life skills and transition center are of suitable age and capacity to receive care, treatment, training, rehabilitation, or supervision by the life skills and transition center or whose disabilities prevent them from receiving training and instruction in the public schools;

- b. Eligible individuals who, in the opinion of the superintendent of the life skills and transition center, may benefit from services provided by the life skills and transition center and who are in need of stabilization supports and cannot be properly cared for in their family home or other available community settings; ~~or~~
- c. Eligible individuals who, in the opinion of the superintendent of the life skills and transition center, may benefit from either residential services or nonresidential services provided by the life skills and transition center; or
- d. Noneligible individuals who, upon approval of the commissioner of the department or designee and in the opinion of the superintendent of the life skills and transition center, may benefit from:
 - (1) Residential services for up to ninety days, unless an extension is granted for an additional ninety days by the superintendent of the life skills and transition center to facilitate effective transition;
 - (2) Nonresidential services provided by the life skills and transition center;
or
 - (3) Consultation services to public and private providers serving noneligible individuals.
- 2. Residents and nonresidents of this state may receive services from the life skills and transition center. ~~Priority, however, must be given to residents.~~ Residents of this state and minors with developmental disabilities must be given priority in receiving services from the life skills and transition center.

SECTION 4. AMENDMENT. Section 25-04-04.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04.1. Program management for an individual served.

The department shall ensure active program management is maintained for ~~eligible individuals~~ served and noneligible individuals receiving residential services at the life skills and transition center.

SECTION 5. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for accessing services provided by life skills and transition center - Educational or related services without charge for individuals twenty-one years of age and under.

- 1. The superintendent of the life skills and transition center may admit an eligible or noneligible individual to the life skills and transition center for residential services based on consideration of the following factors:
 - a. Ability of the life skills and transition center to provide the appropriate level of care based on the individual's need.
 - b. Health and safety considerations for both the individual served and other individuals currently being served by the life skills and transition center.

- c. The individual may be admitted without exceeding the resident capacity of the facility as specified in the professional standards of the department.
 - d. A noneligible individual may not receive residential services to the exclusion of an eligible individual, unless the noneligible individual is receiving residential services before the life skills and transition center receives an application to admit an eligible individual for residential services.
2. The superintendent of the life skills and transition center may approve an eligible or noneligible individual for nonresidential services provided by the life skills and transition center if all of the following conditions have been met:
 - a. Application has been made on behalf of the individual by a department developmental disabilities program manager, a parent, guardian, or legal custodian, in accordance with procedures established by the department.
 - b. Information has been submitted to the life skills and transition center which allows the superintendent to determine that the individual served eligible or noneligible individual would benefit from ~~nonresidential~~:
 - (1) Nonresidential stabilization services offered by the life skills and transition center for the purpose of avoiding institutionalization or further destabilization of the individual's living situation; or
 - (2) Consultation services to public and private providers serving noneligible individuals.
3. Notwithstanding any other provision of this chapter, no eligible individual served, twenty-one years of age or under, no noneligible individual, eighteen years of age or under, or the estate or the parent of such individual, may be charged for educational or related services provided at the life skills and transition center. Except as provided in subsection 4, the department has prior claim on all benefits accruing to such individuals served or noneligible individuals for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist an individual with a ~~developmental~~ disability to benefit from special education. The cost of related services other than medical and medically related services must be paid by the life skills and transition center, the school district of residence of the child with a ~~developmental~~ disability, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.
4. Parents of an eligible individual, who is twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer

a financial loss not incurred by similarly situated parents of children with disabilities. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:

- a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
- b. An increase in premiums or the discontinuation of a policy.
- c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the life skills and transition center pays or waives the out-of-pocket expense.

SECTION 6. AMENDMENT. Section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05.1. Transfer of individuals - Visiting privileges - Release and placement of individuals served.

1. The superintendent of the life skills and transition center shall have the right of temporary transfer of any individual served or noneligible individual, at the life skills and transition center, to an appropriate hospital or other specialized facility when in the superintendent's opinion the immediate health and safety of the individual or the immediate health and safety of others requires the transfer.
2. Subject to reasonable rules for the orderly operation of the life skills and transition center, any parent, guardian, or legal custodian of the individual served or noneligible individual shall have the right of visiting and communicating with the individual served or noneligible individual and authorizing visits and communications with others.
3. The superintendent may authorize the temporary discharge of any individual served or noneligible individual to the custody of the individual served's or noneligible individual's parent, guardian, or legal custodian of the individual, or to another person designated by the parent, guardian, or legal custodian. In the absence of such authorization, any parent, guardian, or legal custodian of the individual served may formally request, in writing, the individual served's temporary discharge. The discharge must be granted at the earliest reasonable opportunity, but not more than thirty days after receipt of a written application. If a discharge is, or would be, effected contrary to the advice of the superintendent based on a recent comprehensive evaluation of the individual, the superintendent shall so advise the parent, guardian, or legal custodian in writing.
4. The superintendent may arrange for the suitable placement of ~~an~~
 - a. An individual served outside the life skills and transition center and to discharge the individual served, provided placement has been preceded by a comprehensive evaluation. No such placement of an individual served may be effected until all reasonable efforts have been made to consult with the individual served's care team and parent, guardian, or legal custodian of the individual served; and

- b. A noneligible individual outside the life skills and transition center or to discharge the noneligible individual.

SECTION 7. AMENDMENT. Section 25-04-08 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08. Discharge of an individual ~~served~~ from life skills and transition center.

An individual who receives residential services at the life skills and transition center must be discharged if any one of the following conditions are present:

1. The superintendent of the life skills and transition center, on the basis of a comprehensive evaluation and in consultation with the ~~individual's~~ individual served's parent, guardian, legal custodian, or care team, finds that the care, treatment, training, rehabilitation, and supervision offered by the life skills and transition center are no longer needed.
2. The parent, guardian, or legal custodian who voluntarily admitted the individual served to residential services at the life skills and transition center and who retains legal custody makes a written request for discharge.
3. The individual served is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state.
4. A court of competent jurisdiction orders the discharge of the individual served.
5. The superintendent makes a determination that the noneligible individual no longer qualifies for accessing services provided by the life skills and transition center.

SECTION 8. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification before discharge.

Before discharge the superintendent of the life skills and transition center shall meet with the parent, guardian, legal custodian, or care team of the ~~individual~~.

1. Individual served to be discharged, or with the court that ordered the individual served to receive services at the life skills and transition center pursuant to section 25-04-06.
2. Noneligible individual to be discharged.

SECTION 9. AMENDMENT. Section 25-04-14 of the North Dakota Century Code is amended and reenacted as follows:

25-04-14. Expenses chargeable against individual or individual's estate - Filing claims.

Expenses for care and treatment of each individual served or noneligible individual by the life skills and transition center must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the individual served's or noneligible individual's ability to pay which must include an

estimate of potential future receipts, including amounts from estates. The department shall recover from the individual served or noneligible individual or from a discharged individual expenses chargeable for care and treatment. If any individual served or noneligible individual is receiving social security benefits or is a veteran or a dependent of a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the individual served or noneligible individual and may be recovered monthly by the department except that any amount required by the payer of the benefits to be paid directly to the individual served or noneligible individual must, upon approval of the department, be credited to the individual served's or noneligible individual's personal account from any money thus received.

SECTION 10. AMENDMENT. Section 25-04-17 of the North Dakota Century Code is amended and reenacted as follows:

25-04-17. Reduction or writeoff of accounts - Report to legislative audit and fiscal review committee.

The department may authorize the reduction or writeoff of an individual served's or noneligible individual's past-due account from the life skills and transition center's financial records upon determining that the account is not collectible. The department, by September first after the close of each fiscal year, shall present a detailed report to the legislative audit and fiscal review committee on the status of accounts receivable for that fiscal year. The report must include:

1. An aging by individual classification of accounts remaining unpaid.
2. The amounts by individual classification by which accounts were reduced or written off for reasons other than payment during that fiscal year.

SECTION 11. LEGISLATIVE MANAGEMENT REPORT - LIFE SKILLS AND TRANSITION CENTER. The department of health and human services shall submit a report every six months during the 2025-27 biennium to legislative management regarding:

1. The number of ineligible children served under this Act by the life skills and transition center, including consultation services to public and private providers.
2. De-identified information and reasons describing barriers to utilization of community-based services for ineligible children served under this Act by the life skills and transition center, including efforts made by the life skills and transition center.
3. The activities and strategies of the department, and any statutory recommendations to improve the state's community-based services and alternative community crisis and stabilization services to ineligible children served under this Act.

SECTION 12. STUDY OF LIFE SKILLS AND TRANSITION CENTER ALTERNATIVES - DEPARTMENT OF HEALTH AND HUMAN SERVICES - REPORT TO LEGISLATIVE MANAGEMENT. During the 2025-26 interim, the department of health and human services shall study alternatives to placement at the life skills transition center. The study must include development of a continuum of care to meet the mental health needs of youth in their community and, if needed, in an appropriate psychiatric residential facility. By March 1, 2026, the department of health and human services shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the legislative management.

SECTION 13. EXPIRATION DATE. Section 2 of this Act is effective through June 30, 2027, and after that date is ineffective.

Approved April 30, 2025

Filed May 1, 2025

CHAPTER 273

HOUSE BILL NO. 1109

(Human Services Committee)

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

AN ACT to create and enact three new sections to chapter 25-16 of the North Dakota Century Code, relating to residential care and services for the developmentally disabled; to amend and reenact sections 25-16-01, 25-16-02, 25-16-03, 25-16-03.1, 25-16-04, 25-16-05, 25-16-06, 25-16-07, 25-16-08, 25-16-09, 25-16-12, 25-16-13, 25-16-14, 25-16.1-01, 25-16.1-02, 25-16.1-03, and 25-16.1-04 of the North Dakota Century Code, relating to developmental disability, residential care and services for the developmentally disabled, and receivers for developmentally disabled facilities; to repeal chapter 25-18 of the North Dakota Century Code, relating to fee for service ratesetting for developmentally disabled facilities; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-16-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16-01. Definitions.

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

1. "Department" means the department of health and human services.
2. ~~"Treatment or care center"~~ "Developmental disability" has the same meaning as in section 25-01.2-01.
3. "Group home" means any community residential facility housing more than three individuals with a developmental disability.
4. "Host home" means a community-based family home environment providing services to no more than two individuals with a developmental disability who require out-of-home placement to facilitate delivery of intensive care and support.
5. "Provider agency" means an entity providing services to individuals with developmental disabilities and licensed by the department to provide services.

SECTION 2. AMENDMENT. Section 25-16-02 of the North Dakota Century Code is amended and reenacted as follows:

25-16-02. License required.

~~The operator of a treatment or care center~~ provider agency for individuals with a developmental disability shall secure annually from the department a license as required by rules adopted under this chapter.

SECTION 3. AMENDMENT. Section 25-16-03 of the North Dakota Century Code is amended and reenacted as follows:

25-16-03. Requirements for license.

The department shall issue a license for the operation of ~~a treatment or care center for an agency providing services to~~ individuals with a developmental disability upon a showing that:

1. The premises to be used are ~~in fit, safe, sanitary condition,~~ and properly equipped to provide good care ~~and treatment~~;
2. The persons in ~~active charge of the center and provider agency,~~ including their assistants, are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, safety, and well-being of ~~the residents cared for and treated therein will be properly safeguarded~~ individuals receiving services are protected;
4. ~~There is sufficient entertainment~~ A variety of meaningful activities, treatment, educational opportunities, and physical facilities and services available to the residents therein are available;
5. Appropriate arrangements are made for a medical and psychological examination of each ~~resident~~ individual; and
6. The provider is in compliance with rules adopted by the department under this chapter.

SECTION 4. AMENDMENT. Section 25-16-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-16-03.1. Conviction not bar to licensure - Exceptions.

Conviction of an offense does not disqualify a person from licensure under this chapter unless the ~~division~~ department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a ~~treatment or care center for individuals with a developmental disability~~ provider agency, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 5. AMENDMENT. Section 25-16-04 of the North Dakota Century Code is amended and reenacted as follows:

25-16-04. Inspection and report by department.

The department may inspect the facilities ~~and,~~ premises, ~~and records~~ of the applicant or the provider agency to determine ~~the premises are fit, safe, and sanitary to provide quality care and treatment~~ whether the provider agency is in compliance with the rules of the department, to facilitate verification of the information submitted with an application for licensure, to investigate complaints, and to evaluate the implementation of a plan of correction.

SECTION 6. AMENDMENT. Section 25-16-05 of the North Dakota Century Code is amended and reenacted as follows:

25-16-05. Content of license.

~~The license to operate a treatment or care center for individuals with a developmental disability issued under the provisions of this chapter must specify:~~

1. The name of the ~~licensee~~provider agency.
2. The premises to which the license is applicable.
3. The ~~number of residents who may be received in such premises at any one time~~occupancy or service limitations.
4. The date of expiration of the license.

SECTION 7. AMENDMENT. Section 25-16-06 of the North Dakota Century Code is amended and reenacted as follows:

25-16-06. Department to prescribe forms - Rules.

The department may prescribe forms for the registration and record of ~~the persons residing in treatment or care centers for individuals with a developmental disability~~an eligible individual and may adopt reasonable rules ~~for the conduct of such centers as are~~ necessary to carry out the purposes of this chapter.

SECTION 8. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is amended and reenacted as follows:

25-16-07. Records of treatment or care center confidential~~Confidential records.~~

Except as otherwise authorized by law, an agent of the department or the superintendent of the life skills and transition center or the ~~licensee or provider agency~~, their agents, or employees may not disclose the contents of ~~the individual an eligible individual's records of a treatment or care center for individuals with a developmental disability~~an eligible individual's records, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;
2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the ~~residents~~eligible individuals for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;
3. To the parents or legal guardians of the ~~resident~~eligible individual;
4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased ~~resident~~eligible individual, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or
5. To an individual who is within the fourth degree of consanguinity of a deceased ~~resident~~eligible individual, if the disclosure is limited to information about ~~a resident~~an eligible individual needed to establish a family's genealogy.

SECTION 9. AMENDMENT. Section 25-16-08 of the North Dakota Century Code is amended and reenacted as follows:

25-16-08. Revocation of license.

The department may revoke a license of a ~~treatment or care center for individuals with a developmental disability~~ provider agency upon a proper showing that:

1. Any of the conditions set forth in section 25-16-03 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules of the department; or
4. The owner or operator of the ~~center~~ provider agency has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the department determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 10. AMENDMENT. Section 25-16-09 of the North Dakota Century Code is amended and reenacted as follows:

25-16-09. Hearing on denial or revocation of license.

Before any application for a license to ~~conduct a treatment or care center for individuals with a developmental disability~~ is denied or before the revocation of such license by the department, written charges as to the reasons for the revocation or denial must be served upon the applicant or ~~licensee~~ provider agency, who has a right to a hearing before the department, if a hearing is requested within ten days after service of written charges.

SECTION 11. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is amended and reenacted as follows:

25-16-12. Efforts to obtain private and governmental grants.

The department and the ~~duly licensed treatment or care centers for individuals with a developmental disability~~ provider agency may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of individuals with a developmental disability.

SECTION 12. AMENDMENT. Section 25-16-13 of the North Dakota Century Code is amended and reenacted as follows:

25-16-13. Expenses chargeable against patient eligible individual, ~~patient's eligible individual's~~ estate, or responsible relatives.

This chapter does not relieve the responsibility of the patient eligible individual, the ~~patient's eligible individual's~~ estate, or responsible relatives of the expenses for care and treatment as provided in chapter 25-04 or 50-06.3. The provisions of chapter 25-04 or 50-06.3 applicable to the expenses of care and treatment of patients apply to this chapter.

SECTION 13. AMENDMENT. Section 25-16-14 of the North Dakota Century Code is amended and reenacted as follows:

25-16-14. Definitions— Group homes for individuals with developmental disabilities - Zoning.

1. For the purposes of this section:

- a. ~~"Group home" means any community residential facility, foster home, family care facility, or other similar home for individuals with a developmental disability.~~
- b. ~~"Individual with a developmental disability" means an individual with a severe, chronic disability which:~~
 - ~~(1) Is attributable to a mental or physical impairment or combination of mental and physical impairments;~~
 - ~~(2) Is manifested before the individual attains age twenty-two;~~
 - ~~(3) Is likely to continue indefinitely;~~
 - ~~(4) Results in substantial functional limitations in three or more of the following areas of major life activity:~~
 - ~~(a) Self care;~~
 - ~~(b) Receptive and expressive language;~~
 - ~~(c) Learning;~~
 - ~~(d) Mobility;~~
 - ~~(e) Self-direction;~~
 - ~~(f) Capacity for independent living; and~~
 - ~~(g) Economic sufficiency; and~~
 - ~~(5) Reflects the individual's needs for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are lifelong or extended duration and are individually planned and coordinated.~~

2. Notwithstanding the provisions in chapter 11-33, 40-47, or 58-03, or any other provisions authorizing any political subdivision to establish or enforce zoning regulations, a licensed group home serving six or fewer individuals with a developmental disability must be considered a permitted use in a single-family or equivalent least-density residential zone, and a licensed group home serving eight or fewer individuals with a developmental disability must be considered a permitted use in any area zoned for residential use of greater density than single-family use.

SECTION 14. Three new sections to chapter 25-16 of the North Dakota Century Code are created and enacted as follows:

Corrective actions.

1. If the department finds the provider agency is not in compliance with this chapter or the rules adopted by the department, the department may notify the provider agency of required corrective actions.

2. The provider agency shall submit a corrective action plan addressing the corrective actions.
3. If the provider agency fails to comply with the corrective action plan by the date certain for correction, the department may:
 - a. Issue a restricted license; or
 - b. Revoke the license.

Purchase of services - Host home program.

1. The department may purchase residential care, custody, treatment, training, and education services for individuals with developmental disabilities from a provider agency or a Medicaid-enrolled provider, from funds appropriated for that purpose.
2. The department may establish a host home program to provide out-of-home placement habilitation and support services for Medicaid-eligible individuals with developmental disabilities.

Federal requirements - Supremacy.

If any provision of this chapter is determined by the United States government to be in conflict with existing or future requirements of the United States government so as to limit or preclude federal financial participation in medical assistance, the department shall comply with the federal requirements to the extent necessary to obtain federal financial participation and shall not comply with the provisions of this chapter if necessary to avoid a loss of federal financial participation.

SECTION 15. AMENDMENT. Section 25-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16.1-01. Definitions.

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

1. "Department" means the department of health and human services.
2. ~~"Treatment or care center"~~ "Provider agency" means an entity providing services to individuals with developmental disabilities and licensed by the department to provide services.

SECTION 16. AMENDMENT. Section 25-16.1-02 of the North Dakota Century Code is amended and reenacted as follows:

25-16.1-02. Conditions for appointment of receiver.

When the department has revoked the license of a ~~treatment or care center~~ provider agency, or when the operator of a ~~center~~ provider agency has requested, the department may file a petition with the district court to place the ~~center~~ provider agency under the control of a receiver if necessary to protect the health or safety of clients at the ~~center~~ provider agency. The court may grant the petition upon a finding that the health or safety of the clients at the ~~center~~ provider agency would be seriously threatened if a condition existing at the time the petition was filed is permitted to continue. Such a finding may be based upon evidence concerning the physical plant, the program and services offered by the ~~center~~ provider agency, but not solely upon evidence that a ~~center~~ provider agency:

1. Has been denied a license to operate as a ~~center~~provider agency, or has had a previously issued license revoked; or
2. Has been denied certification as an intermediate care facility for individuals with intellectual disabilities, or has lost or had revoked such certification.

SECTION 17. AMENDMENT. Section 25-16.1-03 of the North Dakota Century Code is amended and reenacted as follows:

25-16.1-03. Appointment of receiver.

The court shall appoint, as receiver, the ~~executive director~~commissioner of the department who shall designate a qualified individual not employed by this state or its political subdivisions, or a nonprofit organization to execute the receivership. The receiver appointed by the court shall use the income and assets of the ~~treatment or care center~~provider agency to maintain and operate the ~~center~~provider agency and to attempt to correct the conditions which constitute a threat to the clients. The receiver may not liquidate the assets of the ~~treatment or care center~~provider agency.

SECTION 18. AMENDMENT. Section 25-16.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-16.1-04. Termination of receivership.

The receivership shall be terminated when the receiver and the court certify that the conditions which prompted the appointment have been corrected, when the license is restored, when a new license is issued, or, in the case of an election by the owner or owners to discontinue operation, when the clients are safely placed or provided services in other ~~centers~~provider agencies.

SECTION 19. REPEAL. Chapter 25-18 of the North Dakota Century Code is repealed.

SECTION 20. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2025

Filed April 23, 2025