

PUBLIC WELFARE

CHAPTER 441

SENATE BILL NO. 2113

(Human Services Committee)

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

AN ACT to create and enact two new sections to chapter 50-06 of the North Dakota Century Code, relating to certified community behavioral health clinics and the financing of health and human services; to amend and reenact section 12.1-04-06, subsection 4 of section 20.1-03-04, sections 25-03.1-03.1 and 25-03.1-04, subsection 3 of section 25-03.1-08, section 25-03.1-10, subsection 3 of section 25-03.1-11, subsection 1 of section 25-03.1-19, subsection 2 of section 25-03.1-26, subdivision b of subsection 2 of section 26.1-36-08, subdivisions c and d of subsection 2 of section 26.1-36-09, subsection 9 of section 43-12.1-04, subsection 6 of section 43-41-02, subdivision b of subsection 1 of section 44-04-18.30, sections 50-06-01, 50-06-01.4, 50-06-01.7, 50-06-05.1, 50-06-05.2, 50-06-05.3, 50-06-05.4, 50-06-05.5, 50-06-06.2, 50-06-06.5, and 50-06-06.13, subsections 1 and 3 of section 50-06-15, sections 50-06-33 and 50-06-41.3, subsection 1 of section 50-06-42, subsection 1 of section 50-06-42.1, and sections 50-06-46, 50-06.2-01, 50-06.2-02, 50-06.2-03, 50-06.3-02, and 50-06.3-04 of the North Dakota Century Code, relating to the powers and duties of the department of health and human services, treatment hearing timelines, and membership of the cross-disability advisory council; to provide for a legislative management study; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12.1-04-06 of the North Dakota Century Code is amended and reenacted as follows:

12.1-04-06. Temporary detention for purposes of examination.

Whenever there is reason to doubt the defendant's fitness to proceed, the court may order temporary detention of the defendant for the purpose of an examination. The temporary detention must be in the least restrictive appropriate setting, including the state hospital, the life skills and transition center, or other suitable facility for a reasonable period, not to exceed thirty days, for such examination. In lieu of detention, the court may allow the defendant to remain in the defendant's present residential setting or other suitable residential setting for the purpose of examination, subject to any reasonable limitation the court may impose. A ~~human service center~~state-operated behavioral health clinic may be considered if the court is aware an inquiry was made before the court ordered the evaluation to ensure appropriate resources exist at the ~~human service center~~state-operated behavioral health clinic being ordered to conduct the examination. While the defendant is detained, the defendant's legal counsel, family, and others necessary to assist in the defendant's case must have reasonable opportunity to examine and confer with the defendant.

SECTION 2. AMENDMENT. Subsection 4 of section 20.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

4. Life skills and transition center patients, North Dakota youth correctional center students, school for the deaf students, North Dakota vision services - school for the blind students, state hospital patients, clients of ~~regional human service center~~state-operated behavioral health clinics under direct therapeutic care, and residents of facilities licensed by the department of health and human services may fish without a resident fishing license. Patients of these institutions must be identified. The department shall issue authority to each institution.

SECTION 3. AMENDMENT. Section 25-03.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-03.1. Disclosure of health information.

A treating facility or mental health professional may disclose individually identifiable health information to a court, ~~regional human service center~~state-operated behavioral health clinic, state's attorney, appointed counsel, retained counsel, or other mental health professional, including an expert examiner, and the disclosure is a disclosure for treatment, including the provision, coordination, and management of health care and to carry out the purposes of this chapter.

SECTION 4. AMENDMENT. Section 25-03.1-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-04. Screening and admission to a public treatment facility.

Under rules adopted by the department, screening of an individual to a public treatment facility for observation, diagnosis, care, or treatment for mental illness or a substance use disorder must be performed, in person when reasonably practicable, by a ~~regional human service center~~state-operated behavioral health clinic. This screening must be performed in the region where the individual is physically located. Upon the request of a court, a law enforcement official, a mental health professional, the individual's legal guardian, a minor's parent or legal custodian, or the individual requesting services, the ~~regional human service center~~state-operated behavioral health clinic shall conduct a screening. If a request for screening is made by a mental health professional and the individual who is the subject of the screening does not authorize the disclosure of the individual's protected health information, upon the request of the ~~regional human service center~~state-operated behavioral health clinic, any mental health professional who treated the individual within the previous six months shall disclose, subject to the requirements of title 42, Code of Federal Regulations, part 2, to the ~~human service center~~state-operated behavioral health clinic any relevant protected health information regarding that treatment. Upon receipt of the request, the ~~regional human service center~~state-operated behavioral health clinic shall arrange for a screening of the individual and, if appropriate, shall treat the applicant or refer the applicant to the appropriate treatment facility. Upon admittance to a public treatment facility, the superintendent or director shall immediately designate a tier 1 or tier 2 mental health professional to examine the individual.

SECTION 5. AMENDMENT. Subsection 3 of section 25-03.1-08 of the North Dakota Century Code is amended and reenacted as follows:

3. In assisting the petitioner in completing the petition, the state's attorney may direct a tier 1 or tier 2 mental health professional designated by the ~~regional human service center~~state-operated behavioral health clinic to investigate and

evaluate the specific facts alleged by the petitioner. The investigation must be completed as promptly as possible and include observations of and conversation with the respondent, unless the respondent cannot be found or refuses to meet with the mental health professional. A written report of the results of the investigation must be delivered to the state's attorney. Copies of the report must be made available upon request to the respondent, the respondent's counsel, and any expert examiner conducting an examination under section 25-03.1-11. The state's attorney or retained attorney shall file the petition if the information provided by the petitioner or gathered by investigation provides probable cause to believe the subject of the petition is a person requiring treatment. A state's attorney who determines there are insufficient grounds for filing a petition may refer the individual to other community resources. A state's attorney's decision not to institute proceedings may be reviewed under section 11-16-06.

SECTION 6. AMENDMENT. Section 25-03.1-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-10. Involuntary treatment - Court-ordered examination.

If the petition is not accompanied by a written supportive statement of a tier 1 mental health professional or a licensed addiction counselor who has examined the respondent within the last forty-five days, the court shall order the respondent be examined by an expert examiner of the respondent's own choice or one appointed by the court. The order must state the date and time within which the respondent must appear; the address to which the respondent is to report; a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, the respondent may be involuntarily taken into custody and transported to the appointed place; and a statement the expert examiner may consult with or request participation in the examination by a mental health professional and may include with the written examination report any findings or observations by that mental health professional. Accompanying the order must be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at a treatment facility, at the respondent's home, or at any other suitable place in the community. A request for examination at the state hospital must be screened and approved by a ~~regional human service center~~ state-operated behavioral health clinic. The respondent may be accompanied by one or more relatives or friends at the place of the examination. The costs of the court-ordered examination must be borne by the county that is the respondent's place of residence.

SECTION 7. AMENDMENT. Subsection 3 of section 25-03.1-11 of the North Dakota Century Code is amended and reenacted as follows:

3. If the expert examiner concludes the respondent is not a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the expert examiner concludes the respondent is a person requiring treatment, or makes no conclusion whether the respondent is a person requiring treatment, the court shall set a date for hearing and shall give notice of hearing to the persons designated in section 25-03.1-12. If the respondent is in custody and is alleged to be a person who is mentally ill or a person who is both mentally ill and has a substance use disorder, the preliminary hearing date must be within ~~four~~ five days, exclusive of weekends and holidays, of the date the respondent was taken into custody through emergency commitment under section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If a preliminary hearing is not required, the

treatment hearing must be held within ~~four~~five days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served.

SECTION 8. AMENDMENT. Subsection 1 of section 25-03.1-19 of the North Dakota Century Code is amended and reenacted as follows:

1. The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, must be held within fourteen days of the preliminary hearing. If the preliminary hearing is not required, the involuntary treatment hearing must be held within ~~four~~five days, exclusive of weekends and holidays, of the date the court received the expert examiner's report, not to exceed fourteen days from the time the petition was served. The court may extend the time for hearing for good cause. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.

¹⁹¹ **SECTION 9. AMENDMENT.** Subsection 2 of section 25-03.1-26 of the North Dakota Century Code is amended and reenacted as follows:

2. 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 who is mentally ill or a person who is both mentally ill and has a substance use disorder, or a treatment hearing, if the respondent is alleged to be a person who has a substance use disorder, to be held no later than ~~four~~five days, exclusive of weekends and holidays, after detention unless the person has been released as a person 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.

SECTION 10. AMENDMENT. Subdivision b of subsection 2 of section 26.1-36-08 of the North Dakota Century Code is amended and reenacted as follows:

- b. In the case of benefits provided for partial hospitalization, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section and section 26.1-36-09 in any calendar year. Services provided under this subdivision must be provided by an addiction treatment program licensed under chapter 50-31. For services provided in ~~regional human service centers~~state-operated behavioral health clinics, charges must be reasonably similar to the charges for care provided by hospitals as defined in this subsection.

SECTION 11. AMENDMENT. Subdivisions c and d of subsection 2 of section 26.1-36-09 of the North Dakota Century Code are amended and reenacted as follows:

- c. In the case of benefits provided for partial hospitalization, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section and section 26.1-36-08 in any calendar year.

¹⁹¹ Section 25-03.1-26 was also amended by section 1 of Senate Bill No. 2171, chapter 270.

Partial hospitalization must be provided by a hospital as defined under section 52-01-01 and rules of the department of health and human services pursuant thereto or by a ~~regional human service center~~state-operated behavioral health clinic licensed under section 50-06-05.2, offering treatment for the prevention or cure of mental disorder or other related illness. For services provided in ~~regional human service centers~~state-operated behavioral health clinics, charges must be reasonably similar to the charges for care provided by hospitals as defined in this subsection.

- d. In the case of benefits provided for residential treatment, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section in any calendar year. Residential treatment services must be provided by a hospital as defined under section 52-01-01 and rules of the department of health and human services; by a ~~regional human service center~~state-operated behavioral health clinic licensed under section 50-06-05.2 offering treatment for the prevention or cure of mental disorder or other related illness; or by a residential treatment program. For services provided in a ~~regional human service center~~state-operated behavioral health clinic, charges must be reasonably similar to the charges for care provided by a hospital as defined in this subsection.

SECTION 12. AMENDMENT. Subsection 9 of section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

9. A person that provides medications, other than by the parenteral route:
 - a. Within a correctional facility, in compliance with section 12-44.1-29;
 - b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;
 - c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;
 - d. Within a group home, a qualified residential treatment program, or an adult foster care facility licensed under section 50-11-01;
 - e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of health and human services;
 - f. Within a ~~human service center~~state-operated behavioral health clinic licensed under chapter 50-06; ~~or~~
 - g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian; or
 - h. Who is an employee of a qualified service provider agency who meets the criteria set forth in subsection 2 of section 50-24.1-18.

SECTION 13. AMENDMENT. Subsection 6 of section 43-41-02 of the North Dakota Century Code is amended and reenacted as follows:

6. This chapter does not prevent individuals with master's or doctoral degrees in the field of counseling with specialization in mental health from serving as counselors or therapists in mental health in state institutions or ~~regional human service centers~~ state-operated behavioral health clinics, if they do not hold themselves out to the public as social workers.

SECTION 14. AMENDMENT. Subdivision b of subsection 1 of section 44-04-18.30 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Public social services agency" means a state, county, or local public agency that provides human services, and includes ~~regional human service centers~~ state-operated behavioral health clinics, ~~county social services~~ human service zone boards, ~~multicounty social services district~~ human service zones, and the department of health and human services.

SECTION 15. AMENDMENT. Section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01. Definitions.

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

1. "Behavioral health" means the planning and implementation of preventive, consultative, diagnostic, treatment, crisis intervention, rehabilitative, and suicide prevention services for individuals with mental, emotional, or substance use disorders, and psychiatric conditions.
2. "Behavioral health provider" means any licensed or accredited behavioral health provider in this state.
3. "Certified community behavioral health clinic" means a private or public behavioral health clinic or a state-operated behavioral health clinic designated by the department to deliver a comprehensive range of mental health and substance use disorder services in accordance with the certification criteria set forth by the department.
4. "Department" means the department of health and human services.
- 4-5. "Human services" means:
 - a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical services programs, and aging services programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
6. "State-operated behavioral health clinic" means a department-operated behavioral health clinic established under section 50-06-05.2.

¹⁹² **SECTION 16. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

1. The department includes the state hospital, the ~~regional human service centers~~ state-operated behavioral health clinics, a vocational rehabilitation unit, public health division, and other units or offices and administrative and fiscal support services as the commissioner of the department determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:
 - a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, certification of shelter care services, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.
 - b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, the establishment funding for family members and corporate guardianships, and the design and implementation of a community-based service system for persons in need of habilitation.
 - c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.
 - d. Administration of behavioral health programs, including reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; providing policy leadership in partnership with public and private entities; and providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.
 - e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.
 - f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.

¹⁹² Section 50-06-01.4 was also amended by section 6 of Senate Bill No. 2308, chapter 479.

- g. Administration of general assistance.
 - h. Administration of child support.
 - i. Administration of program, services, and licensing outlined in title 23 and other previous duties of the state department of health and state health council.
2. The commissioner of the department or commissioner's designee shall consult with and maintain a close working relationship with the department of corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in ~~regional human service centers~~ state-operated behavioral health clinics in the provision of special education services. The commissioner of the department or commissioner's designee shall also maintain a close liaison with human service zones.
 3. ~~By August 1, 2019, the~~ The department shall establish a template for the development of human service zone plans, including process and content requirements, access point expectations, client grievances procedures, human resources, and locally funded programs or services and how those services will be addressed.
 4. The department shall develop, with assistance from the North Dakota association of counties, a process for consultation and technical assistance for human service zone working groups ~~by August 1, 2019.~~

SECTION 17. AMENDMENT. Section 50-06-01.7 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.7. Behavioral health division - Administration - Fees.

1. The department shall ~~administratively restructure the behavioral health division to require the division to~~ develop and revise, when necessary, the state mental health plan and provide the behavioral health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the ~~human service centers~~ state-operated behavioral health clinics, the state hospital, and contracted services are in accordance with the state plan.
2. The behavioral health division may establish nonrefundable application fees not to exceed three hundred dollars for administration and enforcement of licensing and certification activities. The department shall adopt rules as necessary to implement this section. All fees collected under this section must be paid to the behavioral health division and must be used to defray the cost of administering and enforcing licensing and certification activities.

SECTION 18. AMENDMENT. Section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.1. Powers and duties of the department. (Effective through June 30, 2027)

The department has the following powers and duties to be administered by the department through its state office or ~~regional human service centers~~state-operated behavioral health clinics, human service zones, or otherwise as directed by the department:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of a child in need of protection, a child in need of services, and delinquent children.
6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.

12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and aftercare services when requested by the judge of a juvenile court. A court order under section 27-20.3-09, 27-20.4-08, or 27-20.4-17 or pursuant to rules adopted by the judicial branch regarding treatment, if available, at the state hospital or life skills and transition center shall comply with the requirements set forth in chapters 25-03.1, 25-03.3, and 25-04.
15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, and treatment, when requested by the judge in a criminal case. A court order under section 12.1-32-02 or 12.1-32-07 or pursuant to rules adopted by the judicial branch regarding treatment, if available, at the state hospital or life skills and transition center shall comply with requirements set forth in chapters 25-03.1, 25-03.3, and 25-04.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human service agencies.

18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9.
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.
20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.

- d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
 24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
 25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
 26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.
 27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
 28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community, ~~and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role playing. The provisions of chapter 54 44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.~~
 29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].

30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].
32. In the event of a disruption of operations, to provide meals at a fair value or without a charge to employees of the department at the North Dakota state hospital, life skills and transition center, and ~~regional human service centers~~state-operated behavioral health clinics twenty-four hour staffed residential units as required by the job assignments of the employees.
33. May pay a stipend, within the limit of legislative appropriation, to a recipient or a provider of a recipient receiving assistance or services under any program administered by or under the supervision and direction of the department to allow the recipient or provider to serve on a council or board.
34. Notwithstanding any other requirements, to appeal an order of a judge of the district court or juvenile court that orders the department to perform or provide a function, service, or duty.
35. To require providers that receive funding from the department to submit process and outcome measures to the department for programs and services supported by state funding for the department to evaluate the administration of the programs and services using the appropriation.

Powers and duties of the department. (Effective after June 30, 2027) The department has the following powers and duties to be administered by the department through its state office or ~~regional human service centers~~state-operated behavioral health clinics, human service zones, or otherwise as directed by the department:

1. To act as the official agency of the state in any social welfare or human service activity initiated by the federal government not otherwise by law made the responsibility of another state agency.
2. To administer, allocate, and distribute any state and federal funds that may be made available for the purpose of providing financial assistance, care, and services to eligible persons and families who do not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health.
3. To provide preventive, rehabilitative, and other human services to help families and individuals to retain or attain capability for independence or self-care.
4. To do needed research and study in the causes of social problems and to define appropriate and effective techniques in providing preventive and rehabilitative services.
5. To provide for the study, and to promote the well-being, of a child in need of protection, a child in need of services, and delinquent children.

6. To provide for the placing and supervision of children in need of substitute parental care, subject to the control of any court having jurisdiction and control of any such child.
7. To recommend appropriate human services related legislation to the legislative assembly.
8. To direct and supervise human service zone activities and administer a statewide program for state-funded human services, staffing, and administration costs related to the administration of human services.
9. To secure, hold, and administer for the purpose for which it is established any property and any funds donated to it either by will or deed, or otherwise, or through court order or otherwise available to the department, and to administer those funds or property in accordance with the instructions in the instrument creating them or in accordance with the instructions in the court order or otherwise.
10. To formulate standards and make appropriate inspections and investigations in accordance with such standards in connection with all licensing activities delegated by law to the department, including early childhood programs, nonmedical adult care facilities and maternity homes, and persons or organizations receiving and placing children, and to require those facilities, persons, and organizations to submit reports and information as the department may determine necessary.
11. To permit the making of any surveys of human service needs and activities if determined to be necessary.
12. To issue subpoenas, administer oaths, and compel attendance of witnesses and production of documents or papers whenever necessary in making the investigations provided for herein or in the discharge of its other duties. A subpoena may not be issued to compel the production of documents or papers relating to any private child-caring or child-placing agency or to compel the attendance as a witness of any officer or employee of those facilities except upon the order of a judge of the district court of the judicial district in which the facilities are located.
13. To provide insofar as staff resources permit appropriate human services, including social histories, social or social-psychological evaluations, individual, group, family, and marital counseling, and related consultation, when referred by self, parent, guardian, human service zone, court, physician, or other individual or agency, and when application is made by self (if an adult or emancipated youth), parent, guardian, or agency having custody; also, on the same basis, to provide human services to children and adults in relation to their placement in or return from the life skills and transition center, state hospital, or North Dakota youth correctional center.
14. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, treatment, and aftercare services when requested by the judge of a juvenile court. A court order under section 12.1-32-02 or 12.1-32-07 or pursuant to rules adopted by the judicial branch regarding treatment, if available, at the state hospital or life skills and transition center shall comply with requirements set forth in chapters 25-03.1, 25-03.3, and 25-04.

15. To provide insofar as staff resources permit social services, including social-psychological evaluations, predisposition reports, and treatment, when requested by the judge in a criminal case. A court order under section 12.1-32-02 or 12.1-32-07 or pursuant to rules adopted by the judicial branch regarding treatment, if available, at the state hospital or life skills and transition center shall comply with requirements set forth in chapters 25-03.1, 25-03.3, and 25-04.
16. To act as the official agency of the state in the administration of the supplemental nutrition assistance program and to direct and supervise human service zone administration of that program. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs provided under Public Law 93-347 is decreased or limited, or if the state or counties become financially responsible for all or a portion of the coupon bonus payments under the Food Stamp Act. Any request considered by the budget section must comply with section 54-35-02.9. The department may not deny assistance under the supplemental nutrition assistance program to any individual who has been convicted of a felony offense that has as an element the possession, use, or distribution of a controlled substance as defined in section 102(6) of the Controlled Substances Act [21 U.S.C. 802(6)].
17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing stabilization supports, and rental assistance and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.
18. To act as the official agency of the state in the administration of the home energy assistance program; to direct and supervise human service zone administration of that program; and to take such actions, give such directions, and adopt such rules, subject to review in the courts of this state, as may be necessary or desirable to carry out this subsection. For purposes of the administration of the energy assistance program, funds are obligated at the earlier of the time a written commitment is made to pay a vendor or contractor for services or supplies delivered or to be delivered, or at the time payment is made to a vendor or contractor for services or supplies delivered or to be delivered. The provisions of this subsection concerning obligation of funds apply to payments and commitments made on or after July 1, 1991. The department with the consent of the legislative assembly or the budget section if the legislative assembly is not in session may terminate the program if the rate of federal financial participation in administrative costs is decreased or limited to less than fifty percent of total administrative costs, or if the state or counties become financially responsible for all or a portion of the cost of energy assistance program benefits. Any request considered by the budget section must comply with section 54-35-02.9.
19. To administer, allocate, and distribute any funds made available for the payment of the cost of the special needs of any child under the age of twenty-one years, who is living in an adoptive home and would probably go without adoption except for acceptance by the adopted family, and whose adopted family does not have the economic ability and resources, as established by the department, to take care of the special needs of the child, including legal fees, maintenance costs, medical and dental expenses, travel costs, and other costs incidental to the care of the child.

20. To exercise and carry out any other powers and duties granted the department under state law.
21. To administer, allocate, and distribute any funds made available for the payment of supervised independent living services, to develop standards regarding a supervised independent living program, to approve supervised independent living services for the purpose of providing foster care placement, and to apply for and administer federal and other funds that may be made available to undertake any of the activities described in this subsection.
22. With the approval of the governor, to lease or transfer use of any part of the life skills and transition center facilities or properties, located in section thirteen, township one hundred fifty-seven north, range fifty-three west, located in Walsh County, North Dakota, to the federal government, or any public or private agency, organization, or business enterprise, or any worthy undertaking, under the following provisions:
 - a. The department determines that the facility or property is not needed to serve any present or reasonably foreseeable need of the life skills and transition center.
 - b. The transaction is exempt from the provisions of section 50-06-06.6.
 - c. The term of any lease may not exceed ninety-nine years.
 - d. All required legal documents, papers, and instruments in any transaction must be reviewed and approved as to form and legality by the attorney general.
 - e. Any funds realized by any transaction must be deposited in the state's general fund.
23. To act as a decedent's successor for purposes of collecting amounts due to the department or human service zone, unless otherwise directed or determined by the department. Any affidavit submitted by the department under section 30.1-23-01 must conform to the requirements of that section except that the affidavit may state that twenty days have elapsed since the death of the decedent.
24. To provide those services necessary for the department and for human service zones to comply with the provisions of any law, rule, order, or regulation of the United States or any federal agency or authority requiring civil service or merit standards or classifications as a condition for providing funds administered by the department.
25. For purposes of administration of programs, and subject to legislative appropriation, funds are obligated at the time a written commitment is made to pay a vendor or contractor for services or supplies either delivered or to be delivered. This subsection applies to payments and commitments made on or after January 1, 1997.
26. To determine eligibility for medical assistance and children's health insurance program benefits when the department receives a joint application for these benefits.

27. To develop a system of services and supports to provide behavioral health services and supports in the community for children at risk of or identified as having a behavioral health condition and for the families of these children. This system must include early intervention, treatment, and recovery services and supports and must interface with, but not include, child protective services or juvenile court.
28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community.
29. To administer, allocate, and distribute any funds made available for kinship care services and payments and services in response to the federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123].
30. To contract with another human service zone or any other public or private person to discharge any of the department's duties or exercise any of the department's powers to administer human services.
31. To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].
32. In the event of a disruption of operations, to provide meals at a fair value or without a charge to employees of the department at the North Dakota state hospital, life skills and transition center, and ~~regional human service centers~~state-operated behavioral health clinics twenty-four hour staffed residential units as required by the job assignments of the employees.
33. May pay a stipend, within the limit of legislative appropriation, to a recipient or a provider of a recipient receiving assistance or services under any program administered by or under the supervision and direction of the department to allow the recipient or provider to serve on a council or board.
34. Notwithstanding any other requirements, to appeal an order of a judge of the district court or juvenile court that orders the department to perform or provide a function, service, or duty.
35. To require providers that receive funding from the department to submit process and outcome measures to the department for programs and services supported by state funding for the department to evaluate the administration of the programs and services using the appropriation for the program or service.

SECTION 19. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.2. ~~Regional human service centers~~State-operated behavioral health clinics - Licensure.

Human

1. Community-based behavioral health services must be delivered through ~~regional human service centers~~state-operated behavioral health clinics in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. The department shall request appropriations and resources sufficient for accreditation.

- a. Accreditation and to ensure maintenance of the accreditation for the ~~regional human service centers~~state-operated behavioral health clinics, including associated facilities, by ~~the council on accreditation~~the social current or by a similar national accrediting body accepted by the department; and
 - b. Certification as a certified community behavioral health clinic.
2. ~~The regional human service centers~~state-operated behavioral health clinics are subject to licensing or certification by the department. The department may use the accreditation as a basis for licensing in lieu of adopted rules for the operation of the ~~regional human service centers~~state-operated behavioral health clinics. The department ~~shall~~may adopt rules for the operation of the ~~regional human service centers~~state-operated behavioral health clinics. A ~~regional human service center~~state-operated behavioral health clinic may not operate without a license or certification issued in accordance with this section or section 32 of this Act. ~~Regional human service centers~~State-operated behavioral health clinics are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the ~~centers~~state-operated behavioral health clinics.

SECTION 20. AMENDMENT. Section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.3. Regional human service centers~~**State-operated behavioral health clinics - Powers - Duties - Human service advisory**~~**Advisory groups.**

1. ~~Regional human service centers~~State-operated behavioral health clinics shall provide human services and assistance to all eligible individuals and families to ~~help individuals and families achieve or maintain~~support individuals in achieving social, emotional, and economic self-sufficiency by providing ~~human services and assistance~~ to:
 - a. ~~Prevent, reduce, or eliminate dependency~~Build resilience, self-sufficiency, and independence;
 - b. ~~Prevent or reduce inappropriate~~Support individuals to succeed in the least restrictive environments, reduce the need for institutional care by providing for care while institutionalized or providing for access to community-based and other forms of less restrictivesupportive services that span the continuum of care;
 - c. ~~Secure referral or admission for institutional care~~Facilitate access to specialized care when needed and coordinate timely referrals and transitions to appropriate levels of care;
 - d. Provide outpatient diagnostic and treatment services; and
 - e. Provide ~~rehabilitation~~rehabilitative and crisis ~~services for patients with support for individuals with mental health, emotional, or substance use disorders, an intellectual disability, and other psychiatric conditions, particularly for those patients who have received prior treatment in a~~challenges, including those with complex needs, to promote continuity of care and successful reentry from inpatient facilitysettings.

2. ~~Regional human service centers~~State-operated behavioral health clinics shall deliver services in the manner prescribed by the department.
3. ~~Regional human service centers~~State-operated behavioral health clinics may provide behavioral health collaborative care and consultation services, including psychiatric consultation, with private providers and correctional facility providers.
4. Each ~~regional human service center~~state-operated behavioral health clinic must have a ~~human service~~behavioral health clinic advisory group consisting of the human service zone directors of the region served, the public health directors of the region served, two current county commissioners appointed by the commissioner of the department or the commissioner's designee, and five additional members appointed by the commissioner of the department or the commissioner's designee. Each behavioral health clinic advisory group member must be a resident of the region the member is appointed to serve. The term of office for each appointed member is two years and arranged so that the term of three of the appointed members expires at the end of the first year and the term of the remaining four appointed members expires at the end of the second year, except for those first members appointed, three members shall serve a one-year term and four members shall serve a two-year term. The commissioner of the department or the commissioner's designee shall select the appointed members of each ~~human service~~behavioral health clinic advisory group on the basis of population of the counties in the region served by the ~~regional human service center~~state-operated behavioral health clinic. Each county in the region must be represented by at least one member on the ~~human service~~behavioral health clinic advisory group. To the extent possible, appointed membership of the behavioral health clinic advisory group must reflect regional interests in the fields of ~~developmental disabilities, social services,~~ mental health, and substance use disorders. The commissioner of the department or the commissioner's designee shall appoint a chairman for each behavioral health clinic advisory group from the membership of the behavioral health clinic advisory group. The commissioner of the department or the commissioner's designee shall fill a vacancy occurring within ~~an~~ a behavioral health clinic advisory group for other than the expiration of a term in the same manner as original appointments, except that appointments must be made only for the unexpired term. The department shall compensate appointed members of a ~~human service~~behavioral health clinic advisory group at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The department also shall pay members for mileage and actual expenses incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers.

SECTION 21. AMENDMENT. Section 50-06-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.4. Duties of ~~human service~~behavioral health clinic advisory groups.

Each ~~human service~~behavioral health clinic advisory group of the ~~regional human service centers~~state-operated behavioral health clinics shall perform the following duties:

1. Provide information to the department relative to needs assessment and the planning and development of ~~health and social~~ resources for the effective and efficient delivery of high-quality ~~human~~behavioral health services fully accessible to all citizens.

2. Review services and programs provided by the ~~regional human service centers~~state-operated behavioral health clinics and make periodic recommendations for improvement in services, programs, or facilities.
3. Promote cooperation and working agreements with public agencies, including public health and corrections and private ~~human service~~behavioral health agencies.
4. Promote local and regional financing from public and private sources.

SECTION 22. AMENDMENT. Section 50-06-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.5. Director of ~~regional~~state-operated behavioral health clinic - Medical director.

Each ~~regional human service center~~state-operated behavioral health clinic must be headed by a ~~regional~~ director ~~appointed by the commissioner of the department.~~ The ~~regional~~state-operated behavioral health clinic director must be accountable to the commissioner of the department or the commissioner's designee. Each ~~regional~~state-operated behavioral health clinic director may employ the staff necessary to discharge the ~~center's~~state-operated behavioral health clinic's responsibilities. A ~~regional~~state-operated behavioral health clinic director, subject to the approval of the commissioner of the department or the commissioner's designee, and within the limit of legislative appropriations, may make contractual arrangements with public or private agencies or with individuals and organizations to discharge the ~~regional human service center's~~state-operated behavioral health clinic's service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the ~~center~~state-operated behavioral health clinic. The medical director is responsible for coordinating mental health and medically related services. The medical director's position may be part time or full time as determined appropriate by the ~~regional~~state-operated behavioral health clinic director, with the concurrence of the commissioner of the department or the commissioner's designee. As used in this section, "qualified medical professional" means a board-eligible or board-certified psychiatrist, when such an individual can be employed, and when this is not possible, an individual possessing at least a medical degree.

SECTION 23. AMENDMENT. Section 50-06-06.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.2. Clinic services - Provider qualification - Utilization of federal funds.

Within the limits of legislative appropriation therefor and in accordance with rules established by the department, the department may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by ~~regional human service centers~~state-operated behavioral health clinics or designated behavioral health providers. Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in ~~regional human service centers~~state-operated behavioral health clinics and that federal funds available under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable human services furnished to eligible individuals by human service zones and ~~regional human service centers~~state-operated behavioral health clinics.

SECTION 24. AMENDMENT. Section 50-06-06.5 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.5. Continuum of services for individuals with serious and persistent mental illness.

1. The department shall develop a plan for an integrated, multidisciplinary continuum of services for individuals with serious and persistent mental illness. The continuum may consist of an array of services provided by private mental health professionals, private agencies, human service zones, ~~regional human service centers~~ state-operated behavioral health clinics, community-based residential care and treatment facilities, and private and public inpatient psychiatric hospitals. ~~When appropriate, access to the continuum must be through regional human service centers.~~ Within the limits of legislative appropriations, the plan for a continuum may include:
 - a. Programs, and appropriate related facilities, to provide socialization skills.
 - b. Programs, and appropriate related facilities, to provide basic living skills.
 - c. Appropriate residential facilities and other housing options.
 - d. Appropriate training, placement, and support to enhance potential for employment.
 - e. Appropriate delivery and control of necessary medication.
 - f. Appropriate economic assistance.
 - g. An inpatient facility with appropriate programs to respond to persons who require hospitalization.
 - h. Peer and recovery support.
 - i. Crisis service that is available twenty-four hours a day seven days a week.

SECTION 25. AMENDMENT. Section 50-06-06.13 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.13. Treatment services for children with serious emotional disorders.

1. The department shall establish a program to provide out-of-home treatment services for a Medicaid-eligible child with a serious emotional disorder. The department may not require a parent or legal guardian to transfer legal custody of the child in order to have the child placed in an out-of-home treatment program if the sole reason for the placement is the need to obtain services for the child's emotional or behavioral problems. With departmental approval, a parent with legal and physical custody or a legal guardian of the child may obtain treatment services for the child through the program. A parent

without physical custody of a child, who disagrees with a child's treatment under this section, may request a judicial determination regarding the child's treatment.

2. The department may establish a program to prevent out-of-home placement for a Medicaid-eligible child with a behavior health condition as defined in the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, fifth edition, text revision (2013).

SECTION 26. AMENDMENT. Subsections 1 and 3 of section 50-06-15 of the North Dakota Century Code are amended and reenacted as follows:

1. Individually identifiable information concerning an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department is confidential, except that any such information, including an individual's social security number, may be used and disclosed:
 - a. In the administration of any such program;
 - b. In accordance with a program's participation in the department's master client index data matching system, unless prohibited by federal law;
 - c. As specifically authorized by the rules of the department; ~~or~~
 - d. As permitted or required by other law; or
 - e. Notwithstanding confidentiality laws set forth in titles 14, 23, 25, 43, and 50 and the department's rules, within and between the department's divisions to assist with or to provide assistance or services under any program administered by or under the supervision and direction of the department. The disclosure of information under this subdivision must comply with applicable federal laws and regulations.
3. As used in this section, "individually identifiable information" means information, including an individual's name, address, telephone number, facsimile number, social security number, electronic mail address, program identification number, protected health information, personally identifiable information, or any other unique identifying number, characteristic, or code, as well as demographic information collected from an individual, that:
 - a. Is created or received by the department; and
 - b. Relates to:
 - (1) The past, present, or future assistance or services applied for or received by an individual under any program administered by or under the supervision and direction of the department that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; or
 - (2) A report, or any other information obtained, concerning an applicant or a provider of or an individual applying for or receiving assistance or services under any program administered by or under the supervision and direction of the department.

¹⁹³ **SECTION 27. AMENDMENT.** Section 50-06-33 of the North Dakota Century Code is amended and reenacted as follows:

50-06-33. Dementia care services.

As used in this section, "dementia" means the condition of an individual involving loss of memory and impairment of cognitive functions severe enough to interfere with the individual's daily life. The department shall contract with a private provider for a dementia care services program in each area of the state served by a ~~regional human service center~~state-operated behavioral health clinic. The dementia care services must include:

1. Identifying available services within the region;
2. Providing information to medical professionals, law enforcement, and the public regarding the symptoms of dementia, the benefits of early detection and treatment, and the services available to individuals with dementia and their caregivers;
3. Assessing the needs of individuals with dementia and their caregivers;
4. Training care providers to manage and provide for the care of individuals with dementia;
5. Providing consultation services to individuals with dementia and their caregivers; and
6. Facilitating the referral of individuals with dementia and their caregivers to appropriate care and support services.

SECTION 28. AMENDMENT. Section 50-06-41.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-41.3. Behavioral health bed management system.

1. The department shall establish and maintain a behavioral health bed management system to improve utilization of behavioral health bed capacity.
2. Public and private providers of residential or inpatient behavioral health services, except the department of corrections and rehabilitation and geropsychiatric facilities, shall participate in and report daily.
3. Geropsychiatric facilities shall participate in and report weekly and within forty-eight hours of a bed becoming available.
4. Public and private providers of residential or inpatient behavioral health services required to participate in and report to the department shall provide the information and documentation necessary to maintain the behavioral health bed management system in the form and manner prescribed by the department, unless otherwise specified.

¹⁹³ Section 50-06-33 was also amended by section 1 of Senate Bill No. 2140, chapter 442.

¹⁹⁴ **SECTION 29. AMENDMENT.** Subsection 1 of section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding ~~regional human service centers~~ state-operated behavioral health clinics and hospital- or medical clinic-based programs for medical management of withdrawal. An out-of-state licensed substance abuse treatment program located within a bordering state may participate in the voucher program to serve an underserved area of this state pursuant to the rules adopted by the department. The department shall develop rules to include processes and requirements for an out-of-state provider to receive reimbursement only for outpatient and community-based services upon a provider completing an assessment of need and receiving approval from the department.

SECTION 30. AMENDMENT. Subsection 1 of section 50-06-42.1 of the North Dakota Century Code is amended and reenacted as follows:

1. A licensed substance abuse treatment program, excluding ~~regional human service centers~~ state-operated behavioral health clinics and hospital or medical clinic-based programs for medical management of withdrawal, may apply for a competitive substance use disorder treatment voucher system grant. A licensed substance abuse treatment program is eligible for a one-time grant award. To receive a grant, a licensed substance abuse treatment program shall:
 - a. Submit an application in the form and manner prescribed by the department;
 - b. Enter a grant agreement with the department;
 - c. Use grant funds for a licensed substance abuse treatment program with fewer than seventeen beds in an underserved area, as determined by the department, in the state's substance abuse treatment system;
 - d. Use the grant funds to support the provision of substance use disorder treatment in underserved areas of the state's substance abuse treatment system;
 - e. Provide and disclose information needed to comply with the department's data collection requirements; and
 - f. Operate in compliance with grant requirements.

SECTION 31. AMENDMENT. Section 50-06-46 of the North Dakota Century Code is amended and reenacted as follows:

50-06-46. Cross-disability advisory council - Appointment - Duties. (Expired effective August 1, 2025~~2027~~)

¹⁹⁴ Section 50-06-42 was also amended by section 39 of House Bill No. 1012, chapter 11.

1. The cross-disability advisory council shall participate with and provide feedback to the department regarding the implementation, planning, and design of the cross-disability children's waiver, level of care reform for the comprehensive developmental disabilities Medicaid home and community-based waiver, and a service option that will allow payment to a legally responsible individual who provides extraordinary care to an eligible individual through the Medicaid 1915(c) waivers. This subsection does not apply to the Medicaid 1915(c) home and community-based services aged and disabled waivers.
2. The department shall contract with a qualified, independent third party to facilitate and provide support services to the council. The contracted facilitator and the department shall appoint the cross-disability advisory council members in accordance with subsection 3 and establish the length of member terms and the structure of the cross-disability advisory council. A representative from the contracted facilitator shall serve as the presiding officer of the advisory council.
3. The cross-disability advisory council consists of up to fifteen voting members. ~~A majority of the members of the council must be family members of individuals with a disability, or must be who represent a broad range of disabilities and regions of the state. The members are:~~
 - a. Two individuals with a disability, who receive Medicaid home and community-based services. The remaining members of the council must be appointed based on their professional subject matter expertise in or knowledge of the needs and interests of individuals with disabilities. The council's membership must represent different regions of the state and a broad range of disabilities that pertain to the Medicaid home and community-based services.
 - b. One individual with a developmental disability or who is Medicaid qualified, who does not receive Medicaid home or community-based services;
 - c. Seven individuals that work with individuals with disabilities, individuals with behavioral health needs, or individuals with fetal alcohol spectrum disorder;
 - d. One individual representing tribal communities, with a focus on disability services;
 - e. Two individuals who are parents or guardians of children under the age of eighteen with disabilities; and
 - f. Two individuals who are parents or guardians of individuals age eighteen or over with disabilities.
4. Upon request of the department, state agency representatives shall participate with the cross-disability advisory council in a nonvoting role.
- 4-5. The cross-disability advisory council shall meet at least quarterly and may appoint subcommittees to address specific topics or disabilities, which may include autism spectrum disorder, traumatic brain injury, and fetal alcohol spectrum disorder. A majority of the voting members of the council constitutes a quorum.

~~5-6.~~ The cross-disability advisory council shall:

- a. Discuss strategies to address gaps or needs regarding individuals with disabilities and Medicaid home and community-based services, including eligibility of legally responsible individuals;
- b. Provide for the active participation of stakeholders, including consumers and providers; and
- c. Receive information from the department and its consultants.

~~6-7.~~ The cross-disability advisory council members, excluding the contracted facilitator, are entitled to reimbursement from the department for travel and lodging at the same rate as provided for state officers and employees.

SECTION 32. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Certified community behavioral health clinics - Rules.

1. To operate in this state, a certified community behavioral health clinic must be certified by the department.
2. The department shall adopt rules for the certification of community behavioral health clinics, including assessment of need in the proposed location.
3. The department may deny a request to become or revoke a certified community behavioral health clinic's certification based on failure to comply with the rules adopted by the department or deny a request to become a certified community behavioral health clinic based on the assessment of need determination.

SECTION 33. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Financing of health and human services.

1. The powers and duties carried out by the department under this title may be financed out of a special fund within the state treasury to be known as the health and human services operating special fund;
2. The commissioner of the department or the commissioner's designee and the state treasurer shall deposit in the health and human services operating special fund, at such times as they may become available;
 - a. All moneys received from any of the counties within the state;
 - b. All moneys received from the United States under the provisions of the Social Security Act;
 - c. Such moneys as may be periodically required from legislative appropriations for department purposes; and
 - d. All public moneys received from any other source.

3. Expenditures made under this title must be paid upon vouchers prepared by the office of management and budget drawn on the state treasurer against the health and human services operating special fund and signed by the state auditor and state treasurer after approval by the office of management and budget. Expenditures to be supported by itemized vouchers must be signed by the commissioner of the department or by the commissioner's designee and certified to the office of management and budget.
4. Any funds received from federal agencies must be deposited and disbursed as provided and in accordance with Acts of Congress or the regulations of the federal agencies from which the funds were received.

SECTION 34. AMENDMENT. Section 50-06.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-01. Purpose - Interpretation.

It is the purpose of this chapter to establish a system for planning, coordinating, and providing comprehensive human services administered by human service zones and ~~human service centers~~ state-operated behavioral health clinics. This chapter must be construed to effectuate the following public purposes:

1. To help individuals or their families to achieve, maintain, or support the highest attainable level of personal independence and economic self-sufficiency.
2. To prevent, remedy, or alleviate neglect, abuse, or exploitation of children and adults unable to protect their own interests.
3. To provide a continuum of community-based services adequate to appropriately sustain individuals in their homes and in their communities and to delay or prevent institutional care.
4. To preserve, rehabilitate, and reunite families.
5. To assist in securing referral or admission of individuals to institutional care when other forms of care are not appropriate.

SECTION 35. AMENDMENT. Section 50-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-02. Definitions.

As used in this chapter:

1. "Comprehensive human services" means services included in the comprehensive human services plan published by the state agency and human services required by state law or state agency regulation or federal law or regulation as a condition for the receipt of federal financial participation in programs administered under the provisions of this title.
2. "Family home care" means the provision of room, board, supervisory care, and personal services to an eligible elderly or disabled person by the spouse or by one of the following relatives, or the current or former spouse of one of the following relatives, of the elderly or disabled person: parent, grandparent, adult child, adult sibling, adult grandchild, adult niece, or adult nephew. The family home care provider need not be present in the home on a twenty-four-hour basis if the welfare and safety of the client is maintained.

3. ~~"Human service center" means a regional center established under section 50-06-05.3.~~
4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the state agency.
- ~~5-4.~~ "Human service zone plan" means the human service zone plan required by section 50-06.2-04.
- ~~6-5.~~ "Human services" means:
- A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.
 - A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.
 - Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.
- ~~7-6.~~ "Qualified service provider" means a human service zone or independent contractor which agrees to meet standards for service and operations established by the state agency.
- ~~8-7.~~ "State agency" means the department of health and human services.
8. "State-operated behavioral health clinic" means a department-operated behavioral health clinic established under section 50-06-05.2.

SECTION 36. AMENDMENT. Section 50-06.2-03 of the North Dakota Century Code is amended and reenacted as follows:

50-06.2-03. Powers and duties of the state agency.

1. The state agency has the following powers or duties under this chapter:
- a. To act as the official agency of the state in the administration of the human services for individuals and families in conformity with state and federal requirements.
 - b. To prepare, at least biennially, a comprehensive human services plan which must:
 - (1) Include human services determined essential in effectuating the purposes of this chapter.
 - (2) Detail the human services identified by the state agency for provision by human service centers and the services which the human service zones make available in approved human service zone plans as a condition for the receipt of any funds allocated or distributed by the state agency.

3. c. To make available, through human service zone or ~~human service centers~~state-operated behavioral health clinics, any or all of the services set out in the comprehensive human services plan on behalf of those individuals and families determined to be eligible for those services under criteria established by the state agency.
4. d. To supervise and direct the comprehensive human services administered by human service zone and ~~human service centers~~state-operated behavioral health clinics through standard-setting, technical assistance, approval of human service zone and regional plans, preparation of the comprehensive human services plan, evaluation of comprehensive human services, and distribution of public money for services.
5. e. Within the limits of legislative appropriations and at rates determined payable by the state agency, to pay qualified service providers, which meet standards for services and operations, for the provision of the following services as defined in the comprehensive human services plan which are provided to individuals who, on the basis of functional assessments, income, and resources, are determined eligible for the services in accordance with rules adopted by the state agency:
- a. (1) Homemaker services;
 - b. (2) Chore services;
 - c. (3) Respite care;
 - d. (4) Home health aide services;
 - e. (5) Case management;
 - f. (6) Family home care;
 - g. (7) Personal attendant care;
 - h. (8) Adult family foster care; and
 - i. (9) Such other services as the state agency determines to be essential and appropriate to sustain individuals in their homes and in their communities and to delay or prevent institutional care.
6. f. To take actions, give directions, and adopt rules as necessary to carry out the provisions of this chapter.
2. For purposes of this chapter, resources do not include the individual's primary home and the first fifty thousand dollars of liquid assets.

SECTION 37. AMENDMENT. Section 50-06.3-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.3-02. Fees for services at regional centers.

The department may charge and collect fees and expenses for services provided through its ~~regional human service centers~~state-operated behavioral health clinics, and may authorize charging of fees for child support services. The department may establish fee scales which recognize the service recipient's or responsible relative's ability to pay. The department shall adopt such rules as are necessary to implement this chapter and to define terms used in this chapter.

SECTION 38. AMENDMENT. Section 50-06.3-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.3-04. Liability for payment.

The recipient, patient, recipient's or patient's estate, and recipient's or patient's spouse are liable for fees and expenses for services rendered by the department, through its ~~regional human service centers~~state-operated behavioral health clinics, and for care and treatment expenses charged at the state hospital. The parents of a recipient or patient are responsible for services, care, and treatment provided prior to the eighteenth birthday of the recipient or patient.

SECTION 39. LEGISLATIVE MANAGEMENT STUDY - NON-OPIOID TREATMENT OPTIONS TO REDUCE PAIN. During the 2025-26 interim, the legislative management shall consider studying options to help patients with moderate to severe pain reduce pain while safely improving functional outcomes and quality of care. The study may include an examination of non-opioid pharmacological treatment options and existing opioid settlement funds, and explore options to use those funds to develop and implement an education and awareness campaign on non-opioid treatment options. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement its recommendations, to the seventieth legislative assembly.

Approved May 2, 2025

Filed May 2, 2025

CHAPTER 442

SENATE BILL NO. 2140

(Senators Dever, Cleary, Hogan, Lee)
(Representatives Dobervich, Vetter)

AN ACT to amend and reenact section 50-06-33 of the North Dakota Century Code, relating to the dementia care services program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁵ **SECTION 1. AMENDMENT.** Section 50-06-33 of the North Dakota Century Code is amended and reenacted as follows:

50-06-33. Dementia care services.

As used in this section, "~~dementia~~" "~~client~~" means ~~the condition of an individual involving loss of memory and impairment of cognitive functions severe enough to interfere with the individual's daily life~~ an individual with symptoms in alignment with mild cognitive impairment or dementia and the individual's caregivers. The department shall contract with a private provider for a statewide dementia care services program ~~in each area of the state served by a regional human service center~~. The dementia care services must include:

1. ~~Identifying available services within the region;~~
2. ~~Providing information to medical professionals, law enforcement, first responders, public health officials, and the public regarding the:~~
 - a. ~~The symptoms of Alzheimer's disease and related dementia, the;~~
 - b. ~~The benefits of early detection and treatment, and the diagnosis;~~
 - c. ~~Availability of treatments;~~
 - d. ~~Research opportunities; and~~
 - e. ~~Available services available to individuals with dementia and their caregivers;~~
3. ~~Assessing the needs of individuals with dementia and their caregivers;~~
4. ~~Training;~~
2. Providing consultation services to assess biological, psychological, social, emotional, and spiritual needs;
3. Facilitating the referral of clients; and

¹⁹⁵ Section 50-06-33 was also amended by section 27 of Senate Bill No. 2113, chapter 441.

4. Offering on demand training to direct care providers to manage and provide for the care of individuals with symptoms in alignment with mild cognitive impairment or dementia;
5. ~~Providing consultation services to individuals with dementia and their caregivers; and~~
6. ~~Facilitating the referral of individuals with dementia and their caregivers to appropriate care and support services.~~

Approved March 25, 2025

Filed March 26, 2025

CHAPTER 443

HOUSE BILL NO. 1066

(Human Services Committee)

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

AN ACT to create and enact a new section to chapter 50-06.1 of the North Dakota Century Code, relating to the compensation rate paid by the department of health and human services under the senior community service employment program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06.1 of the North Dakota Century Code is created and enacted as follows:

Senior community service employment program - Compensation rate.

The hourly rate of compensation for individuals paid by the department under the senior community service employment program is twelve dollars or the amount established by the department by administrative rule, within the limits of legislative appropriation.

Approved April 2, 2025

Filed April 3, 2025

CHAPTER 444

SENATE BILL NO. 2070

(Human Services Committee)

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

AN ACT to amend and reenact sections 50-10.2-01, 50-10.2-02, and 50-10.2-02.1 of the North Dakota Century Code, relating to the rights of health care facility residents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-10.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-01. Definitions.

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

1. "Authorized electronic ~~monitoring~~recording" means the placement and use of an authorized electronic ~~monitoring~~recording device, by a resident or resident representative, in the resident's room.
2. "Authorized electronic ~~monitoring~~recording device" means ~~video surveillance cameras, monitoring devices, web-based cameras, video phones, or audio recording or transmitting devices, or a combination of these devices, a device that is~~ installed in the room of a resident which ~~are designed to acquire, transmit, broadcast, interact, or is intended to record or is recording and transmitting~~ video, communications, or other sounds occurring in the room. ~~The term does not include still cameras or devices used for the purpose of the resident having contact with another person but not for the purpose of electronically monitoring a resident.~~
3. "Conflict of interest" means any type of ownership in a facility or membership on the governing body of a facility by a provider of goods or services to that facility or by a member of that individual's immediate family.
4. "Department" means the department of health and human services.
5. "Facility" means a skilled nursing care facility, basic care facility, assisted living facility, or swing-bed hospital approved to furnish long-term care services.
6. "Immediate family" means husband, wife, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepchild, uncle, aunt, niece, nephew, or grandchild.
7. "Remodeling" means any alteration in structure, refurbishing, or repair that would:
 - a. Prevent the facility staff from providing customary and required care; or

- b. Seriously endanger or inconvenience any resident with noise, dust, fumes, inoperative equipment, or the presence of remodeling workers.
- 8. "Resident" means an individual residing in a facility.
- 9. "Resident representative" means a person authorized to act as a resident's agent under power of attorney for health care or guardianship.
- 10. "Technology device" means a device capable of remote audio or video communications which is used for the purpose of the resident having contact with another person but not for the purpose of virtual monitoring or recording audio or video of a resident and the resident's room. A technology device includes a cellular mobile telephone used primarily for telephonic communication, an electronic tablet not used for virtual monitoring or recording, and an assistive communication device.
- 11. "Virtual monitoring" means remote live action monitoring conducted without recording of a resident by a third party via the placement and use of a virtual monitoring device in the resident's room.
- 12. "Virtual monitoring device" means a device owned and operated by the resident or resident representative placed in the resident's room which allows live action monitoring without recording of a resident by a third party.
- 13. "Virtual visitation" means remote visitation between a resident and another individual using a technology device.

SECTION 2. AMENDMENT. Section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-02. Residents' rights - Implementation.

- 1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or ~~any existing legal guardian of the resident representative~~ a statement of the resident's rights during the admission process and while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member ~~or members and any existing legal guardian of the resident representative,~~ and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and the facility rules governing resident conduct. ~~Facilities~~ facility shall treat ~~residents~~ a resident in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:
 - a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.
 - b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.
 - c. The right to participate in the community.

- d. ~~The right of each resident, the resident's immediate family, any existing legal guardian of the resident representative, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.~~
- e-f. The right to send and receive unopened personal mail and electronic mail and the right of access to and use of telephones and electronic devices for private conversations.
- e-f. The right to assured private visits, subject to restrictions to protect the health or safety of the resident, by one's spouse, partner, or significant other, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.
- f-g. The right to manage one's own financial affairs if not under legal guardianship, or to delegate ~~that the~~ responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. ~~If such a trust is established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.~~
- g-h. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. ~~Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.~~
- h-i. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.
- i-j. The right to have privacy in treatment and in caring for personal needs, ~~to use personal belongings, to have security in storing and using personal possessions~~, and to have confidentiality in the treatment of personal and medical records. ~~The resident has the right to view, and authorize release of, any personal or medical records.~~
- j-k. The right to keep and use personal possessions, including furnishings and clothing as space permits, unless keeping or using the personal possession would infringe upon the rights, health, or safety of another resident.

- l. The right to be treated courteously, fairly, and with the fullest measure of dignity.
- ~~k-m.~~ The right to be free from mental and physical abuse, neglect, and financial exploitation, and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. ~~In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.~~
- l-n. The right not to be transferred or discharged except for:
 - (1) Medical reasons;
 - (2) The resident's welfare or that of other residents, the safety of an individual in the facility who is endangered due to the clinical or behavioral status of the resident;
 - (3) Nonpayment of one's rent or fees; or
 - (4) A temporary transfer during times of remodeling; or
 - (5) The facility ceases to operate.
- ~~m-o.~~ The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; however, advance notice of transfer or discharge may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.
- n-p. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.
- o-q. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.
- p-r. The right to have each facility display a notice that the following information is available for public review and make the information available on request:
 - (1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous ~~two~~three years.
 - (2) The facility's grievance process.

- (3) A copy of the statement of ownership, board membership, and partners.
 - (4) A statement of ownership setting forth any conflict of interest in the operation of the facility.
- ~~q.s.~~ The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility, and to not be charged a fee or receive a financial incentive or disincentive for choosing a pharmacy other than the facility's preferred pharmacy. The resident may not be charged for repackaging if that cost can be included on the facility cost report.
- ~~r.t.~~ The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.
- ~~s.u.~~ The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.
- ~~t.v.~~ The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.
2. If there is a change in the resident rights, laws, or regulations, the facility shall promptly notify the resident, and, if the resident is unable to understand, a member of the resident's immediate family or the resident representative.
 3. For involuntary transfer and discharge actions taken by a facility, the written transfer or discharge notice issued by the facility must include:
 - a. The reason for the transfer or discharge.
 - b. The effective date of transfer or discharge.
 - c. The location the resident is to be transferred or discharged to.
 - d. The name, mailing and electronic mail address, and telephone number of the office of the state long-term care ombudsman.
 4. The facility shall protect the resident from retaliation. The facility shall adopt a grievance process and make the process known to each resident, the resident's immediate family member, and the resident representative. A person making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.
 5. If a trust is established by the facility to hold the resident's funds, the facility shall provide to the resident, resident representative, or an agent under a power of attorney for financial decisions a written quarterly accounting of transactions made on behalf of the resident, including an explanation of the transactions by the facility. The facility shall pay out in full:

- a. A resident's personal funds deposited with the facility or refunds due to the resident upon discharge or eviction within thirty days, and provide a final accounting of those funds to the resident, or in the case of death, in accordance with state law.
 - b. Refunds due as a result of an overpayment to the facility within thirty days from the date the overpayment is discovered.
 - c. Other refunds due to the resident upon discharge, eviction, or death within thirty days from the resident's date of discharge from the facility.
6. The facility shall inform a resident, resident representative, an agent under a power of attorney for financial decisions, or immediate family member, at least thirty days before any change in the costs or availability of the services. A facility may not demand or receive advance payment or gratuity to assure admission or for the resident to be placed on a waiting list for admission.
 7. A resident and the resident representative may view and authorize release of any personal or medical records.
 8. The use of a physical or chemical restraint in an emergency or if necessary to protect the resident from injury to self or others must be authorized and documented by a physician, nurse practitioner, or physician's assistant for a limited period of time. A chemical restraint must be administered by a licensed nurse, physician, nurse practitioner, or physician's assistant. Except as provided in this subsection, a drug or physical restraint may not be used or threatened to be used for the purpose of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not included in an approved treatment plan.
 9. Upon request, a facility shall provide an applicant for admission to a facility who is denied admission the reason for the denial in writing. The facility shall note in the written denial if the denial is based on the special characteristics or service limitations of the facility.
 10. A facility shall ensure a resident council meeting is attended by residents only or at the invitation of a resident.
 11. Waiver of any of the rights guaranteed by this chapter may not be made a condition of admission to a facility or ongoing residence.
 - ~~3-12.~~ Each facility shall prepare a written plan and provide staff training to implement this chapter.
 - ~~4-13.~~ The department shall develop and coordinate with the facility licensing and regulatory agencies a relocation plan in the event a facility is decertified or unlicensed.

SECTION 3. AMENDMENT. Section 50-10.2-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-10.2-02.1. Authorized electronic monitoring - Penalty.

1. A resident and the resident representative may treat the resident's living quarters as the resident's home and, subject to rules to protect the privacy and safety of another resident, may purchase and use a technology device of

the resident's choice, including a technology device that may facilitate virtual monitoring or virtual visitation with family and other persons, provided operation and use of the technology device does not violate an individual's right to privacy under state or federal law. Subsections 3 through 12 apply if a technology device or a virtual monitoring device is used to record.

2. A resident may use a device of the resident's choice that facilitates virtual monitoring, provided:
 - a. The purchase, activation, installation, maintenance, repair, deactivation, and removal of such device is at the expense of the resident; and
 - b. The device and images obtained from the device are used by the resident and any person communicating with the resident in a manner that does not violate an individual's right to privacy under state or federal law.
3. A facility shall permit a resident or the resident representative to conduct authorized electronic ~~monitoring~~recording of the resident's room through an authorized electronic ~~monitoring~~recording device if:
 - a. The authorized electronic ~~monitoring~~recording device is placed in the resident's room;
 - b. The electronic ~~monitoring~~recording device is placed in a fixed, stationary position; ~~monitors~~records only the area occupied by the resident and not the area occupied by the resident's roommate; and protects the privacy and dignity of the resident;
 - c. The facility is given written notice of the placement and use which must include an installation plan in compliance with the facility's standards and regulations the facility ~~provides~~shall provide to the resident;
 - d. A video tape or recording created using an authorized electronic ~~monitoring~~recording device records the date and time;
 - e. All costs, except for electricity, associated with the authorized electronic ~~monitoring~~recording device, including installation, operation, removal, repairs, room damage, and maintenance, are paid by the resident or resident representative who initiated the use of the authorized electronic ~~monitoring~~recording device; and
 - f. A signed authorization for the disclosure of protected health information, as defined by title 45, Code of Federal Regulations, part 160, section 103, compliant with the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.] and consenting to the use of the device is given by each resident occupying the same room, or by that resident's resident representative in accordance with subsection 45.
2. ~~A facility that uses an authorized electronic monitoring device in compliance with this chapter is not guilty of a crime or civilly liable under this code for a violation of a resident's privacy.~~

- ~~3-4.~~ The facility shall cooperate to accommodate the placement of the authorized electronic ~~monitoring~~recording device, unless doing so would place undue burden on the facility.
- ~~4-5.~~ Before placing and using the authorized electronic ~~monitoring~~recording device or virtual monitoring device, a resident or resident representative shall obtain the signed authorization of any other resident residing in the room in accordance with subsection ~~4-3~~. The authorization may be signed by ~~that~~the resident's resident representative.
- a. The resident's or the resident representative's authorization may limit the use of an authorized electronic ~~monitoring~~recording device to only audio ~~monitoring~~recording or only video ~~monitoring~~recording and may limit the device's time of operation, direction, and focus.
- b. At any time, a resident or resident representative who did not request the authorized electronic ~~monitoring~~recording device in the resident's room may withdraw, in writing, the signed authorization for the use of the device. The resident who requested the device or the resident's resident representative is responsible for having the device disabled in compliance with the facility's standards and regulations after receipt of the written withdrawal.
- ~~5-6.~~ The facility shall make a reasonable attempt to accommodate a resident if a resident or resident representative of a resident who is residing in a shared room wants to have an authorized electronic ~~monitoring~~recording device placed in the room and another resident living in the same shared room refuses to authorize the use of the authorized electronic monitoring device.
- ~~6-7.~~ If authorized electronic ~~monitoring~~recording is being conducted in the room of a resident, and another resident will be moved into the room, the resident who requested the device or the resident's resident representative is responsible for having the existing authorized electronic ~~monitoring~~recording device disabled in compliance with the facility's standards and regulations unless the new resident or the resident's resident representative authorizes the device pursuant to subsections ~~4-3~~ and ~~4-5~~.
- ~~7-8.~~ A facility may not refuse to admit an individual and may not remove a resident from a facility because of authorized electronic ~~monitoring~~recording of a resident's room. A person may not intentionally retaliate or discriminate against a resident for authorization of authorized electronic ~~monitoring~~recording.
- ~~8-9.~~ A facility clearly and conspicuously shall post a sign where authorized electronic ~~monitoring~~recording is being conducted to alert and inform visitors.
- ~~9-10.~~ A facility or staff of the facility may not access any video or audio recording created through an authorized electronic ~~monitoring~~recording device placed in a resident's room without the written consent of the resident or resident representative or court order.
- ~~10-11.~~ ~~A person~~An individual that intentionally hampers, obstructs, tampers with, or destroys a recording or an authorized electronic ~~monitoring~~recording device or virtual monitoring device placed in a resident's room, without the express written consent of the resident or resident representative, is subject to a

class B misdemeanor. ~~A person~~An individual that places an electronic ~~monitoring~~recording device in the room of a resident or which uses or discloses a tape or other recording made by the device may be guilty of a crime or civilly liable for any unlawful violation of the privacy rights of another. In any civil proceeding, administrative proceeding, or survey process, material obtained through the use of an authorized electronic ~~monitoring~~recording device may not be used if ~~a person~~an individual intentionally hampered, obstructed, or tampered with the material without the express written consent of the resident or resident representative, or if the material was obtained through the operation of an electronic ~~monitoring~~recording device which was not compliant with this section.

- ~~44-12.~~ A person may not intercept a communication or disclose or use an intercepted communication of an authorized electronic ~~monitoring~~recording device ~~or a virtual monitoring device~~ placed in a resident's room, without the express written consent of the resident or the resident representative.

Approved April 30, 2025

Filed May 1, 2025

CHAPTER 445

HOUSE BILL NO. 1072

(Human Services Committee)

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

AN ACT to amend and reenact sections 50-11-03.2 and 50-11-07 of the North Dakota Century Code, relating to foster care homes for children and adults.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.2. Use of public funds.

1. Public funds for the purchase of foster care for children or adults may be used only in facilities licensed, certified, or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license, certification, or approval issued by the department. This section does not apply to any home or institution under the management and control of the state.
2. Nonfederal funds may be used to reimburse the costs of shelter care placements for no more than seven days if the shelter care services are certified by the department. If the entity has diligently pursued other placement, the department may grant an extension for the health and safety of the child or due to unforeseeable circumstances.
3. Nonfederal funds may be used for maintenance payments to an unlicensed identified ~~relative~~relative or unlicensed kinship ~~relative~~relative for no more than six months and to a guardian with a subsidy approval made by the department.

SECTION 2. AMENDMENT. Section 50-11-07 of the North Dakota Century Code is amended and reenacted as follows:

50-11-07. Denial or revocation of license or certification.

The department may deny or revoke the license or certification of any facility upon proper showing of any of the following:

1. Any of the conditions set forth in section 50-11-02 as prerequisites for the issuance of the license or certification do not exist.
2. The application contains false or misleading material information or the applicant intentionally withheld material information.
3. The license or certification was issued upon false, misleading, or intentionally withheld material information.

4. An operator, licensee, certification holder, caregiver, employee, or an agent of the facility has violated a provision of this chapter or any of the rules of the department.
5. An applicant, licensee, or certification holder providing family foster care for children has been involved in a court action in which a child in their household is currently or within the last five years has been removed from the home due to a contrary to the welfare findings ~~findings~~ finding issued by a court.
6. An operator, applicant, licensee, certification holder, caregiver, employee, or agent of the facility has been convicted of an offense determined by the department to have a direct bearing upon the person's ability to serve the public or residents of the facility, or the department determines, following conviction of any other offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 446

HOUSE BILL NO. 1460

(Representatives D. Anderson, Vollmer)
(Senator Thomas)

AN ACT to create and enact two new sections to chapter 50-11 of the North Dakota Century Code, relating to substitute caregiver and respite care provider requirements in foster homes for adults and the permitted use of an electronic monitoring device by an adult foster care provider; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Substitute caregivers and respite care providers - Requirements.

1. As used in this section:
 - a. "Respite care provider" means an individual enrolled as a qualified service provider who provides respite care to private pay adult residents in the absence of the provider.
 - b. "Substitute caregiver" means an individual who meets qualified service provider standards and provides respite care to private pay adult residents in the absence of the provider.
2. The department may not limit the services of a substitute caregiver or a respite care provider providing resident care on behalf of a foster home for adults to less than two hundred twenty calendar days during the twenty-four-month period immediately following the renewal date of the initial license or for less than one hundred ten calendar days during the twelve-month period immediately following the date of the issuance of the initial license.
3. Unless a substitute caregiver or a respite care provider provided resident care on behalf of a foster home for adults for more than twelve hours during a calendar day, the department may not count the calendar day toward the limit determined by the department in accordance with subsection 2.
4. This section applies to private pay adult foster care providers.

SECTION 2. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Adult foster care providers - Temporary assistants - Permitted use of electronic device for monitoring.

An adult foster care provider may:

1. Employ a temporary assistant as needed to assist with private pay adult residents that have physical limitations that require more than one provider to properly assist.
2. Use an electronic device for monitoring an otherwise unattended adult resident within a limited range, which allows the provider to remain nearby while ensuring the safety of the resident. Before implementing an electronic device for monitoring, the use of the device must be approved in writing by the resident or, if the resident is incapacitated, a family member or legal representative of the resident.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - LICENSING OF FOSTER HOMES FOR ADULTS. During the 2025-26 interim, the legislative management shall consider studying the licensing of foster homes for adults. The study must consider the barriers to receiving services for older adults and adults with disabilities; regulatory restrictions that create challenges for facilities, providers, and caregivers; and any funding or reimbursement limitations in federal and state law. The study must include input from the department of health and human services, older adults and adults with disabilities in need of services and their family members, residents and their family members, facilities, providers, and caregivers. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the seventieth legislative assembly.

Approved April 28, 2025

Filed April 28, 2025

CHAPTER 447

SENATE BILL NO. 2107

(Senator Beard)

AN ACT to amend and reenact subsection 11 of section 50-11.1-03 of the North Dakota Century Code, relating to early childhood services training for licensure; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 11 of section 50-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

11. Any hours of department-approved training related to child care which an applicant or staff member completes after submitting the fees and application as required under subsection 8 must be counted toward the licensing annual requirements for the following year.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on January 1, 2026.

Approved March 25, 2025

Filed March 26, 2025

CHAPTER 448

HOUSE BILL NO. 1497

(Representatives Maki, Marschall, Monson, Jonas)
(Senator Schaible)

AN ACT to amend and reenact subsection 1 of section 50-11.1-21 and section 50-11.1-23 of the North Dakota Century Code, relating to age requirements for an approved four-year old program; and eligibility for the best in class program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-11.1-21 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~Any~~ A person or school district operating or seeking to operate a four-year old program may request approval for a two-year period of the four-year old program from the department. The department shall approve a four-year old program if the program:
 - a. Is taught by individuals licensed or approved to teach in early childhood education by the education standards and practices board ~~or approved to teach in early childhood education by the education standards and practices board~~;
 - b. Follows four-year old program requirements approved by the department;
 - c. Is in compliance with all municipal and state health, fire, and safety requirements;
 - d. Limits enrollment to children who have reached the age of four years old before August first in the year of enrollment, unless the child will be four years old before December first and the school district determines, based on child development factors, including development milestones, school readiness, and other individual considerations, to allow a child to enroll based on a request;
 - e. Submits a nonrefundable fee of fifty dollars ~~at the time when~~ the application is filed. All fees collected under this section must be paid to the department and must be used to defray the cost of investigating, inspecting, and evaluating applications for approval; and
 - f. Is in compliance with this chapter.

SECTION 2. AMENDMENT. Section 50-11.1-23 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-23. Eligibility for best in class program.

1. An approved four-year old program, federally funded head start program, or early childhood program may submit, in the form and manner prescribed by the department, an application to the department under section 50-11.1-22, if the provider certifies to the department the provider:

-
- a. Operates an approved four-year old program, federally funded head start program, or early childhood program in this state;
 - b. Operates a program for children who have reached four years of age before August first in the year of enrollment, unless otherwise provided in subdivision d of subsection 1 of section 50-11.1-21;
 - c. Operates a program that has a duration of at least four hundred hours over a period of at least thirty-two consecutive weeks;
 - d. Incorporates within the program at least ten hours of research-based family engagement;
 - e. Has been determined to meet the standards and expectations of no less than step three in the North Dakota early childhood quality improvement system; has met the standards and expectations of a nationally recognized early childhood accrediting entity; has met the federal performance standards for head start; or has obtained approval or certification from the department of public instruction;
 - f. Admits children of all learning abilities;
 - g. Admits children who receive assistance from the child care assistance program; and
 - h. Operates in compliance with the program requirements, including:
 - (1) Complying with requirements related to qualifications, training, and professional development of staff delivering services in the best in class program; and
 - (2) Adhering to expectations established by the department related to best in class program monitoring, operation, and oversight.
2. The department may distribute funds under this section to approved applicants.
 3. The department may recapture funds from an awarded program that is found by the department to be out of compliance with requirements established for the best in class program.
 4. The requirements of chapter 54-44.4 do not apply to the selection of a recipient, award, or payments made under this section.

Approved March 26, 2025

Filed March 27, 2025

CHAPTER 449

HOUSE BILL NO. 1120

(Human Services Committee)

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

AN ACT to amend and reenact sections 14-15-09, 14-15-11, 50-12-09, 50-12-10, and 50-12-17 of the North Dakota Century Code, relating to the revised uniform adoption act and child-placing agencies; to repeal sections 50-12-02.1 and 50-12-11 of the North Dakota Century Code, relating to out-of-state child-placing agencies and revocation of license; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-15-09 of the North Dakota Century Code is amended and reenacted as follows:

14-15-09. Petition for adoption.

1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk of the court, and state:
 - a. The date and place of birth of the individual to be adopted, if known.
 - b. The name to be used for the individual to be adopted.
 - c. The date petitioner acquired custody or date of placement of the minor and the name of the individual placing the minor.
 - d. The full name, age, place, and duration of residence of the petitioner.
 - e. The marital status of the petitioner, including the date and place of marriage, if married.
 - f. That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted.
 - g. A description and estimate of value of any property of the individual to be adopted.
 - h. The name of any individual whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of the individual's consent normally required to the adoption.
 - i. The department as respondent.
 - j. The human service zone as respondent if the minor to be adopted is in the custody of the human service zone.

- ~~k. That the petitioner's expenses were reasonable as verified by the court. Reasonable fees may be charged for professional services and living expenses if reflected in a report of agreements and disbursements filed under this chapter and approved by the court. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption. Reasonable fees may include:~~
- ~~(1) Preplacement counseling, adoption assessment, placement of the child, foster care, or other preadoption services, which must be paid directly to the provider of the services;~~
 - ~~(2) Legal fees relating to the petition for relinquishment or adoption, that must be paid directly to the provider of the services;~~
 - ~~(3) Medical expenses relating to prenatal care and the birth of the child, that are not already covered by health insurance;~~
 - ~~(4) Expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement; and~~
 - ~~(5) Living expenses of the birth mother which are needed to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.~~
 - ~~(a) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following the delivery, unless the court determines within the six week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child.~~
 - ~~(b) Living expenses do not include expenses for lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.~~
2. A certified copy of the birth certificate or verification of birth record of the individual to be adopted, if available, and the required consents and relinquishments must be filed with the clerk.
 3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in subsection 1 of section 27-05.2-03.

SECTION 2. AMENDMENT. Section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

14-15-11. Notice of petition - Investigation and hearing.

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose

consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; any appropriate Indian tribe; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20.3-22, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and if the minor to be adopted is in the custody of the human service zone to the human service zone must be accompanied by a copy of the petition.

- b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.
2. An investigation must be made by a licensed child-placing agency or by the department when a child-placing agency has a conflict of interest to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether:
 - a. The proposed adoption is in the best interest of the minor; and
 - b. The adoptive home is suitable for the minor. The licensed child-placing agency shall obtain and consider the foster care assessment of an applicant who is also a licensed, ~~certified~~, or approved family foster home for children in the manner prescribed by the department. An adoptive home is presumed suitable if, in the manner prescribed by the department, the petitioner is continuously licensed, ~~certified~~, or approved as a family foster home for children under chapter 50-11 to furnish foster care for children ~~for more than one year~~ without a correction order, fiscal sanction, or license revocation proceeding, unless the custodial agency reasonably believes the use of the foster care assessment or the licensed, ~~certified~~, or approved family foster home for children is not in the best interest of the minor.
3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.
4. The report of the investigation must contain:
 - a. A review of the child's history;
 - b. A preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner;
 - c. A postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption;
 - d. The petitioner's foster care assessment to demonstrate the presumed suitability of the adoptive home if a foster care assessment was considered in the investigation under subsection 2 of this section; and
 - e. Any other information the court requires regarding the petitioner or the minor.

5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a court-appointed legal guardian or a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.
6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.
7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.
8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

SECTION 3. AMENDMENT. Section 50-12-09 of the North Dakota Century Code is amended and reenacted as follows:

50-12-09. Compensation for child placing.

1. A child-placing agency in making an adoptive placement may be reimbursed/compensated by the adoptive couple/family for the cost of making the adoptive study of the home and the supervision and evaluation of any placement which may be made prior to the legal adoption. No couple may be deprived of receiving a child for adoption on the basis of inability to pay any portion of such expense/reasonable fees.
2. Child-placing agency compensation only may be received for services provided to the adoptive family if reflected in a financial agreement. An itemized receipt of reasonable fees paid by the child-placing agency must be provided to the adoptive family.
3. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption.
4. Reasonable fees may include:
 - a. Facilitation fees charged and completed by the child-placing agency including the cost of preplacement birth parent counseling, adoption home study assessment, placement costs for children not in public custody, utilizing a foster care placement prior to finalization, placement supervision, or other preadoption services offered by the child-placing agency;

- b. Legal fees relating to the petition for relinquishment or adoption on behalf of the birth parent;
 - c. Medical expenses relating to prenatal care and the birth of the child, which are not already covered by the birth mother's health insurance or other public assistance programs;
 - d. Expenses incurred by the birth parent for transportation, meals, and lodging in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement of the child; and
 - e. Living expenses of the birth mother which are needed to maintain an adequate standard of living, not already covered by public assistance programs.
- (1) The payments may cover expenses incurred during the pregnancy-related incapacity and for up to six weeks following the delivery.
 - (2) Living expenses do not include lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.

SECTION 4. AMENDMENT. Section 50-12-10 of the North Dakota Century Code is amended and reenacted as follows:

50-12-10. Revocation of license - Grounds.

The department of health and human services may revoke the license of any child-placing agency upon a proper showing of any of the following:

1. The licensee has violated any ~~requirements~~requirement under this chapter.
2. The license was issued upon a fraudulent or untrue ~~representations~~representation.
3. The licensee has violated any ~~of the rules and regulations~~rule or regulation of the department.
4. The licensee 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 a licensee, or the department determines, following conviction of any offense, the person is not sufficiently rehabilitated under section 12-1-33-02.4~~made a false or misleading report to the department.

SECTION 5. AMENDMENT. Section 50-12-17 of the North Dakota Century Code is amended and reenacted as follows:

50-12-17. Licensure requirement - Registration requirement - Penalty.

1. A person may not place or cause to be placed any child in a family home for adoption without a license to do so from the department of health and human services ~~except that a~~.
2. Adoption services may be provided by the department when a conflict of interest with a child-placing agency exists and another child-placing agency is unable to provide the service.

3. A parent, upon giving written notice to the department, may place the parent's child in the home of the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian for adoption by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement.
4. A person who willfully violates this chapter is guilty of a class C felony.
5. For purposes of this section, "~~to place or cause to be placed~~" means to ~~place~~:
 - a. Place a child for adoption; ~~arrange~~
 - b. Arrange or provide for short-term foster care for a child pending an adoptive placement; ~~facilitate~~
 - c. Facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or ~~advertise~~
 - d. Advertise in any public medium that the person knows of a child who is available for adoption or is willing to accept a child for adoption or that the person knows of prospective adoptive parents of a child.

SECTION 6. REPEAL. Sections 50-12-02.1 and 50-12-11 of the North Dakota Century Code are repealed.

Approved March 14, 2025

Filed March 14, 2025

CHAPTER 450

HOUSE BILL NO. 1067

(Human Services Committee)

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

AN ACT to amend and reenact sections 50-24.1-02.6 and 50-24.1-26 of the North Dakota Century Code, relating to medical assistance benefits and Medicaid waivers; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁶ **SECTION 1. AMENDMENT.** Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are medically needy persons who have countable income that does not exceed an amount determined under subsection 2.
2. The department shall establish an income level for medically needy persons at an amount no less than required by federal law.
3. The department shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.
4. The department shall provide medical assistance benefits to otherwise eligible pregnant women who are lawfully present in the United States.
5. The department may require, as a condition of eligibility, individuals eligible for Medicare part A, B, or D to apply for such coverage.
6. The department shall disregard social security survivor income and court-ordered child support for a child who is under the age of eighteen years and is enrolled in a medicaid waiver under section 1915(c) of the Social Security Act [42 U.S.C. 1915(c)].

SECTION 2. AMENDMENT. Section 50-24.1-26 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-26. Medicaid waivers - In-home services.

The department shall administer Medicaid waivers to provide in-home services to children with extraordinary medical needs and to children ~~up to the age of eighteen~~ diagnosed with an autism spectrum disorder who are under the age of twenty-one and would otherwise meet institutional level of care. The department may prioritize applicants for the waiver for children with extraordinary medical needs by degree of need.

¹⁹⁶ Section 50-24.1-02.6 was also amended by section 1 of House Bill No. 1485, chapter 451.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act is effective on July 1, 2026.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 451

HOUSE BILL NO. 1485

(Representatives McLeod, Rios, Satrom, Schauer, Swiontek, Weisz, Karls, Wagner)
(Senators Lee, Dever, Hogan, Cleary)

AN ACT to amend and reenact section 50-24.1-02.6 of the North Dakota Century Code, relating to the personal needs allowance amount for eligible beneficiaries; to provide for an increase in the personal monthly needs allowance; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁹⁷ **SECTION 1. AMENDMENT.** Section 50-24.1-02.6 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-02.6. Medical assistance benefits - Eligibility criteria.

1. The department shall provide medical assistance benefits to otherwise eligible persons who are medically needy persons who have countable income that does not exceed an amount determined under subsection 2.
2. The department shall establish an income level for medically needy persons at an amount no less than required by federal law.
3. The department shall provide medical assistance benefits to children and families coverage groups and pregnant women without consideration of assets.
4. The department shall provide medical assistance benefits to otherwise eligible pregnant women who are lawfully present in the United States.
5. The department may require, as a condition of eligibility, individuals eligible for Medicare part A, B, or D to apply for such coverage.
6. The department shall provide a personal monthly needs allowance, to be reviewed and adjusted annually based on inflation.

SECTION 2. PERSONAL MONTHLY NEEDS ALLOWANCE INCREASE. The department of health and human services shall increase the personal monthly needs allowance by fifteen dollars for an individual covered under section 50-24.1-02.6, for the biennium beginning July 1, 2025, and ending June 30, 2027.

SECTION 3. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - PERSONAL MONTHLY NEEDS ALLOWANCE INCREASE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$762,894, or so much of the sum as may be necessary, and from other funds derived from federal and special funds, the sum of

¹⁹⁷ Section 50-24.1-02.6 was also amended by section 1 of House Bill No. 1067, chapter 450.

\$689,466, or so much of the sum as may be necessary, to the department of health and human services for the purpose of a personal monthly needs allowance increase, for the biennium beginning July 1, 2025, and ending June 30, 2027.

Approved May 1, 2025

Filed May 2, 2025

CHAPTER 452

HOUSE BILL NO. 1252

(Representatives Dobervich, Brown, Davis, Finley-DeVile, Holle, Mitskog)
(Senators Marcellais, Schaible)

AN ACT to amend and reenact subsection 3 of section 50-24.1-40 of the North Dakota Century Code, relating to the tribal health care coordination fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-24.1-40 of the North Dakota Century Code is amended and reenacted as follows:

3. There is created in the state treasury a tribal health care coordination fund.
 - a. Moneys in the fund are appropriated to the department on a continuing basis for distribution to a tribal government in accordance with an agreement between the department and a tribal government. The agreement between the department and a tribal government must require the tribe to:
 - (1) Use the money distributed under this section for purposes related to the ten essential services of public ~~health~~health identified by the federal centers for disease control and prevention and the development or enhancement of community health representative programs or services; ~~however, through June 30, 2025, no more than fifty percent, and thereafter, no more than thirty five percent, may be used for capital construction.~~
 - (2) Submit to the department annual reports detailing the use of the money distributed under this section.
 - (3) Submit to the department every two years an audit report, conducted by an independent licensed certified public accountant, of the tribal government use of the money distributed under this section. A tribal government may use money distributed under this section to pay for this audit report. At the discretion of a tribal government, an audit may be conducted more often than every two years.
 - b. The distribution of moneys from the fund to a tribal government must be in proportion to the federal funding received from care coordination agreement requests for services originating from within that tribal nation.
 - c. At least annually, upon completion of any auditing and verification actions of the department, the department shall distribute moneys from the fund to the tribal government.
 - d. If a tribal government fails to file with the department a timely annual report or audit report, the department shall withhold distribution of moneys from the fund to the tribal government until the report is filed.

- e. If an audit report or the department's review of the annual report finds a tribal government used moneys distributed from the fund for a purpose inconsistent with this section, the department shall withhold future distributions to that tribal government in an amount equal to the money used improperly. The department shall distribute money withheld from a tribal government under this subdivision if a future audit report indicates moneys distributed from the fund are used for purposes consistent with this section.

Approved March 17, 2025

Filed March 18, 2025

CHAPTER 453

SENATE BILL NO. 2305

(Senators Hogan, Cleary, Lee, Weston)
(Representative Dobervich)

AN ACT to amend and reenact section 50-24.1-47 of the North Dakota Century Code, relating to the family paid caregiver service pilot project and the cross-disability advisory council; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-47 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-47. Family paid caregiver service pilot project —~~Report.~~ (Contingent expiration date - See note)

1. The department shall ~~establish~~manage and operate the family paid caregiver service pilot project to ~~assist in making payments~~make payments to a legally responsible individual who provides extraordinary care to an eligible individual who is a participant in the Medicaid 1915(c) waivers, excluding the home and community-based services aged and disabled waiver.
2. The family paid caregiver service pilot project ~~may~~must include funding for extraordinary care, which means care:
 - a. Exceeding the range of activities a legally responsible individual would ordinarily perform in the household on behalf of an individual without extraordinary medical or behavioral needs; and
 - b. Is necessary to assure the health and welfare and avoid institutionalization of the individual in need of care.
3. The department may adopt rules addressing management of the family paid caregiver service pilot project and establish the eligibility requirements and exclusions for the family paid caregiver service pilot project. The department shall manage and operate the family paid caregiver service pilot project in accordance with the adopted rules and within the limits of legislative appropriation for the family paid caregiver service pilot project. The department shall utilize an assessment of an eligible individual to determine the level of care authorized and to determine the best interests of the individual in need of care. The pilot project may not provide a payment for need for extraordinary care which must consider the unique needs and circumstances of applicants including age, activities of daily living, medical needs, and social emotional needs. The department may not make payments to a legally responsible individual which duplicate any care that is otherwise compensated through a service or assistance provided, administered, or supervised by the department, including Medicaid 1915(c) waiver or the Medicaid state plan. A legally responsible individual shall attest on an annual basis that the legally responsible individual agrees not to seek reimbursement for extraordinary care through the family paid caregiver service pilot project on days when other 1915(c) waiver services are paid by the department.

4. A decision on an application which is issued by the department under this section may be appealed as provided under chapter 28-32. An individual may not appeal a denial, a revocation, a reduction in payment, or the termination of the family paid caregiver service pilot project administered by the department due to the unavailability of funding received for the purpose of issuing payments as part of the family paid caregiver service pilot project for the biennium.
5. ~~The department shall provide the legislative management with periodic reports on the impact, usage, and costs associated with the family caregiver service pilot project.~~A payment under this section to a legally responsible individual must be commensurate with the rate for family caregiving in the home and community-based services aged and disabled waiver.
6. The cross-disability advisory council under section 50-06-46 shall participate with and provide feedback to the department on the planning, design, and ongoing implementation of the family paid caregiver service pilot project and future centers for Medicare and Medicaid services children's cross-disability 1915(c) waiver. The council shall provide input into the development of the assessment method used to determine the need for extraordinary care.

SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ONE-TIME FUNDING - FAMILY PAID CAREGIVER SERVICE PILOT PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$7,300,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of establishing and issuing payments as part of the family paid caregiver service pilot project, for the biennium beginning July 1, 2025, and ending June 30, 2027.

Approved April 15, 2025

Filed April 17, 2025

CHAPTER 454

SENATE BILL NO. 2399

(Senators Lee, Larson, Roers)
(Representatives Mitskog, M. Ruby)
(Approved by the Delayed Bills Committee)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance reimbursement of psychiatric residential treatment facilities; to provide for a legislative management report; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Reimbursement of psychiatric residential treatment facilities.

The department shall amend the rules for medical assistance reimbursement of psychiatric residential treatment facilities for direct care costs, including the applicable costs related to clinical supervisors, medical directors, engagement of families in care, therapeutic leave days, and an administrative costs cap. Reimbursements for therapeutic leave days may not exceed five hundred dollars per day. The department shall implement utilization controls, including service authorization for therapeutic leave days.

SECTION 2. DEPARTMENT OF HEALTH AND HUMAN SERVICES - MEDICAL ASSISTANCE REIMBURSEMENT - LEGISLATIVE MANAGEMENT REPORT. The department shall submit a report to the legislative management by October 1, 2026, regarding changes to medical assistance reimbursement of psychiatric residential treatment facilities for direct care costs, including the applicable costs related to clinical supervisions, medical directors, engagement of families in care, therapeutic leave days, and an administrative cost cap and progress towards value-based care.

SECTION 3. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES-PSYCHIATRIC RESIDENTIAL FACILITIES. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$647,149, or so much of the sum as may be necessary, and from other funds derived from federal and special funds, the sum of \$660,025, or so much of the sum as may be necessary, to the department of health and human services for the purpose of psychiatric residential treatment facility reimbursement, for the biennium beginning July 1, 2025, and ending June 30, 2027.

Approved April 30, 2025

Filed May 1, 2025

CHAPTER 455

SENATE BILL NO. 2081

(Human Services Committee)

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

AN ACT to amend and reenact section 50-24.4-29 of the North Dakota Century Code, relating to geropsychiatric facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.4-29 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-29. Geropsychiatric facilities.

The department may select ~~one or more~~ skilled nursing ~~homes~~ facilities within the state to operate a unit that ~~exclusively~~ provides geropsychiatric services. Admission to one of the skilled nursing ~~homes~~ facilities that ~~exclusively~~ provides geropsychiatric services ~~for the purpose of receiving geropsychiatric services~~ may be granted only after the state hospital has performed an evaluation of the individual being admitted ~~which indicates the individual is in need of nursing home geropsychiatric services~~ an individual practicing within the scope of their practice determines the individual meets the criteria for skilled nursing, and needs psychiatric behavioral health services. Admissions from the state hospital will be given first priority for admission to the units. If at any time the department determines that the number of approved ~~geropsychiatric~~ units that provide geropsychiatric services in the state is insufficient to meet the needs, the department may select ~~a geropsychiatric unit~~ additional units based on the experience, qualification, and capacity of the skilled nursing ~~homes~~ facilities that propose to provide geropsychiatric services. ~~The state hospital may not offer geropsychiatric services through a unit set up exclusively to provide those services.~~

Approved March 27, 2025

Filed March 31, 2025

CHAPTER 456

SENATE BILL NO. 2271

(Senators Cleary, Dever, Lee)
(Representatives Beltz, Ista, McLeod)

AN ACT to create and enact a new section to chapter 50-24.5 of the North Dakota Century Code, relating to adult residential facility payment rates; to amend and reenact section 50-24.5-01 of the North Dakota Century Code, relating to the definition of adult residential facility; to provide for a legislative management report; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Adult residential facility" means a licensed basic care facility that meets the program and provider requirements of the Medicaid 1915(c) home and community-based services aged and disabled waiver, specializing in the care of individuals eligible for services under a medical assistance home and community-based waiver or similar program with chronic moderate to severe memory loss or significant emotional, behavioral, or cognitive impairment, which provides therapeutic, social, and recreational programming and assistance with activities of daily living and instrumental activities of daily living.
2. "Aged" means at least sixty-five years of age.
- 2-3. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 3-4. "Congregate housing" means housing shared by two or more individuals not related to each other which is not provided in an institution.
- 4-5. "Department" means the department of health and human services.
- 5-6. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.].
- 6-7. "Eligible beneficiary" means a resident of this state who:
 - a. (1) Is aged; or

- (2) Is at least eighteen years of age and is disabled or blind;
- b.
 - (1) Has applied for and is eligible to receive and receives benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], and who has applied for and is receiving benefits, if the individual is eligible to receive benefits, under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.]; or
 - (2) Has applied for and is eligible to receive and receives benefits under section 50-24.1-37 for long-term services and supports pursuant to an asset test established under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] and section 50-24.1-02;
- c. Meets the requirements of section 23-09.3-08.1;
- d. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:
 - (1) Has health, welfare, or safety needs, including a need for supervision or a structured environment; or
 - (2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and
- e. Is determined to be eligible pursuant to rules adopted by the department.

~~7-8.~~ "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~8-9.~~ "Institution" means a facility licensed under chapter 23-09.3.

~~9-10.~~ "Living independently" includes living in congregate housing. The term does not include living in an institution.

~~40-11.~~ "Personal needs allowance" means an amount retained by the eligible beneficiary to cover the costs of clothing and other personal needs.

~~44-12.~~ "Proprietor" means an individual responsible for day-to-day administration and management of a facility.

~~42-13.~~ "Remedial care" means services that produce the maximum reduction of an eligible beneficiary's physical or mental disability and the restoration of an eligible beneficiary to the beneficiary's best possible functional level.

~~43-14.~~ "Would be eligible to receive the cash benefits except for income" refers to an individual whose countable income, less the cost of necessary remedial care that may be provided under this chapter, does not exceed an amount equal to the cash benefit under titles II and XVI of the Social Security Act [42 U.S.C. 401-434 and 42 U.S.C. 1381 et seq.] which the individual would receive if the individual had no income, plus the amount allowed as the personal needs allowance.

SECTION 2. A new section to chapter 50-24.5 of the North Dakota Century Code is created and enacted as follows:

Adult residential facility payment rates - Report.

1. The department shall require an adult residential facility to submit cost reports and supplemental information by October 31, 2025, which the department shall use to pay the facility its current costs beginning January 1, 2026.
2. The department shall require adult residential facilities to submit cost reports and supplemental information by December 31, 2026, which the department shall use to provide a rate recalculation beginning July 1, 2027.

SECTION 3. DEPARTMENT OF HEALTH AND HUMAN SERVICES - BASIC CARE STUDY - ASSET LIMIT - LEGISLATIVE MANAGEMENT REPORT. The department of health and human services shall submit a report to the legislative management by January 31, 2026, and August 31, 2026, regarding progress on the basic care study recommendations addressing the adult residential facility and basic care payment systems, and review the asset limit for home and community-based services aged and disabled waiver.

SECTION 4. DEPARTMENT OF HEALTH AND HUMAN SERVICES - PAYMENT MODEL CONTINUUM RECOMMENDATIONS - LEGISLATIVE MANAGEMENT REPORT.

1. During the biennium beginning July 1, 2025, and ending June 30, 2027, the department of health and human services shall make recommendations for the development of a basic care, assisted living, and adult residential facilities payment model continuum. The recommendations must include:
 - a. Appropriate methods for reimbursing property costs;
 - b. Options to calculate operating margin;
 - c. The methodology for applying annual inflationary adjustments, including whether an independent inflation index should be utilized;
 - d. Rate determination for specialized basic care services provided to individuals with a dementia-related diagnosis or head injury; and
 - e. A new licensing structure that includes assisted living, basic care, and adult residential facilities.
2. The department of health and human services shall collaborate with providers and key stakeholders to develop the recommendations.
3. The department of health and human services shall report the recommendations to the the legislative management by August 30, 2026.

SECTION 5. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - ADULT RESIDENTIAL FACILITY RATE ADMINISTRATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,709,302, or so much of the sum as may be necessary, and from other funds derived from federal and special funds, the sum of \$1,709,302, or so much of the sum as may be necessary, to the department of health and human services for the purpose of administering adult residential facility rates, for the biennium beginning July 1, 2025, and ending June 30, 2027.

Approved April 30, 2025

Filed May 1, 2025

CHAPTER 457

SENATE BILL NO. 2076

(Human Services Committee)

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

AN ACT to amend and reenact section 50-24.6-04 of the North Dakota Century Code, relating to prior authorization and certification of medically necessary medication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-04. Prior authorization program - Certification program.

1. The department shall develop and implement a prior authorization program that meets the requirements of 42 U.S.C. 1396r-8(d) to determine coverage of drug products when a medical assistance recipient's health care provider prescribes a drug that is identified as requiring prior authorization. Authorization must be granted for provision of the drug if:
 - a. The drug not requiring prior authorization has not been effective, or with reasonable certainty is not expected to be effective, in treating the recipient's condition;
 - b. The drug not requiring prior authorization causes or is reasonably expected to cause adverse or harmful reactions to the health of the recipient; or
 - c. The drug is prescribed for a medically accepted use supported by a compendium or by approved product labeling unless there is a therapeutically equivalent drug that is available without prior authorization. The department shall work with the medical assistance recipient's health care provider to assure treatment can be found for diagnoses with no compendia supported medications.
2. For any drug placed on the prior authorization program, the department shall provide medical and clinical criteria, cost information, and utilization data to the drug use review board for review and consideration. The board may consider department data and information from other sources to make a decision about placement of the drug on prior authorization.
3. ~~a. For individuals eighteen years of age and older, except~~ Except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize substantially all drugs in the following medication classes:

- (1) Antipsychotics;
 - (2) Antidepressants;
 - (3) Anticonvulsants;
 - (4) Antiretrovirals, for the treatment of human immunodeficiency virus;
 - (5) Antineoplastic agents; and
 - (6) Immunosuppressants, for prophylaxis of organ transplant rejection.
- b. ~~For individuals under eighteen years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, or medications that are considered line extension drugs, the department may not prior authorize substantially all drugs in the following medication classes:~~
- ~~(1) Antipsychotics;~~
 - ~~(2) Antidepressants;~~
 - ~~(3) Anticonvulsants;~~
 - ~~(4) Antiretrovirals, for the treatment of human immunodeficiency virus;~~
 - ~~(5) Antineoplastic agents; and~~
 - ~~(6) Immunosuppressants, for prophylaxis of organ transplant rejection.~~
- e. ~~The restrictions of subdivision b do not apply for individuals under eighteen years of age, who have five or more concurrent prescriptions for psychotropic medications.~~
- d. ~~Prior authorization for individuals under eighteen years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board-certified child and adolescent psychiatrist approved by the department.~~
- e. The restrictions of this subsection do not apply if prior authorization is required by the centers for Medicare and Medicaid services.
- f.c. The restrictions of this subsection do not apply to a medication class in subdivision a if a manufacturer of a drug in that class excludes the department from supplemental rebate offers or value-based purchasing agreement offers due to the existence of the prior authorization exclusion in subdivision a.

- d. As used in this subsection, "line extension drug" means a new formulation of a drug. The term does not include an abuse-deterrent formulation of a drug.
- ~~g-e.~~ As used in this subsection, "substantially all" means ~~that all drugs and unique dosage forms in the medication classes outlined in paragraphs 1 through 6 of subdivisions~~ subdivision a and b are expected to be covered without prior authorization, ~~with the following exceptions~~ except:
- (1) Multisource brands of the identical molecular structure;
 - (2) Extended release products when the immediate-release product is included;
 - (3) Products that have the same active ingredient or moiety; and
 - (4) Dosage forms that do not provide a unique route of administration.
4. The department may use contractors to collect and analyze the documentation required under this section and to facilitate the prior authorization program.
5. The department shall consult with the board in the course of adopting rules to implement the prior authorization program. The rules must:
- a. Establish policies and procedures necessary to implement the prior authorization program.
 - b. Develop a process that allows prescribers to furnish documentation required to obtain approval for a drug without interfering with patient care activities.
 - c. Allow the board to establish panels of physicians and pharmacists which provide expert guidance and recommendations to the board in considering specific drugs or therapeutic classes of drugs to be included in the prior authorization program.
6. The department may negotiate additional rebates from drug manufacturers to supplement the rebates required by federal law governing the medical assistance program. Additionally, the department may join a multistate supplemental drug rebate pool, and if the department negotiates additional rebates outside this pool, any other manufacturer must be allowed to match those rebates.
7. The department shall develop a certification program to verify the medical necessity of each medication in a regimen containing five or more concurrent prescriptions for antipsychotic, antidepressant, anticonvulsant, benzodiazepine, mood stabilizer, sedative hypnotic, or attention deficit hyperactivity disorder medications.
- a. The certification program shall require each prescriber of a medication in an impacted regimen to certify annually the medication prescribed is medically necessary for the patient.

- b. If a prescriber does not certify a medication as a medically necessary part of the patient's regimen, the department may deny payment of the medication until the medication is certified by the prescriber.
- c. The certification program shall apply to individuals under the age of twenty-two and may apply to other individuals at the discretion of the department.

Approved April 16, 2025

Filed April 16, 2025

CHAPTER 458

SENATE BILL NO. 2173

(Senators Lee, Cleary, Larson)
(Representatives Beltz, Ista, Jonas)

AN ACT to amend and reenact subsection 10 of section 50-25.1-02 and section 50-25.1-11.1 of the North Dakota Century Code, relating to the definition of a children's advocacy center and the confidentiality of communications and records in the possession of a children's advocacy center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 10 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

10. "Children's advocacy center" means a ~~full~~full ~~an~~accredited or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.

SECTION 2. AMENDMENT. Section 50-25.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11.1. Children's advocacy centers - Confidentiality of records - Criminal history record checks.

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, advocacy, or therapy are confidential and only may be released ~~only~~ to a person other than a law enforcement agency, the department or the department's authorized agent, a prosecutor, a court, another children's advocacy center, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.
2. The staff of a children's advocacy center may communicate with a law enforcement agency, the department or the department's authorized agent, a prosecutor, a court, another children's advocacy center, or a medical or mental health professional in that individual's official capacity, for the purpose of discussing a forensic medical examination, forensic interview, advocacy, or therapy.
3. The department may submit a request for a criminal history record check under section 12-60-24 on a board member, an employee, a final applicant for employment of a children's advocacy center, a contractor, or a volunteer of a children's advocacy center who has contact with a child at or through a children's advocacy center.

- ~~3-4.~~ As used in this section, "board member" means an individual serving on the board of a children's advocacy center.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 459

HOUSE BILL NO. 1338

(Representatives M. Ruby, Beltz, Bolinske, J. Olson, D. Johnston, Klemin)
(Senators Bekkedahl, Dever, Lee, Roers, Wobbema)

AN ACT to create and enact a new subsection to section 50-25.1-05 of the North Dakota Century Code, relating to a determination by the department of health and human services of an individual's military status in child abuse and neglect assessments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 50-25.1-05 of the North Dakota Century Code is created and enacted as follows:

The department or authorized agent shall determine the military status of any individual subject to an assessment, at the initiation of a child abuse or neglect assessment. If the department determines an allegation of abuse or neglect involves a military-affiliated individual, the department shall notify the nearest military installation's family advocacy program of the allegation and investigation. The military installation is responsible for reporting the data to the federal department of defense. The department may develop a memorandum of understanding for use by the human service zone. For purposes of this subsection:

- a. "Military-affiliated individual" means an individual with an active military status and the individual's dependents.
- b. "Military status" includes any branch of the United States military, and the national guard or reserve.

Approved March 19, 2025

Filed March 20, 2025

CHAPTER 460

HOUSE BILL NO. 1205

(Representatives Holle, Bolinske, Meier, Pyle, M. Ruby, Schauer, S. Olson)
(Senators Boschee, Castaneda, Mathern, Weston, Larson)

AN ACT to amend and reenact section 50-25.1-15 of the North Dakota Century Code, relating to abandonment of infants in newborn safety devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-15. Abandoned infant - Approved location procedure - Reporting immunity.

1. As used in this section:

- a. "Abandoned infant" means an infant who has been abandoned at birth at a hospital or before reaching the age of one year regardless of the location of birth and who has been left with an on-duty staff member or, if an infant is less than sixty days old, left in a newborn safety device, at an approved location in an unharmed condition.
- b. "Approved location" means a hospital or other location as designated by administrative rule adopted by the department.
- c. "Hospital" means a facility licensed under chapter 23-16.
- d. "Newborn safety device" means a device that is:
 - (1) Physically part of the building at an approved location;
 - (2) Staffed twenty-four hours a day seven days a week;
 - (3) Temperature-controlled and ventilated for the safety of newborns;
 - (4) Equipped with a functional alarm system which automatically triggers an alarm inside the building when an infant is placed in the device; and
 - (5) Located in a manner that the interior point of access is in an area that is conspicuous and visible to the employees of the approved location.

- 2.
 - a. A parent of an infant less than sixty days old, or an agent of the parent with the parent's consent, may leave the infant in a newborn safety device at an approved location.
 - b. A parent of an infant under the age of one year, or an agent of the parent with the parent's consent, may leave the infant with an on-duty staff member at an approved location. ~~Neither the parent nor the~~

- c. A parent or agent is not subject to prosecution under sections 14-07-15 and 14-09-22 for leaving an abandoned infant under this section.
3. An infant left under this section must be accepted at an approved location shall accept an infant left under this section. TheAn approved location is not required to possess a newborn safety device.
4. Except as provided in subsection 6, the approved location may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope with the approved location's return address. If a hospital accepting thean infant has the infant's medical history, the hospital is not required to provide the parent or the agent with a medical history form. Neither theA parent nor theor agent is not required to provide any information.
- 4-5. Except as provided in subsection 6, if an infant is left at a hospital, the hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the infant, unless due to birth of the infant, the infant and parent currentlyalready have an identification bracelet. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the infant on demand. If an individual possesses a bracelet linking the individual to an infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20.3. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.
- 5-6. If an abandoned infant is left in a newborn safety device at an approved location, the approved location may not inquire as to the identity of the parent or agent. Except as provided in subsection 10, if the identity of the parent or agent of the abandoned infant is known to the approved location, the approved location shall keep all information as to the identity of the parent or agent of the abandoned infant confidential. The parent or agent of the abandoned infant is not required to provide any information to the approved location but may voluntarily provide information, including the medical history of the parents or infant.
7. The approved location may provide the parent or the agent with any relevant information, including information about:
- a. Information about theThe safe place for abandoned infant programs;
 - b. Information about adoptionAdoption and counseling services; and
 - c. Information about whomWhom to contact if reunification is sought.
- 6-8. Within twenty-four hours of receiving an infant under this section, the approved location shall report to the department or authorized agent, as required by section 50-25.1-03, that an infant has been left at thean approved location. The report may not be made before the parent or the agent leaves the approved location.
- 7-9. The approved location and its employees and agents are immune from any criminal or civil liability for accepting an infant under this section.

- ~~8-10.~~ Upon receiving a report of an abandoned infant under this section, the department or authorized agent shall proceed as required under this chapter if it appears ~~that~~ the abandoned infant was not harmed, except the department or authorized agent may not attempt to identify or contact the parent or ~~the~~ agent. If it appears the infant who was left was harmed, the approved location shall disclose to the department or authorized agent any known information as to the identity of the parent or agent, and the department or authorized agent shall initiate a child protection assessment of the matter as required by law.
- ~~9-11.~~ If an individual claiming to be the parent or ~~the~~ agent contacts the department or authorized agent and requests to be reunited with ~~the infant who was left an~~ abandoned infant, the department or authorized agent may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department or authorized agent seeking information only, the department or authorized agent may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in a case involving an infant who was left at an approved location. The individual is under no obligation to respond to the request for information, and the department or authorized agent may not attempt to compel response to investigate the identity or background of the individual.
- ~~40-12.~~ The department shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

Approved April 10, 2025

Filed April 11, 2025

CHAPTER 461

SENATE BILL NO. 2232

(Senators Meyer, Lee, Roers)
(Representatives Dobervich, O'Brien, Stemen)

AN ACT to create and enact a new section to chapter 50-25.1 of the North Dakota Century Code, relating to an exemption for postpartum exposure to controlled substances and alcohol; to amend and reenact sections 50-25.1-16 and 50-25.1-17 of the North Dakota Century Code, relating to reporting requirements for prenatal exposure to controlled substances and alcohol abuse and toxicology test requirements; and to repeal section 50-25.1-18 of the North Dakota Century Code, relating to reporting requirements for prenatal exposure to alcohol misuse.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-25.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-16. Prenatal exposure to controlled substances or alcohol misuse - Reporting requirements.

1. ~~An~~Except as provided under subsection 2, an individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has ~~used~~aengaged in the abuse of a controlled substance for a nonmedical purpose or alcohol misuse during the pregnancy shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.
2. An individual required to report under section 50-25.1-03 is exempt from reporting under subsection 1 if the individual is providing or collaborating with other professionals to provide the woman with prenatal or substance abuse services, including voluntary entrance into a licensed treatment program. If the woman discontinues regular prenatal care, fails to follow treatment recommendations, or continues to engage in the abuse of a controlled substance or alcohol misuse, the individual shall report in accordance with subsection 1.
3. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and ~~has used~~aengaged in the abuse of a controlled substance for a nonmedical purpose or alcohol misuse during the pregnancy.
34. If a report alleges a pregnant woman's ~~use~~abuse of a controlled substance ~~for a nonmedical purpose or alcohol misuse~~, the department or authorized agent immediately shall initiate an appropriate assessment that must include a referral for assessment of the presence of a substance use disorder with expectation to follow any treatment recommendations, and a referral for prenatal care. The department or authorized agent may also take any appropriate action under chapter 25-03.1.

4. ~~A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment, continues to use controlled substances for a nonmedical purpose, or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment, continued use of controlled substance for nonmedical purpose, or failure to follow treatment recommendations shall make a report as required by this section.~~
5. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

SECTION 2. AMENDMENT. Section 50-25.1-17 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-17. Toxicology testing - Requirements.

1. If the woman has obstetrical complications that are a medical indication of possible use of a controlled substance for a nonmedical purpose or alcohol misuse, upon the consent of the pregnant woman, or without consent if a specimen is otherwise available, a physician ~~shall~~may administer a toxicology test to a pregnant woman under the physician's care or to a woman under the physician's care within eight hours after delivery to determine whether there is evidence that she has ingested a controlled substance or alcohol. If the test results are positive, the physician ~~shall~~may report the results under section 50-25.1-03.1. A negative test result or the pregnant woman's refusal to consent to a test does not eliminate the obligation to report under section 50-25.1-03 if other evidence gives the physician reason to believe the patient has used a controlled substance for a nonmedical purpose or has engaged in alcohol misuse.
2. If a physician has reason to believe based on a medical assessment of the mother or the infant that the mother used a controlled substance for a nonmedical purpose or engaged in alcohol misuse during the pregnancy, the physician ~~shall~~may administer, without the consent of the child's parents or guardian, to the newborn infant born under the physician's care a toxicology test to determine whether there is evidence of prenatal exposure to a controlled substance or alcohol. If the test results are positive, the physician ~~shall~~may report the results as neglect under section 50-25.1-03. A negative test result does not eliminate the obligation to report under section 50-25.1-03 if other medical evidence of prenatal exposure to a controlled substance or alcohol misuse is present.
3. A physician or any other medical personnel administering a toxicology test to determine the presence of a controlled substance or alcohol in a pregnant woman, in a woman within eight hours after delivery, or in a child at birth or during the first month of life is immune from civil or criminal liability arising from administration of the test if the physician ordering the test believes in good faith that the test is required under this section and the test is administered in accordance with ~~an established protocol and~~ reasonable medical practice. A physician or any other medical personnel who determines in good faith not to administer a toxicology test under this section is immune from liability for not administering the test.

SECTION 3. A new section to chapter 50-25.1 of the North Dakota Century Code is created and enacted as follows:

Postpartum exposure to controlled substances or alcohol misuse - Reporting requirements.

An individual required to report under section 50-25-03 with knowledge or reasonable cause to suspect a postpartum woman has engaged in the abuse of a controlled substance or alcohol misuse is exempt from reporting when the individual is providing or collaborating with other professionals to provide the woman or her infant with postpartum or substance abuse services, including voluntary entrance into a licensed treatment program. If the woman discontinues regular postnatal care, fails to cooperate in the provision of services for the infant, fails to follow treatment recommendations, or continues to engage in the abuse of a controlled substance or alcohol misuse, the individual shall report in accordance with section 50-25-03.

SECTION 4. REPEAL. Section 50-25.1-18 of the North Dakota Century Code is repealed.

Approved April 21, 2025

Filed April 22, 2025

CHAPTER 462

HOUSE BILL NO. 1070

(Human Services Committee)

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

AN ACT to amend and reenact section 50-29-04 of the North Dakota Century Code, relating to the children's health insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-29-04 of the North Dakota Century Code is amended and reenacted as follows:

50-29-04. Plan requirements.

The plan:

1. Must be consistent with coverage provided to children eligible for medical assistance in the state; and
2. Must provide:
 - a. A modified adjusted gross income eligibility limit of ~~two hundred~~ two hundred five percent of the poverty line; and
 - b. Current eligibility may be established from the first day of the month in which the application was received. Retroactive eligibility may be established for the three calendar months that immediately preceded the month in which the application was received even if there is no eligibility in the month of application. Eligibility can be established if all factors of eligibility are met during each month.

Approved March 14, 2025

Filed March 14, 2025