



STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

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Drew H. Wrigley
ATTORNEY GENERAL

MEMORANDUM

TO: Representative Austen Schauer, District 13

FROM: Allyson M. Hicks, Assistant Attorney General
General Counsel, Public Health Division of ND DHHS

DATE: February 18, 2025

RE: Modifications to Authority of the State Health Officer post-COVID

Analysis

I. N.D.C.C. 23-01-05

The main statute which houses the authority of the State Health Officer is North Dakota Century Code (N.D.C.C.) § 23-01-05. Prior to the effective date of the laws 67th Regular Legislative Assembly of North Dakota, which was the first COVID-related legislative session, the text of the statute read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties--Advisory committee

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

1. Enforce all rules and regulations as promulgated by the health council.

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

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

Version as of April 2021. Emphasis added. Exhibit A.

During the 67th Legislative Assembly, the following bills were passed¹, which modified the authority of the State Health Officer, either in N.D.C.C. § 23-01-05:

2021 House Bill 1118 (Exhibit B)
2021 House Bill 1410 (Exhibit C)
2021 Senate Bill 2181 (Exhibit D)

After the effective dates of the various bills passed by the 67th Legislative Assembly, the text of N.D.C.C. § 23-01-05 read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties

The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided

¹ Additional bills were also passed which modified the qualifications of the State Health Officer, however, that was not the requested topic of this memorandum, so those were excluded.

by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.
8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.
10. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.
11. **Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.**
 - a. **The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.**
 - b. **A written order issued under this section has the same effect as a physician's standing medical order.**
 - c. **The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the**

court may issue an ex parte preliminary injunction, pending a full hearing.

d. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:

(1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;

(2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or

(3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.

e. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.

- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Version as of August 1, 2021. Emphasis added. Exhibit E.

The 68th Legislative Assembly passed 2023 HB 1165 (Exhibit F), which modified the authority of the State Health Officer located in N.D.C.C. § 23-01-05. After July 1, 2023, the text of N.D.C.C. § 23-01-05 read as follows:

N.D.C.C. § 23-01-05. Health officer--Qualifications, salary, term, duties

1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
5. The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. **Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.**
 - (1) **The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.**

- (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.
 - (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - (5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- e. Perform all duties required or provided by law.

Version as of July 1, 2023. Emphasis added. Exhibit G.

I have attached a side-by-side comparison of the April 2021 version prior to any changes by the 67th Legislative Assembly and the current version is included as Exhibit H.

II. N.D.C.C. § 23-12-20

Additional limitations which were also passed by the 67th Legislative Assembly, but not included in N.D.C.C. § 23-01-05, include the following:

2021 House Bill 1465 (Exhibit I) created N.D.C.C. § 23-12-20, which read as follows:

N.D.C.C. § 23-12-20 Vaccine and infection information

- 1. Except as provided under sections 15.1–23–02, 23–01–05.3, and 23–07–17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:

- (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status;
 - b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
- 2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.
- 3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37–17.1.
- 6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

Exhibit J.

The 67th Legislative Assembly then held a Special Session from November 8 through November 12, 2021, during which it passed House Bill 1511 (Exhibit K), which modified N.D.C.C. § 23-12-20, created by House Bill 1465 during the 67th Regular Session. House Bill 1511's language, however, had a sunset clause which repealed N.D.C.C. § 23-12-20 on August 1, 2023. After the 2021 Special Session, the text of N.D.C.C. § 23-12-20 read as follows:

N.D.C.C. § 23-12-20. COVID-19 vaccination and infection information

- 1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

- (3) An individual's COVID-19 post-transmission recovery status;
- b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
- c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Exhibit L.

The 68th Legislative Assembly of North Dakota passed Senate Bill 2274 (Exhibit M), which preserved N.D.C.C. § 23-12-20 in its current format:

N.D.C.C. § 23-12-20. COVID-19 vaccination and infection information

- 1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:

- a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
- b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
- c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
- 2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
- 3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- 4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- 5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- 6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- 7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Exhibit N.

III. N.D.C.C. § 23-07-12.1

Additional limitations which were also passed by the 67th Legislative Assembly, but not included in N.D.C.C. § 23-01-05, include the following:

2021 House Bill 1323 (Exhibit O) created N.D.C.C. § 23-07-12.1, which read as follows:

N.D.C.C. § 23-07-12.1. Limitations on requirements to wear a mask

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

Exhibit P.

IV. State Health Officer Orders during the COVID-19 Pandemic

Additionally, questions were asked regarding the State Health Officer orders issued during the COVID-19 pandemic, which I could not appropriately answer during the committee work. After consultation with the Disease Control and Forensic Pathology Unit of ND DHHS, please see attached of the State Health Officer orders in response to COVID. Exhibit Q.

Please note that this is an interactive website is available at [State Health Officer Orders](https://www.hhs.nd.gov/public-health-information/diseases-conditions-and-immunization/state-health-officer-orders) (<https://www.hhs.nd.gov/public-health-information/diseases-conditions-and-immunization/state-health-officer-orders>).

Please let me know if you have any questions or would like to discuss further. I have attached all documents referenced herein, which are labeled accordingly.

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-01. State Department of Health

This section has been updated. Click [here](#) for the updated version.

NDCC, 23-01-05

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

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

1. Enforce all rules and regulations as promulgated by the health council.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.

8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.

9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.

10. Comply with the state merit system policies of personnel administration.

11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.

14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.

15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.

16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.

18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.

19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:

- (1) A statement of whether there are known environmental causes;
- (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated;
and
- (3) If there are no known environmental causes identified, a statement that no known causes exist.

b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1118
(Representatives Devlin, Becker, Bellew, Delzer, Pollert, M. Ruby, Vigesaa, Weisz)
(Senator Heckaman)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. ~~The~~
 - a. Except as provided in subdivision b, the state of disaster or emergency shall ~~continue~~ continues until the governor determines that the threat of an emergency has passed or the governor determines the disaster has been dealt with to the extent that emergency conditions no longer exist, whichever occurs first.
 - b. If a state of disaster or emergency relating to public health is declared and in effect and the legislative assembly is not in session, the legislative management may meet to vote on whether the legislative management should request the governor call a special session of the legislative assembly. If the governor does not call a special session within seven days after the legislative management sends a request to the governor, the

declared state of disaster or emergency relating to public health terminates thirty days after the request from the legislative management was sent to the governor. If the governor calls a special session within seven days after the request from the legislative management was sent, the special session must be held within fifteen days of the governor's call for a special session. If the legislative assembly meets to address a declared state of disaster or emergency, the legislative assembly by concurrent resolution may terminate, extend, or modify the state of disaster or emergency.

- c. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time.
- d. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions ~~which~~that have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be ~~promptly~~ filed promptly with the department of emergency services, the legislative council, the secretary of state, and the county or city auditor of the jurisdictions affected.

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

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

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1118 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 85 Nays 3 Absent 6

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,
at _____ o'clock _____ M.

Secretary of State

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1410

(Representatives Vetter, Damschen, Karls, Klemin, B. Koppelman, K. Koppelman, Pollert, Satrom)
(Senators Kannianen, Meyer, Vedaa)

AN ACT to create and enact a new section to chapter 25-01 of the North Dakota Century Code, relating to prohibiting department of human services from substantially burdening the exercise of religion by a patient or resident under the department's care; to amend and reenact sections 12-44.1-14 and 12-47-26, subsection 12 of section 23-01-05, and section 37-17.1-05 of the North Dakota Century Code, relating to prohibiting a correctional facility or facility under the control of the department of corrections and rehabilitation from substantially burdening the exercise of religion by an offender in the facility's custody, the state health officer's authority, and the governor's authority during a declared disaster or emergency; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 12-44.1-14 of the North Dakota Century Code is amended and reenacted as follows:

12-44.1-14. Inmate rights.

1. Subject to reasonable safety, security, discipline, and correctional facility administration requirements, the administrator of each correctional facility shall:
 4. a. Ensure inmates have confidential access to attorneys and their authorized representatives.
 2. b. Ensure that inmates are not subjected to discrimination based on race, national origin, color, creed, sex, economic status, or political belief.
 3. c. Ensure equal access by male and female inmates to programs and services available through the correctional facility.
 4. d. Ensure access to mail, telephone use, and visitors.
 5. e. Ensure that inmates are properly fed, clothed, and housed.
 6. f. Ensure that inmates have adequate medical care. Adequate medical care means necessary treatment for a medical or health condition for which serious pain or hardship would occur if care is not given. A correctional facility may not deny adequate medical care to an inmate who does not have health insurance or does not have the ability to pay the costs of the medical or health care.
 7. g. Ensure that inmates may reasonably exercise their religious beliefs.
2. Correctional facility staff or an administrator of a correctional facility may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the correctional facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the correctional facility demonstrates the disparate treatment is necessary to further a

compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or

- c. Deny clergy access to an offender in the custody of the correctional facility for the purpose of providing religious services unless the correctional facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
3. An offender in the custody of a correctional facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 2. AMENDMENT. Section 12-47-26 of the North Dakota Century Code is amended and reenacted as follows:

12-47-26. Uniform kindly treatment of inmates.

1. The warden and all officers of the penitentiary uniformly shall treat the inmates thereof the penitentiary with kindness, and the warden shall require of the officers and guards that, in the execution of theirthe officers' and guards' respective duties, theythe officers and guards in all cases shall refrain from boisterous and unbecoming language in giving their orders and commands. No corporalCorporal or other painful or unusual punishment shallmay not be inflicted upon the inmates of the penitentiary for violation of the rules and regulations thereof the penitentiary.
2. A facility under the control of the department of corrections and rehabilitation may not:
 - a. Substantially burden the exercise of religion by an offender in the custody of the facility unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the facility demonstrates the disparate treatment is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest; or
 - c. Deny clergy access to an offender in the custody of the facility for the purpose of providing religious services unless the facility demonstrates the denial is necessary to further a compelling penological interest and is the least restrictive means of furthering that compelling penological interest.
3. An offender in the custody of a facility claiming to be aggrieved by a violation of subsection 2 may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and, if the offender is the prevailing party, may obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 3. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- a. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
- b. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 4. A new section to chapter 25-01 of the North Dakota Century Code is created and enacted as follows:

Religious exercise of patient or resident under the care of the department of human services.

1. The department of human services may not:
 - a. Substantially burden the exercise of religion by patient or resident under the department's care unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any comparable secular conduct unless the department demonstrates the disparate treatment is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; or
 - c. Deny clergy access to a patient or resident for the purpose of providing religious services unless the department demonstrates the denial is necessary to further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.
2. A patient or resident of the department of human services claiming to be aggrieved by a violation of this section, may assert, after exhausting appropriate administrative remedies, that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

SECTION 5. AMENDMENT. Section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of disaster or emergency shall continue until the governor determines that the threat of an

emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
 - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
8. ~~Authorize~~The governor may authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:
- a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1410.

House Vote: Yeas 83 Nays 10 Absent 1

Senate Vote: Yeas 46 Nays 1 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

SENATE BILL NO. 2181
(Senators Clemens, Heitkamp, Larson)
(Representatives Paur, Satrom, Schauer)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

1. The governor is responsible to minimize or avert the adverse effects of a disaster or emergency.
2. Under this chapter, the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.
3. A disaster or emergency must be declared by executive order or proclamation of the governor if the governor determines a disaster has occurred or a state of emergency exists. The state of

disaster or emergency shall continue until the governor determines that the threat of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation must be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it must be promptly filed with the department of emergency services, the secretary of state, and the county or city auditor of the jurisdictions affected.

4. An executive order or proclamation of a state of disaster or emergency shall activate the state and local operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander in chief of the emergency management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or emergency operational plans, but nothing herein restricts the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, the governor may:
 - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
 - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
 - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
 - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
 - g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
 - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
 - i. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
 - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.
8. Authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section 37-07-05.
9. Notwithstanding any other provision of law, an order, proclamation, rule, or regulation issued pursuant to this section may not:
- a. Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - b. Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - c. Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
10. A person claiming to be aggrieved by a violation of subsection 9 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2181.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 88 Nays 4 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-01. State Department of Health

This section has been updated. Click [here](#) for the updated version.

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties

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

1. Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.
6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
7. Collect and distribute health education material.

8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.

9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.

10. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.

11. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.

a. The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.

b. A written order issued under this section has the same effect as a physician's standing medical order.

c. The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

d. Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:

(1) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;

(2) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or

(3) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.

e. A person claiming to be aggrieved by a violation of subdivision a may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.
18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1165
(Representative M. Ruby)

AN ACT to create and enact three new sections to chapter 23-01 of the North Dakota Century Code, relating to powers and duties of the department of health and human services public health division, central public health laboratory, and surge staffing; to amend and reenact subdivision p of subsection 1 of section 11-16-01, section 14-13-03, subsection 2 of section 15-52-03, section 16.1-02-06, subsection 2 of section 19-24.1-38, sections 23-01-03.1, 23-01-03.3, 23-01-04.3, 23-01-05, and 23-01-05.1, subsection 3 of section 23-01-05.3, sections 23-01-05.4, 23-01-08, 23-01-08.1, and 23-01-12, subsection 3 of section 23-01-44, sections 23-01.2-01, 23-01.2-03, and 23-01.2-04, subsection 8 of section 23-01.3-01, subsection 1 of section 23-01.3-06, section 23-01.3-08, subsections 8, 17, and 21 of section 23-02.1-01, sections 23-02.1-02 and 23-02.1-03, subsection 4 of section 23-07-02.3, sections 23-07-15, 23-07.2-01, and 23-09.4-08, subsection 4 of section 23-10-03, section 23-10-06, subsection 2 of section 23-10-06.1, sections 23-10-12, 23-16-05, 23-16-06, 23-16-10, 23-16-11, 23-17-08, 23-17.6-01, 23-17.6-02, 23-17.6-04, 23-17.6-06, 23-17.7-03, 23-23-03, 23-24-01, 23-24-02, 23-24-02.1, 23-24-06, 23-27-03, and 23-27-04.7, subsection 3 of section 23-27-04.9, sections 23-35.1-02, 23-35.1-03, and 23-36-08, subsection 1 of section 23-38.1-02, section 23-43-01, subsection 3 of section 23-43-05, section 23-46-02, subsection 1 of section 23-47-03, subsection 7 of section 25-01-01, subsection 1 of section 25-01-01.1, subsection 3 of section 25-02-01.1, sections 25-03.1-34.1, 25-03.3-01, 25-03.3-12, 25-03.3-13, 25-03.3-14, 25-03.3-17, 25-03.3-18, 25-03.3-18.1, 25-03.3-24, 25-04-08.1, and 25-11-02, subsection 2 of section 37-17.4-01, sections 43-10-02, 43-12.3-01, 43-12.3-02, 43-12.3-03, 43-12.3-04, 43-12.3-05, 43-12.3-06, and 43-12.3-07, subsection 14 of section 43-15-10, sections 43-28.1-01, 43-28.1-03, 43-28.1-05, 43-28.1-07, 43-28.1-08, 43-28.1-09, 43-29.1-01, and 43-29.1-02, subsection 1 of section 43-29.1-03, sections 43-29.1-04, 43-29.1-05, and 43-29.1-06, subsection 5 of section 43-29.1-07, section 43-29.1-08, 43-34-02, 43-38-01, 43-38-02, and 43-38-03, subsection 1 of section 43-43-01, sections 43-43-03 and 43-43-05, subsection 10 of section 50-01.1-06, sections 50-06-01.1, 50-06-01.3, and 50-06-01.4, subsection 3 of section 50-06-05.3, sections 50-06-05.5, 50-06-05.8, 50-06-06.6, 50-06-30, 50-06-31, and 50-06-32, subsection 1 of section 50-06-43.2, subsection 4 of section 50-06.1-01, subsection 7 of section 50-10.1-03, subsection 1 of section 50-11.1-25, sections 50-21-02, 50-21-04, and 50-24.6-02, subsection 3 of section 50-25.1-04.1, subsection 1 of section 50-28-04, subsection 1 of section 50-28-05, subsection 2 of section 50-35-01, section 54-44.3-31, subsection 1 of section 54-07-01.2, section 54-46-13, subsection 1 of section 54-59-25, and sections 54-59-33 and 57-60-03 of the North Dakota Century Code, relating to the powers and duties of the department of health and human services, state health officer, state health council and the executive director of the department of health and human services; and to repeal sections 23-01-01, 23-01-06, and 23-07-07 of the North Dakota Century Code, relating to the health division, a biennial report, and reporting sexually transmitted diseases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision p of subsection 1 of section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

- p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20.1, 27-20.2, 27-20.3, 27-20.4, and 50-01 upon consultation with the human service zone director or the ~~executive director~~commissioner of the department of health and human services or designee.

SECTION 2. AMENDMENT. Section 14-13-03 of the North Dakota Century Code is amended and reenacted as follows:

14-13-03. Definitions.

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

1. "Appropriate authority in the receiving state" as used in paragraph 1 of article V of the compact with reference to this state means the ~~executive director~~commissioner of the department of health and human services or designee.
2. "Appropriate public authorities" as used in article III of the compact with reference to this state means the department of health and human services, and the department shall receive and act with reference to notices required by article III.

SECTION 3. AMENDMENT. Subsection 2 of section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The council consists of sixteen members:
 - a.
 - (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management;
 - (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management; and
 - (3) Two members of the department of health and human services, of which one member is ~~appointed by~~ the state health officer or designee;
 - b. One member selected by each of the following:
 - (1) The state board of higher education;
 - (2) The North Dakota medical association;
 - (3) The North Dakota hospital association;
 - (4) The veterans administration hospital in Fargo;
 - (5) The North Dakota center for nursing; and
 - (6) The university of North Dakota center for rural health; and
 - c. Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.

SECTION 4. AMENDMENT. Section 16.1-02-06 of the North Dakota Century Code is amended and reenacted as follows:

16.1-02-06. Reporting deceased individuals and changes of names - Changes to records in the central voter file.

1. The ~~state health officer~~department of health and human services shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older who has died while maintaining residence in this state since the last report. Within thirty days after receiving a report, the secretary of state shall designate each individual included in the report as "deceased" in the central voter file.

2. The ~~state health officer~~ department of health and human services shall provide for the regular reporting to the secretary of state the name, address, date of birth, and county of residence, if available, of each individual eighteen years of age or older whose name was changed by marriage since the last report.
3. After receiving notice of death of an individual who has died outside the county, the county auditor shall designate that individual as "deceased" in the central voter file. Notice must be in the form of a printed obituary or a written statement signed by an individual having knowledge of the death of the individual.

SECTION 5. AMENDMENT. Subsection 2 of section 19-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

2. The chairman of the legislative management shall appoint two members of the legislative assembly to serve on the advisory board, one member from each chamber. The legislative council shall pay the compensation and expense reimbursement for the legislative members. The terms of members of the appointed advisory board are for two years and members may be reappointed by the appointing entity. The state health officer or designee shall serve as an ex officio voting member and as chairman of the advisory board.

SECTION 6. AMENDMENT. Section 23-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03.1. Newborn metabolic and genetic disease screening tests.

1. The department of health and human services shall adopt rules relating to the storage, maintenance, and disposal of blood spots or other newborn screening specimens.
2. The ~~health council~~ state health officer shall specify a panel of metabolic diseases and genetic diseases for which newborn screening must be performed. The screening panel must include disorders and diseases selected ~~by the state health officer~~ with input from an advisory committee ~~that is approved by the health council~~.

SECTION 7. AMENDMENT. Section 23-01-03.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03.3. Long-term care nursing scholarship and loan repayment grant program.

1. The ~~state health council~~ department of health and human services, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program. The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The department of health and human services shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.
2. An applicant for a program grant shall establish that the applicant:
 - a. Is a licensed nursing facility;
 - b. Has available matching funds equal to the amount of the grant request; and
 - c. Meets the eligibility criteria established by rule.
3. An eligible applicant may receive a program grant not exceeding five thousand five hundred dollars in the first year of the biennium. Any funds appropriated by the legislative assembly for the grant program which are remaining after the first year of the biennium may be distributed

to eligible applicants in the second year of the biennium in any amount determined by the ~~state health council~~department of health and human services.

SECTION 8. AMENDMENT. Section 23-01-04.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-04.3. Alternative health care services pilot project - Application - Notice - Hearing - Approval - Duration.

1. At any time that the health care needs of a city, township, or other geographic area are not being adequately met, any person may apply to the ~~state health council~~department of health and human services for approval to conduct an alternative health care services pilot project. The application must address the need for and benefits of the pilot project. It must also contain a detailed description of the nature and scope of the project, quality control, organization, accountability, responsibility, and financial feasibility.
2. Upon receipt of an application under subsection 1, the ~~state health council~~department of health and human services shall schedule a public hearing, send notice to all interested parties, and give public notice of the hearing by publication in the official newspaper of each county in the pilot project area. At the hearing, the ~~council~~department of health and human services shall accept written and oral testimony. The ~~council~~department of health and human services shall review the application and all testimony presented at the hearing and approve, disapprove, or modify and approve the application based on criteria established by the ~~council~~department of health and human services. The criteria must address the availability and use of health personnel, facilities, and services.
3. Notwithstanding any other provisions of law, upon approval of an application submitted under subsection 1, the ~~state health council~~department of health and human services, in consultation with the state health officer and any other public or private entity consulted by the ~~state health council~~department of health and human services, shall set the standards for the delivery of health care services by the pilot project. The standards may not adversely affect the state's participation in federal Medicare and Medicaid programs. No more than three separate projects may be operational at any time and no project may be operational for longer than five years.

SECTION 9. AMENDMENT. Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties.

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

5. The duties of the state health officer are as follows:
 1. ~~Enforce all regulations as promulgated by the health council and all rules adopted by the department of health and human services.~~
 2. ~~Hold public health unit boards of health responsible for enforcement of state rules, serve~~
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health unit boards of health, and provide for coordination of local health activities.
 3. ~~Establish and enforce minimum standards of performance of the work of the local department of health.~~
 4. ~~Study health problems and plan for their solution as may be necessary.~~
 5. ~~Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.~~
 6. c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.
 7. ~~Collect and distribute health education material.~~
 8. ~~Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.~~
 9. ~~Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.~~
 10. ~~Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.~~
 11. d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.
 - a. (1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.
 - b. (2) A written order issued under this section has the same effect as a physician's standing medical order.
 - e. (3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

- d. (4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:
 - (1) (a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;
 - (2) (b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or
 - (3) (c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.
 - e. (5) A person claiming to be aggrieved by a violation of ~~subdivision~~aparagraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.
- ~~12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.~~
 - ~~13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.~~
 - ~~14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.~~
 - ~~15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.~~
 - ~~16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.~~
 - ~~17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.~~
 - 18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:
 - (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
 - b. ~~Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner~~
 - e. Perform all duties required or provided by law.

SECTION 10. AMENDMENT. Section 23-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The ~~executive director of the~~ department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

SECTION 11. AMENDMENT. Subsection 3 of section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the ~~state health officer~~department of health and human services may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

SECTION 12. AMENDMENT. Section 23-01-05.4 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.4. Department to employ state forensic examiner - Qualifications - Duties.

The department of health and human services may employ and establish the qualifications and compensation of the state forensic examiner. The state forensic examiner must be a physician who is board-certified or board-eligible in forensic pathology, who is licensed to practice in this state, and who is in good standing in the profession. The state forensic examiner shall:

1. Exercise all authority conferred upon the coroner under chapter 11-19.1 and any other law;
2. Consult with local coroners on the performance of their duties as coroners;
3. Conduct investigations into the cause of death of and perform autopsies on any deceased human body whenever requested to do so by the acting local county coroner or the local state's attorney;
4. Provide training and educational materials to local county coroners, law enforcement, and any other person the state forensic examiner deems necessary;
5. Maintain complete records of the cause, manner, and mode of death necessary for accurate health statistics and for public health purposes; and
6. Perform other duties assigned by the ~~state health officer~~commissioner of the department of health and human services.

SECTION 13. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the public health division.

The public health division shall:

1. Enforce rules adopted by the department of health and human services.
2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.
3. Establish and enforce minimum standards of performance of the work of the local department of health.
4. Study health problems and plan for their solution as may be necessary.
5. Establish a service for medical hospitals and related institutions to include licensing of the institutions according to the standards promulgated by the department and consultation service to communities planning the construction of new hospitals and related institutions.
6. Maintain a central public health laboratory and where necessary, branch laboratories.
7. Perform all duties required or provided by law.

SECTION 14. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Powers and duties of the central public health laboratory.

The central public health laboratory:

1. Must be maintained for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.
2. Shall make bacteriological examination of bodily secretions and excretions and of waters and foods.
3. Shall make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
4. Shall make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.
5. Shall cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
6. From time to time, shall cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year.
7. Shall establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. A charge may not be made for any analysis conducted in connection with a public health incident affecting an entire region, community, or neighborhood.
8. Shall establish a review process for instances in which the department of health and human services is requested to conduct an epidemiological assessment of a commercial building.
 - a. The epidemiological assessment must include:

- (1) A statement of whether there are known environmental causes;
 - (2) If there are known environmental causes identified, a recommendation of how the causes can be remediated or mitigated; and
 - (3) If there are no known environmental causes identified, a statement that no known causes exist.
- b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner.

SECTION 15. A new section to chapter 23-01 of the North Dakota Century Code is created and enacted as follows:

Surge staffing.

The department of health and human services may employ staff to deploy to local hospitals, basic care facilities, long-term care facilities, and other health care settings to cover staff shortages. The hospital or facility must be responsible for insuring the staff members while the staff work at the hospital or facility. For indemnification and liability purposes, the staff member must be considered an employee of the hospital or facility during deployment at the hospital or facility. The department of health and human services may adopt rules to effectuate this section.

SECTION 16. AMENDMENT. Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08. Directors of divisions - Deputy - Appointment, salary, duties.

The ~~executive director~~commissioner of the department of health and human services or designee shall appoint directors of the various divisions of the department and shall determine the salary, within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director must be those prescribed by the ~~executive director~~commissioner of the department of health and human services or designee. The ~~executive director of the department of health and human services or designee~~state health officer may appoint a deputy state health officer. A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist. The deputy state health officer serves at the pleasure of the ~~executive director of the department of health and human services~~state health officer.

SECTION 17. AMENDMENT. Section 23-01-08.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08.1. Criminal history background checks.

The department of health and human services may require a final applicant for a job opening or a current employee with the department, as designated by the ~~state health officer~~commissioner of the department of health and human services, complete a state and national criminal history record check as provided under section 12-60-24.

SECTION 18. AMENDMENT. Section 23-01-12 of the North Dakota Century Code is amended and reenacted as follows:

23-01-12. Hospital records to be kept at direction of ~~state health officer~~department.

When any person is admitted into a lying-in hospital or other institution, public or private, to which persons resort for the treatment of disease or for confinement, or to which persons are committed by process of law, the superintendent, manager, or other person in charge of such institution shall make a

record of all the personal and statistical particulars relative to such person. The record must be in such form as is directed by the ~~state health officer~~department of health and human services. In the case of any person admitted or committed for medical treatment of disease, the physician in charge shall specify for entry in the records the nature of the disease and where, in the physician's opinion, it was contracted. The personal particulars and information required for compliance with the provisions of this section must be obtained from the individual personally if practicable, and when the information cannot be obtained from the individual, from the individual's relatives or friends or from any other person acquainted with the facts.

SECTION 19. AMENDMENT. Subsection 3 of section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

3. The department of health and human services may authorize a qualified entity to operate a program in a county if:
 - a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;
 - b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and
 - c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the ~~state health officer~~department of health and human services.

SECTION 20. AMENDMENT. Section 23-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-01. Trauma system established –~~Duties of health council.~~

The ~~health council, in conjunction with the~~ department of health and human services, may establish and maintain a comprehensive trauma system for the state. The trauma system may include standards for the following components:

1. A system plan.
2. Prehospital emergency medical services.
3. Hospitals, for which the standards must include:
 - a. Standards for designation, redesignation, and dedesignation of trauma centers.
 - b. Standards for evaluation and quality improvement programs for designated trauma centers. The standards must require each trauma center to collect quality improvement data and to provide specified portions to the department for use in state and regional trauma quality improvement programs.
 - c. Qualifications for trauma center personnel.
4. A trauma registry. Data in the trauma registry is not subject to subpoena or discovery or introduction into evidence in any civil action. Designated trauma centers must participate in the trauma registry. A hospital not designated as a trauma center must provide to the registry a minimum set of data elements for all trauma patients ~~as determined by the health council~~.
5. A trauma quality improvement program to monitor the performance of the trauma system. The proceedings and records of the program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

SECTION 21. AMENDMENT. Section 23-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-03. Trauma center designation.

1. Effective January 1, 2011, a hospital that offers emergency services to the public shall meet trauma center designation standards and participate in the trauma system.
2. The department of health and human services shall adopt rules that allow provisional trauma designation status for a hospital that is partially compliant with trauma designation standards. When issuing a provisional trauma designation, the ~~state health council~~department of health and human services shall allow a reasonable amount of time, determined by the department, for a hospital to fully meet all trauma designation standards.

SECTION 22. AMENDMENT. Section 23-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-04. Medical director.

The ~~executive director~~commissioner of the department of health and human services or designee shall appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the department of health and human services.

SECTION 23. AMENDMENT. Subsection 8 of section 23-01.3-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Public health authority" means the department of health and human services' public health division, department of environmental quality, a local public health unit, and any authority or instrumentality of the United States, a tribal government, a state, or a political subdivision of a state, a foreign nation, or a political subdivision of a foreign nation, which is:
 - a. Primarily responsible for public health matters; and
 - b. Primarily engaged in activities such as injury reporting, public health surveillance, and public health investigation or intervention.

SECTION 24. AMENDMENT. Subsection 1 of section 23-01.3-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding any other law, a public health authority, or the agent of any such entity, may disclose protected health information to a law enforcement authority if the ~~state health officer~~department of health and human services determines that:
 - a. The protected health information is necessary to a legitimate law enforcement inquiry that has begun or may be initiated into a particular violation of a criminal law or public health law being conducted by the authority; and
 - b. The investigative or evidentiary needs of the law enforcement authority cannot be satisfied by nonidentifiable health information or by any other information.

SECTION 25. AMENDMENT. Section 23-01.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01.3-08. Status of information in possession of a local public health authority.

Any protected health information that is created or received by a local public health authority, and that is submitted or is required to be submitted to the department of health and human services' public

health division, is confidential and subject to the protection of, and may be disclosed only as authorized by, this chapter.

SECTION 26. AMENDMENT. Subsections 8, 17, and 21 of section 23-02.1-01 of the North Dakota Century Code are amended and reenacted as follows:

8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the ~~state health officer~~department of health and human services for registration by the state registrar.
17. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the ~~state health officer~~department of health and human services.
21. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the ~~state health officer or the state health officer's designee~~department of health and human services.

SECTION 27. AMENDMENT. Section 23-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-02. Office of statistical services.

There is hereby established in the department of health and human services an office of statistical services, which shall install, maintain, and operate a system of health statistics tabulation and analysis and a system of vital records registration throughout the state. The ~~executive director~~commissioner of the department of health and human services or designee may create within the office of statistical services such working divisions as may be necessary to comply with the provisions of this chapter and shall appoint the directors of such divisions in accordance with the merit system laws and regulations of the state of North Dakota.

SECTION 28. AMENDMENT. Section 23-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-03. Director of the office of statistical services and associative duties, state and deputy state registrars.

The ~~executive director~~commissioner of the department of health and human services or designee shall appoint a director of the office of statistical services, in accordance with the merit system laws and regulations of the state of North Dakota, who must be the ex officio state registrar of vital statistics. The deputy state registrar of vital statistics must also be appointed by the ~~executive director~~commissioner of the department of health and human services or designee. The director of the office of statistical services shall administer and enforce this chapter and the rules and regulations issued hereunder, and issue instructions for the efficient administration of a statewide system of health statistics tabulation and analysis and a statewide system of vital records registration. The director of the office of statistical services may delegate such functions and duties vested in the director to the officers and employees of the office of statistical services as the director deems necessary and expedient.

SECTION 29. AMENDMENT. Subsection 4 of section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

4. If the governor declares an emergency or a disaster based on an epidemic under chapter 37-17.1, the state health officer shall consider whether to issue a temporary order ~~or the health council shall consider whether to adopt rules or emergency rules~~ to include this

infectious disease as a reportable disease or condition or as a post-mortem communicable disease.

SECTION 30. AMENDMENT. Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of individual with reportable disease or condition - Removal of body of individual who died of reportable disease or condition - Prohibited - Declaration of emergency or disaster - Rulemaking authority.

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

SECTION 31. AMENDMENT. Section 23-07.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-01. Definitions.

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

1. "~~Hemophilia~~, hemophilia" means a bleeding tendency resulting from a genetically determined deficiency or abnormality of a blood plasma factor or component.
2. "~~State health officer~~" means ~~the state health officer as defined in this title.~~

SECTION 32. AMENDMENT. Section 23-09.4-08 of the North Dakota Century Code is amended and reenacted as follows:

23-09.4-08. Penalty.

1. Any person who operates or manages a residential care facility for children with autism spectrum disorder without first obtaining a license as required by this chapter is guilty of a class B misdemeanor.
2. Any person who violates any provision of this chapter or any rule adopted under this chapter may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues, plus interest and any costs incurred by the department to enforce this penalty. The civil penalty may be imposed by a court in a civil proceeding or by the ~~state health officer~~department through an administrative hearing under chapter 28-32. The assessment of a civil penalty does not preclude the imposition of other sanctions authorized by rules adopted under this chapter.

SECTION 33. AMENDMENT. Subsection 4 of section 23-10-03 of the North Dakota Century Code is amended and reenacted as follows:

4. The department shall waive the license fee for any mobile home park, recreational vehicle park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park,

recreational vehicle park, or campground that is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1. A prorated annual license fee may be charged for new mobile home parks, recreational vehicle parks, and campgrounds. The ~~health council~~department may adopt rules establishing the amount and the procedures for the collection of annual license fees. The fees must be based on the cost of reviewing construction plans, conducting routine and complaint inspections, reinspection, and necessary enforcement action. License fees collected pursuant to this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 34. AMENDMENT. Section 23-10-06 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06. License issuance - Fee.

An applicant seeking licensure shall apply to the department on forms prescribed by the department. The applicant shall enclose with the application an application fee as determined by rule. The department shall issue a license to an applicant who meets all of the requirements of this chapter and any rules adopted by the ~~health council~~department.

SECTION 35. AMENDMENT. Subsection 2 of section 23-10-06.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A license may be renewed by December thirty-first by submitting a renewal application, a renewal fee established rule, provided the licensee is in compliance with this chapter and any rules established by the ~~health council~~department.

SECTION 36. AMENDMENT. Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 37. AMENDMENT. Section 23-16-05 of the North Dakota Century Code is amended and reenacted as follows:

23-16-05. Inspections, consultations, and approval of plans.

The department of health and human services shall make or cause to be made such inspections as may be prescribed by regulation. The ~~health council~~department of health and human services may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the department of health and human services for preliminary inspection, recommendation, and approval.

SECTION 38. AMENDMENT. Section 23-16-06 of the North Dakota Century Code is amended and reenacted as follows:

23-16-06. Authority to issue, deny, suspend, or revoke licenses.

1. The department of health and human services shall issue licenses for the operation of institutions subject to this chapter which are found to comply with the provisions of this chapter and rules adopted by the department. ~~The state health officer with the approval of the health council~~ department of health and human services may, ~~after a hearing,~~ suspend or revoke licenses issued hereunder on any of the following grounds:
 4. a. Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.
 2. b. Permitting, aiding, or abetting the commission of any unlawful act.
 3. c. Conduct or practices detrimental to the health or safety of patients and employees of said institutions; provided that this provision may not be construed to have any reference to practices authorized by law; and provided further that no license may be suspended or revoked for any trivial violation.
2. No application for a license may be denied, or any licenses suspended or revoked, except after a hearing ~~before the health council held pursuant to written notice to the applicant or licensee, served by registered or certified mail, which notice must concisely state the grounds for such denial or for such proposed suspension or revocation and must fix the time and place of hearing which may not be less than thirty days after the date of the mailing of such notice.~~ After such hearing, the council shall make an order, either denying the application for license or granting the same, or suspending or revoking such license, or dismissing the proceedings to suspend or revoke as the merits of the case warrant. The council shall send a copy of its order to the applicant or licensee by registered or certified mail, which must contain its findings and conclusions, and such order, except an order of dismissal, becomes final thirty days after the date of mailing unless the applicant or licensee appeals therefrom in the manner provided by section 23-16-10.

SECTION 39. AMENDMENT. Section 23-16-10 of the North Dakota Century Code is amended and reenacted as follows:

23-16-10. Appeal.

~~An appeal may be taken to the district court from any order of the state health officer or health council denying an application for a license to operate a medical hospital or related institution, or suspending or revoking a license, or from any order denying an application for a construction project. Any such appeal must be taken to the office of administrative hearings in the manner provided in chapter 28-32.~~

SECTION 40. AMENDMENT. Section 23-16-11 of the North Dakota Century Code is amended and reenacted as follows:

23-16-11. Penalties.

1. Any person establishing, conducting, managing, or operating any institution subject to this chapter, without first obtaining a license as required by this chapter, or who violates any of the provisions of this chapter is guilty of an infraction.
2. In addition to any criminal sanctions that may be imposed pursuant to law, any person maintaining or operating a nursing facility licensed by the department of health and human services who is found guilty of knowingly violating any provision of this title or any rules adopted under this title, or any person maintaining or operating a nursing facility found to have deficiencies during a survey of the nursing facility, may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues plus interest and any costs incurred by the department of health and human services to enforce

this penalty. This civil penalty may be imposed by a court in a civil proceeding or by the ~~state health officer~~department of health and human services through an administrative hearing under chapter 28-32. If a civil penalty levied by the department of health and human services after an administrative hearing is not paid within thirty days after a final determination that a civil penalty is owed, unless the determination of a civil penalty is appealed to a district court, the civil penalty and any costs incurred by the department of health and human services to enforce the penalty may be withheld from payments due to the person or nursing facility from the department of health and human services. Any funds received as penalties must be applied to protect residents of the nursing facility, to relocate residents, to maintain operation of the nursing facility, and to reimburse residents for loss of personal funds.

SECTION 41. AMENDMENT. Section 23-17-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17-08. Establishment of advisory committee.

The chiropractic board of examiners shall request the governor to appoint an advisory committee consisting of the ~~executive director~~commissioner of the department of health and human services or designee, one chiropractic hospital superintendent, and one person interested in chiropractic hospitals. One member is to serve for three years, one for two, and one is to serve for one year from the date of their appointment or until their successors are duly appointed. Following this first appointment, the term of office must be for three years. This advisory committee shall act in an advisory capacity to the chiropractic board of examiners in dealing with matters pertaining to particular problems of chiropractic hospitals and sanatoriums and other related institutions.

SECTION 42. AMENDMENT. Section 23-17.6-01 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-01. Definitions.

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

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

SECTION 43. AMENDMENT. Section 23-17.6-02 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-02. Registration required - Rules.

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

SECTION 44. AMENDMENT. Section 23-17.6-04 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-04. Standards of registration.

1. An extended stay center shall meet the following minimum standards for registration:

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

SECTION 45. AMENDMENT. Section 23-17.6-06 of the North Dakota Century Code is amended and reenacted as follows:

23-17.6-06. Rulemaking.

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

1. Licensure qualifications of professional and ancillary personnel;
2. Standards for the organization and quality of patient care performed at the extended stay center;

3. Procedures for maintaining records;
4. Procedures for application, issuance, and renewal of certificate of registration;
5. Procedures for denial, suspension, or revocation of certificate of registration; and
6. Reviews of registered extended stay centers.

SECTION 46. AMENDMENT. Section 23-17.7-03 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 47. AMENDMENT. Section 23-23-03 of the North Dakota Century Code is amended and reenacted as follows:

23-23-03. Enforcement by ~~health officer~~department - Seizure - Inspection - Injunction.

It is the duty of the ~~state health officer~~department of health and human services to enforce the provisions of this chapter, and for that purpose the investigators, inspectors, representatives, and agents of the department of health and human services shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence. The ~~state health officer~~department of health and human services may institute, in its own name, proceedings to enjoin and restrain violations of this chapter, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and may not be required to pay any costs or filing fees or furnish any bond in connection therewith.

SECTION 48. AMENDMENT. Section 23-24-01 of the North Dakota Century Code is amended and reenacted as follows:

23-24-01. Definitions.

As used in this chapter unless the context or subject matter otherwise provides:

1. "Board" means the board of commissioners of a vector control district.
2. "~~District~~" means ~~a vector control district established for the control of public health vectors.~~
3. "Department" means the department of health and human services.
3. "Health officer" means the state health officer.

4. "Potential or emergency health hazard" means a potential or existing infestation by public health vectors that is detrimental to human health and well-being.
5. "Public health vectors" means all species of mosquitoes and flies.

SECTION 49. AMENDMENT. Section 23-24-02 of the North Dakota Century Code is amended and reenacted as follows:

23-24-02. Petition for establishment of vector control districts - Hearing thereon and investigation - District when created.

Whenever there is filed with the ~~state health council~~department a petition signed by the governing body of a county, city, or township or by twenty percent or more of the freeholders within the limits of a proposed vector control district, the ~~state health council~~department shall fix a time and place for a public hearing on such petition. The place of hearing must be convenient and accessible for a majority of the freeholders of the proposed district. Not less than ten days prior to the date of hearing, notice thereof must be published in at least one newspaper of general circulation in the proposed district. Prior to such hearing the ~~state health officer~~department shall make or cause to be made an investigation of the need for the establishment of the proposed vector control district and shall submit his report to the ~~council~~department. If the ~~state health council~~department finds that it is not feasible, desirable, or practical to establish the proposed district, it shall make an order denying the petition and state therein the reasons for its action. If, however, the ~~council~~department finds the problems of vector control or other reasons make the establishment of the proposed district desirable, proper, and necessary, it shall grant the petition and create such district and establish the boundaries thereof.

SECTION 50. AMENDMENT. Section 23-24-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-24-02.1. Petition for withdrawing from a vector control district - Hearing and investigation - Boundary modification.

Any county, city, or township or portion of a county, city, or township may withdraw from a vector control district whenever a petition signed by the governing body of the county, city, or township or at least twenty percent of the residents of the county, city, or township, or portion thereof, desiring to withdraw from the district, is approved by the ~~state health council~~department. Prior to approving a petition to withdraw from the district, the ~~state health council~~department shall fix a time and place for a public hearing on the petition. The place of the hearing must be convenient and accessible for a majority of the residents of the district. At least ten days prior to the date of the hearing, the ~~state health council~~department shall publish a notice of the hearing in at least one newspaper of general circulation in the district. Prior to the hearing the ~~state health officer~~department shall investigate the petition to withdraw and shall submit a report to the council. If the ~~state health council~~department finds that it is not feasible, desirable, or practical to allow the petitioning entity to withdraw from the district, it shall make an order denying the petition and state the reasons for its action. If the ~~council~~department finds that the petitioning entity is no longer benefited by being included within the boundaries of the district or if other reasons make the withdrawal of the petitioning entity desirable, proper, and necessary, it shall grant the petition and modify the boundaries of the district. No person may be a member of the board of commissioners if that person is no longer a resident of the vector control district after the boundaries have been modified. A new member must be appointed to replace any such member in the manner provided for original appointments.

SECTION 51. AMENDMENT. Section 23-24-06 of the North Dakota Century Code is amended and reenacted as follows:

23-24-06. Oath of office - Organization of board of commissioners - Appointment of employees - Meetings.

Upon receiving notice of appointment as a member of the board of commissioners of a vector control district, such appointee shall take the oath of office prescribed for civil officers. Such oath must

be filed with the secretary of the board after organization thereof as herein provided. Notice of the appointment of a member or members of a board of commissioners must be mailed to the governing body of the county, city, or township included within said district. Such notice must state the name and post-office address of each appointee and the date of the appointment and must request approval of the same. The commissioners appointed after their approval shall meet to organize at a time and place designated by the ~~state health council~~department and shall organize by selecting a chairman of the board and naming a temporary secretary pending appointment of a permanent secretary. A majority of the commissioners constitutes a quorum for the transaction of business as may come before the board but any number may adjourn a meeting for want of a quorum. The board shall appoint a secretary and treasurer and such other employees as may be deemed needed for efficient conduct of the district's business and shall fix their compensation. The office of secretary and treasurer may be held by the same person. Officers and employees shall hold office during the pleasure of the board. The board shall provide an office suitable for its use as a meeting place and for conducting the affairs of the district. It shall adopt such rules or regulations for transacting the business of the district as it may deem necessary, including the time and place of holding regular meetings of the board. Special meetings may be called by the secretary on order of the chairman of the board or on written request of two members of the board. Notice of the special meeting must be mailed to each member of the board at least five days before any such meeting, provided that a special meeting may be held whenever all members of the board are present or consent thereto in writing.

SECTION 52. AMENDMENT. Section 23-27-03 of the North Dakota Century Code is amended and reenacted as follows:

23-27-03. License fees.

The fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set ~~by the state health council~~ at a sum of not more than twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. This operation license fee does not apply to licensure or certification of emergency medical services personnel. All license fees must be paid to the department of health and human services and deposited with the state treasurer and credited to the state general fund.

SECTION 53. AMENDMENT. Section 23-27-04.7 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.7. County reporting - Use of property tax levies.

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report ~~to the state health officer~~ in a format approved by the department of health and human services. A taxing district that levies a special emergency medical services or ambulance service levy shall allocate all of the special tax levy revenue collected in a particular township to the ambulance service that serves the largest area within that township.

SECTION 54. AMENDMENT. Subsection 3 of section 23-27-04.9 of the North Dakota Century Code is amended and reenacted as follows:

3. Licensed or certified emergency medical services personnel may perform laboratory testing authorized by rule adopted by the ~~health council~~department.

SECTION 55. AMENDMENT. Section 23-35.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-02. Regional public health network - Joint powers agreement - Review by state health officer ~~department~~ - Criteria.

Before a group of public health units may be designated as a regional public health network and eligible for state funding, the ~~state health officer~~ department shall review the joint powers agreement the public health units entered and verify that:

1. The regional public health network consists of:
 - a. At least two public health units serving a minimum population of fifteen thousand; or
 - b. A minimum of three public health units.
2. The joint powers agreement requires that the participating public health units:
 - a. Assess the health of the population;
 - b. Identify workplan activities that meet the needs of the region;
 - c. Comply with requirements adopted by ~~the health council~~ by rule;
 - d. Meet department maintenance of effort funding requirements, which must be calculated based on each unit's dollar or mill levy public health unit contribution in the most recent calendar year; and
 - e. Share core public health activities and measure outcomes in accordance with subsection 3.
3. The joint powers agreement requires:
 - a. Evidence that network activities align with prevailing health status and community needs;
 - b. Shared or expanded services, including the core public health activities of:
 - (1) Preventing epidemics and spread of disease;
 - (2) Protecting against environmental hazards;
 - (3) Preventing injuries;
 - (4) Promoting health behaviors;
 - (5) Responding to disasters; and
 - (6) Assuring the quality and accessibility of health services;
 - c. Assurance of network performance measurement to demonstrate capacity, process, or health outcomes;
 - d. Criteria for the future participation of public health units that were not parties to the original joint powers agreement;
 - e. An application process by which public health units that were not parties to the original joint powers agreement may become participating districts; and
 - f. A process by which public health units that were not parties to the original joint powers agreement may appeal a decision to deny an application to participate in the agreement to the ~~state health officer~~ department.
4. The joint powers agreement provides for the structure of the governing body of the network.

SECTION 56. AMENDMENT. Section 23-35.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-03. Regional public health network - Annual plan.

A regional public health network shall prepare an annual plan regarding the provision of the core public health activities and shall submit the plan to the ~~state health officer~~department for approval.

SECTION 57. AMENDMENT. Section 23-36-08 of the North Dakota Century Code is amended and reenacted as follows:

23-36-08. Limitation on liability.

Subject to any other requirements of section 32-12.2-02, the owner of an animal may bring a claim for money damages, and may recover an amount up to the replacement value of the animal, if the owner establishes that before the animal was seized and tested for rabies under this chapter, the ~~state health officer, or the state health officer's designee~~department, knew or recklessly failed to determine that the animal, at the time of the exposure, was lawfully owned and licensed and that:

1. The animal had not bitten, scratched, or otherwise possibly exposed another animal or an individual to rabies; or
2. The animal was a domestic animal and there was not probable cause to believe the animal was rabid.

SECTION 58. AMENDMENT. Subsection 1 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services shall establish a cardiac ready community grant program advisory committee with members appointed by the ~~executive director~~commissioner of the department of health and human services or designee. The advisory committee shall advise the department of health and human services in the development of the cardiac ready community grant program and the membership must include a representative of the department of health and human services, one cardiac ready community member, one representative of the emergency medical services association, one representative of the American heart association, one representative of the cardiac task force, one representative of the stroke task force, one representative of the emergency services advisory committee, one survivor advocate, and the department of health and human services emergency medical services and trauma medical director.

SECTION 59. AMENDMENT. Section 23-43-01 of the North Dakota Century Code is amended and reenacted as follows:

23-43-01. Stroke system -~~Duties of state health officer.~~

The ~~state health officer~~department of health and human services shall establish and maintain a comprehensive stroke system for the state. The program must comply with this chapter; be based on department-approved, nationally recognized guidelines and protocols; and provide specific patient care and support services criteria stroke centers shall meet to ensure stroke patients receive safe and effective care, and must modify the state's emergency medical response system to assure stroke patients are quickly identified and transported to and treated in facilities that have specialized programs for providing timely and effective treatment for stroke patients. The stroke system must include standards for the following components:

1. A system plan.
2. Prehospital emergency medical services.
3. Hospitals, for which the standards must include:

- a. Standards for designation, redesignation, and removal of designation.
 - b. Standards for evaluation and quality improvement programs for designated facilities. The standards must require each facility to collect quality improvement data and to provide specified portions to the department of health and human services for use in state and regional stroke quality improvement programs.
4. A stroke registry. Data in the stroke registry is not subject to subpoena or discovery or introduction into evidence in any civil action. A designated facility shall participate in the stroke registry. A hospital not designated shall provide to the stroke registry a minimum set of data elements for all stroke patients as determined by the stroke system of care advisory task force.
 5. A stroke quality improvement program to monitor the performance of the stroke system. The proceedings and records of the stroke quality improvement program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the stroke quality improvement program.

SECTION 60. AMENDMENT. Subsection 3 of section 23-43-05 of the North Dakota Century Code is amended and reenacted as follows:

3. The stroke system of care task force shall make recommendations to the department of health and human services ~~and health council~~. Upon receiving such recommendations, the department of health and human services may adopt rules implementing the recommendations.

SECTION 61. AMENDMENT. Section 23-46-02 of the North Dakota Century Code is amended and reenacted as follows:

23-46-02. Emergency medical services advisory council.

1. The department of health and human services shall establish an emergency medical services advisory council.
2. The council must include ~~at:~~
 - a. ~~At least three representatives appointed by an emergency medical services organization;~~
one;
 - b. ~~One individual to represent basic life support and one, appointed by the commissioner of the department of health and human services or designee;~~
 - c. ~~One individual to represent advanced life support, both appointed by the executive director/commissioner of the department of health and human services or designee, and other; and~~
 - d. ~~Other members designated by the executive director/commissioner of the department of health and human services or designee, not to exceed a total of fourteen members.~~
3. The department of health and human services ~~and the state health officer~~ shall consider the recommendations of the council on ~~the:~~
 - a. ~~The plan for integrated emergency medical services in the state, development;~~
 - b. ~~Development of emergency medical services funding areas, development;~~
 - c. ~~Development of the emergency medical services funding areas application process and budget criteria; and other~~

d. Other issues relating to emergency medical services as determined by the ~~executive director~~commissioner of the department of health and human services or designee or the state health officer.

4. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department of health and human services shall establish by policy the length of terms and the method for rotation of membership.

SECTION 62. AMENDMENT. Subsection 1 of section 23-47-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~executive director~~commissioner of the department of health and human services or designee shall appoint the members of the acute cardiovascular emergency medical system of care advisory committee. The state health officer, or the officer's designee, is an ex officio member of the advisory committee. The ~~executive director~~commissioner of the department of health and human services or designee shall appoint to the committee members who represent referring and receiving hospitals, physicians who treat patients, and members who represent emergency medical services operations that provide services in rural and urban areas of the state. Members of the acute cardiovascular emergency medical system of care advisory committee serve at the pleasure of the ~~executive director~~commissioner of the department of health and human services.

SECTION 63. AMENDMENT. Subsection 7 of section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Supervising officer" means the ~~executive director~~commissioner of the department of health and human services or designee or the superintendent of public instruction, as the case may be.

SECTION 64. AMENDMENT. Subsection 1 of section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. There must be maintained in the department of health and human services a state council on developmental disabilities consisting of:
 - a. One representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:
 - (1) Office of superintendent of public instruction.
 - (2) Job service North Dakota.
 - b. Three representatives of the department of health and human services to include at least:
 - (1) One representative from the life skills and transition center designated by its superintendent; and
 - (2) One representative from the department's public health division.

SECTION 65. AMENDMENT. Subsection 3 of section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

3. The governing body must be composed of the ~~executive director~~commissioner of the department of health and human services or designee; the director of the division of behavioral health of the department or designee, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the department's fiscal administration division; a behavioral health consumer selected by the mental health association; and a legislator selected by the legislative

management. The governing body may include other persons as appointed by the governing body.

SECTION 66. AMENDMENT. Section 25-03.1-34.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34.1. Exchange of individuals with a substance use disorder.

The ~~director~~commissioner of the department of health and human services or designee, a county, a city, or a local law enforcement agency may enter into reciprocal agreements with the appropriate authorities of any other state regarding the mutual exchange, return, and transportation of individuals with a mental illness or substance use disorder who are treated or confined in hospitals of one state for treatment of a substance use disorder or mental illness but who have legal residence in another state.

SECTION 67. AMENDMENT. Section 25-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Committed individual" means an individual committed for custody and treatment pursuant to this chapter.
2. ~~"Executive director" means the executive director of the department of health and human services or the executive director's designee.~~
3. "Intellectual disability" means mental retardation as defined in the "Diagnostic and Statistical Manual of Mental Disorders", American psychiatric association, (4th edition, text revision 2000).
- ~~4.3.~~ "Qualified expert" means an individual who has an expertise in sexual offender evaluations and who is a psychiatrist or psychologist trained in a clinical program and licensed pursuant to this state's law or a psychologist approved for exemption by the North Dakota board of psychologist examiners. For purposes of evaluating an individual with an intellectual disability, the qualified expert must have specialized knowledge in sexual offender evaluations of individuals with an intellectual disability.
- ~~5.4.~~ "Respondent" means an individual subject to a commitment proceeding pursuant to this chapter.
- ~~6.5.~~ "Sexual act" means sexual contact between human beings, including contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or the vulva and the vulva; or the use of an object that comes in contact with the victim's anus, vulva, or penis. Sexual contact between the penis and the vulva, or between the penis and the anus, or an object and the anus, vulva, or penis of the victim, occurs upon penetration, however slight. Emission is not required.
- ~~7.6.~~ "Sexual contact" means any touching of the sexual or other intimate parts of an individual for the purpose of arousing or satisfying sexual or aggressive desires.
- ~~8.7.~~ "Sexually dangerous individual" means an individual who is shown to have engaged in sexually predatory conduct and who has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct which constitute a danger to the physical or mental health or safety of others. It is a rebuttable presumption that sexually predatory conduct creates a danger to the physical or mental health or safety of the victim of the conduct. For these purposes, intellectual disability is not a sexual disorder, personality disorder, or other mental disorder or dysfunction.

9-8. "Sexually predatory conduct" means:

- a. Engaging or attempting to engage in a sexual act or sexual contact with another individual, or causing or attempting to cause another individual to engage in a sexual act or sexual contact, if:
 - (1) The victim is compelled to submit by force or by threat of imminent death, serious bodily injury, or kidnapping directed toward the victim or any human being, or the victim is compelled to submit by any threat or coercion that would render a person reasonably incapable of resisting;
 - (2) The victim's power to appraise or control the victim's conduct has been substantially impaired by the administration or employment, without the victim's knowledge, of intoxicants or other means for purposes of preventing resistance;
 - (3) The actor knows or should have known that the victim is unaware that a sexual act is being committed upon the victim;
 - (4) The victim is less than fifteen years old;
 - (5) The actor knows or should have known that the victim has a disability that substantially impairs the victim's understanding of the nature of the sexual act or contact;
 - (6) The victim is in official custody or detained in a treatment facility, health care facility, correctional facility, or other institution and is under the supervisory authority, disciplinary control, or care of the actor;
 - (7) The victim is a minor and the actor is an adult; or
 - (8) The other individual is a person related to the actor within a degree of consanguinity within which marriages are declared incestuous and void by section 14-03-03 and the actor knows that; or
- b. Engaging in or attempting to engage in sexual contact with another individual or causing or attempting to cause another individual to have sexual contact, if:
 - (1) The actor knows or should have known that the contact is offensive to the victim; or
 - (2) The victim is a minor, fifteen years of age or older, and the actor is the minor's parent, guardian, or is otherwise responsible for general supervision of the victim's welfare.

~~10-9.~~ "Should have known" means a reasonable individual without a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction in the actor's circumstances would have known.

~~11-10.~~ "Superintendent" means the superintendent of the state hospital or the superintendent's designee.

~~12-11.~~ "Treatment facility" means any hospital, including the state hospital, or any treatment facility, including the life skills and transition center, which can provide directly, or by direct arrangement with other public or private agencies, evaluation and treatment of sexually dangerous individuals.

SECTION 68. AMENDMENT. Section 25-03.3-12 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-12. Sexually dangerous individual - Evaluation.

The evaluation must be conducted by one or more experts chosen by the ~~executive director~~commissioner. Whenever a respondent is subject to an evaluation pursuant to this chapter, the respondent may retain an expert to perform an evaluation or testify on the respondent's behalf. When the respondent is an adult with an intellectual disability and a guardian or guardian ad litem has not been appointed for the respondent, the court shall appoint an expert to perform an evaluation on behalf of the respondent. In the case of a respondent who is indigent, the court shall appoint a qualified expert to perform an examination or participate in the commitment proceeding on the respondent's behalf. The department of health and human services shall compensate any qualified expert appointed by the court on behalf of an indigent respondent in a reasonable amount based on time and expenses. An expert retained on behalf of the respondent must have reasonable access to the respondent for the purpose of the examination and to all relevant medical, psychological, and court records and reports.

SECTION 69. AMENDMENT. Section 25-03.3-13 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-13. Sexually dangerous individual - Commitment proceeding - Report of findings.

Within sixty days after the finding of probable cause, the court shall conduct a commitment proceeding to determine whether the respondent is a sexually dangerous individual. The court may extend the time for good cause. At the commitment proceeding, any testimony and reports of an expert who conducted an examination are admissible, including risk assessment evaluations. Any proceeding pursuant to this chapter must be tried to the court and not a jury. At the commitment proceeding, the state's attorney shall present evidence in support of the petition and the burden is on the state to show by clear and convincing evidence that the respondent is a sexually dangerous individual. An individual may not be committed unless expert evidence is admitted establishing that the individual has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct. The respondent has a right to be present, to testify, and to present and cross-examine witnesses. If the respondent is found to be a sexually dangerous individual, the court shall commit the respondent to the care, custody, and control of the ~~executive director~~commissioner. The ~~executive director~~commissioner shall place the respondent in an appropriate facility or program at which treatment is available. The appropriate treatment facility or program must be the least restrictive available treatment facility or program necessary to achieve the purposes of this chapter. The ~~executive director~~commissioner may not be required to create a less restrictive treatment facility or treatment program specifically for the respondent or committed individual. Unless the respondent has been committed to the legal and physical custody of the department of corrections and rehabilitation, the respondent may not be placed at and the treatment program for the respondent may not be provided at the state penitentiary or an affiliated penal facility. If the respondent is found not to be a sexually dangerous individual, the court shall discharge the respondent.

SECTION 70. AMENDMENT. Section 25-03.3-14 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-14. Interagency placement.

If a committed individual also has been committed to the legal and physical custody of the department of corrections and rehabilitation, the director of the department of corrections and rehabilitation and the ~~executive director~~commissioner may consult one another and determine the appropriate placement of the individual and may transfer the individual between placements.

SECTION 71. AMENDMENT. Section 25-03.3-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-17. Postcommitment proceeding, discharge, and further disposition.

1. A committed individual must remain in the care, custody, and control of the ~~executive director~~commissioner until, in the opinion of the ~~executive director~~commissioner, the individual is safe to be at large.
2. Each committed individual must have an examination of that individual's mental condition at least once a year. A report regarding the examination must be provided to the court that committed the individual. At the time of the annual examination, the committed individual has the right to have an expert examine the individual, and, upon the request of an indigent committed individual, the court shall appoint a qualified expert to examine the committed individual and report to the court. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.
3. If a committed individual has been committed to an out-of-state facility by the ~~executive director~~commissioner for purposes of treatment, an expert from that state may be appointed by the court as a qualified expert for an indigent committed individual for any postcommitment proceeding.
4. After any report pursuant to this section is provided to the court, the court may order further examination and investigation of the committed individual as the court considers necessary. The court may set the matter for a hearing. At the hearing, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state at the hearing. After the hearing, the court shall determine whether the committed individual is to be discharged or to be retained as a sexually dangerous individual in the care, custody, and control of the ~~executive director~~commissioner.
5. The ~~executive director~~commissioner may only discharge a sexually dangerous individual from commitment pursuant to a court order. The ~~executive director~~commissioner may petition the committing court at any time for the discharge of the committed individual. The ~~executive director~~commissioner shall give the state's attorney notice of any petition for discharge the ~~executive director~~commissioner files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court on the petition. The state's attorney may waive this right.
6. If the ~~executive director~~commissioner moves a committed individual from a placement in the community to a placement in a secure treatment facility that is more restrictive, the committed individual may challenge the move at a hearing to be held within thirty days after the move in accordance with procedures established by the department of health and human services.

SECTION 72. AMENDMENT. Section 25-03.3-18 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-18. Petition for discharge - Notice.

1. Annually, the ~~executive director~~commissioner shall provide the committed individual with written notice that the individual has a right to petition the court for discharge. The notice must explain to the committed person when the committed person has a right to a hearing on the petition. The notice must inform the committed person of the rights this chapter affords the committed person at a discharge hearing. The ~~executive director~~commissioner shall forward a copy of the notice to the committing court. If the committed individual is an individual with an intellectual disability, the ~~executive director~~commissioner shall also provide the written notice to the individual's attorney, guardian, and guardian ad litem, if any.

2. If the committed individual files a petition for discharge and has not had a hearing pursuant to section 25-03.3-17 or this section during the preceding twelve months, the committed individual has a right to a hearing on the petition.
3. At the hearing on the petition for discharge, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state and may have the committed individual evaluated by experts chosen by the state. The committed individual is entitled to have an expert of the committed individual's choice conduct an evaluation. The court shall appoint a qualified expert if the committed individual is indigent and requests an appointment. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.
4. At any hearing held pursuant to a petition for discharge, the burden of proof is on the state to show by clear and convincing evidence that the committed individual remains a sexually dangerous individual.

SECTION 73. AMENDMENT. Section 25-03.3-18.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-18.1. Annual review - Petition for discharge - Inapplicability during periods of imprisonment.

Sections 25-03.3-17 and 25-03.3-18 do not apply if a respondent, during a period of commitment under this chapter, is transferred to the custody of the department of corrections and rehabilitation in accordance with section 29-27-07 or is serving a term of imprisonment in a county jail or regional corrections center. Upon release from imprisonment, the respondent must be retransferred to the care, custody, and control of the ~~executive director~~ commissioner. Upon retransfer, the respondent is entitled to a review to determine whether continued commitment under this chapter is warranted.

SECTION 74. AMENDMENT. Section 25-03.3-24 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-24. Postcommitment community placement - Penalty.

1. Following commitment of a sexually dangerous individual, the ~~executive director~~ commissioner may conduct a risk management assessment of the committed individual for the purpose of determining whether the individual may be treated safely in the community on an outpatient basis. The ~~executive director~~ commissioner may place a committed individual in the community for treatment on an outpatient basis only pursuant to a court order. The ~~executive director~~ commissioner may petition the court at any time for community placement. The ~~executive director~~ commissioner shall give the state's attorney of the county of community placement notice of any petition for community placement the ~~executive director~~ commissioner files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court. The state's attorney may waive this right. At any hearing held pursuant to a petition by the ~~executive director~~ commissioner for the community placement of a committed individual, the burden of proof required of the ~~executive director~~ commissioner is a preponderance of the evidence. The court's order of community placement must contain appropriate restrictions and requirements for the committed individual, including:
 - a. Participation and compliance with a specific course of treatment;
 - b. Submission to electronic monitoring and any other appropriate supervision;
 - c. Prohibition of the individual changing place of residency or leaving the state without prior authorization of the court;

- d. Establishment of safety zones, and compliance by the committed individual with those safety zones;
 - e. Requirement that the committed individual notify the court within twenty-four hours of any change in the individual's status that affects proper treatment or supervision;
 - f. Contact with victims is prohibited independent of a supervised treatment plan; and
 - g. Any other restriction or requirement deemed necessary by the court to assure public safety and proper treatment of the committed individual.
2. Violation by a committed individual of a court order issued pursuant to this section is a class C felony.

SECTION 75. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification before discharge.

Before discharge the superintendent shall consult with the parent or guardian of the person to be discharged, or with the court that ordered the commitment, and shall notify the director of the ~~county social service board~~ or human service zone of the county in which it is proposed that such person will assume residence and also shall notify the ~~executive director~~commissioner of the department of health and human services or designee.

SECTION 76. AMENDMENT. Section 25-11-02 of the North Dakota Century Code is amended and reenacted as follows:

25-11-02. Compact administrator - Powers.

Pursuant to said compact, the ~~executive director~~commissioner of the department of health and human services or designee must be the compact administrator and who, acting jointly with like officers of other party states, may adopt rules to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder.

SECTION 77. AMENDMENT. Subsection 2 of section 37-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Emergency" means an event or condition that is a disaster or an emergency as defined under chapter 37-17.1 and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the ~~state health officer~~department of health and human services, a local board of health, or the state veterinarian.

SECTION 78. AMENDMENT. Section 43-10-02 of the North Dakota Century Code is amended and reenacted as follows:

43-10-02. State board of funeral service - Members - Appointment - Qualifications - Term of office - Oath - Vacancies - Removal.

The board consists of the state health officer or designee and three persons appointed by the governor. Each member appointed by the governor shall serve for a term of four years and until a successor is appointed and qualified. The terms of office of the appointed members expire on the thirtieth day of June and must be so arranged that only one expires in any one year. The appointed members of the board must be persons practicing embalming in this state and must have practiced for a minimum of three years in North Dakota. Each member shall qualify by taking the oath of office required of civil officers. The secretary of state may administer the oath and it must be filed in the office

of the secretary of state. A vacancy on the board must be filled by appointment by the governor for the unexpired term. The governor may remove any member of the board for good cause.

SECTION 79. AMENDMENT. Section 43-12.3-01 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-01. Student loan repayment programs - Health care professionals.

The ~~health council~~department of health and human services shall administer student loan repayment programs, as established by this chapter, for health care professionals willing to provide services in areas of this state that have a defined need for such services.

SECTION 80. AMENDMENT. Section 43-12.3-02 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-02. Application process.

The ~~health council~~department of health and human services shall develop an application process for public and private entities seeking to fill health care needs and for health care professionals willing to provide necessary services in exchange for benefits under a student loan repayment program.

SECTION 81. AMENDMENT. Section 43-12.3-03 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-03. Public and private entities - Selection criteria - Matching funds.

1. The ~~health council~~department of health and human services shall establish criteria to be used in selecting public and private entities for participation in a program. The criteria must include:
 - a. The number of health care professionals, by specified field, already providing services in the area;
 - b. Access to health care services in the area; and
 - c. The level of support from the area.
2. The ~~health council~~department of health and human services may consult with health care and social service providers, advocacy groups, governmental entities, and others in establishing criteria and evaluating needs based on the criteria.
3. An entity may not be selected for participation unless it contractually commits to provide matching funds equal to the amount required for a loan repayment program in accordance with section 43-12.3-06.

SECTION 82. AMENDMENT. Section 43-12.3-04 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-04. Public and private entities - Eligibility for participation - Priority.

In selecting public and private entities for participation in a program the ~~health council~~department of health and human services shall give priority to an entity that:

1. Meets the selection criteria;
2. Is located in an area that is statistically underserved; and
3. Is located at least twenty miles [32.18 kilometers] outside the boundary of a city having more than forty thousand residents.

SECTION 83. AMENDMENT. Section 43-12.3-05 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-05. Health care professionals - Selection criteria.

1. The ~~health council~~department of health and human services shall establish criteria to be used in selecting health care professionals for participation in a student loan repayment program. The criteria must include:
 - a. The health care professional's specialty;
 - b. The need for the health care professional's specialty within an area;
 - c. The health care professional's education and experience;
 - d. The health care professional's date of availability and anticipated term of availability; and
 - e. The health care professional's willingness to accept Medicare and Medicaid assignments, if applicable.
2. In selecting health care professionals for participation in the program the ~~health council~~department of health and human services shall require that the individual:
 - a. Is physically present at and provides services on a full-time basis to an entity that meets the requirements of section 43-12.3-04; or
 - b. (1) Is physically present at and provides services on at least a half-time basis to an entity that meets the requirements of section 43-12.3-04;
 - (2) Provides telehealth services to a second entity that meets the requirements of section 43-12.3-04; and
 - (3) Verifies that the services provided under paragraphs 1 and 2 are equal to the full-time requirement of subdivision a.
3. In selecting health care professionals for participation in a program, the ~~health council~~department of health and human services may consider an individual's:
 - a. Length of residency in this state; and
 - b. Attendance at an in-state or an out-of-state institution of higher education.

SECTION 84. AMENDMENT. Section 43-12.3-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-06. Student loan repayment program - Contract.

1. The ~~health council~~department of health and human services shall enter a contract with a selected health care professional. The ~~health council~~department of health and human services shall agree to provide student loan repayments on behalf of the selected health care professional subject to the requirements and limitations of this section.
 - a. For a physician:
 - (1) The loan repayment may not exceed twenty thousand dollars per year, and may not exceed one hundred thousand dollars over five years; and
 - (2) The matching funds must equal fifty percent of the amount required in paragraph 1.
 - b. For a clinical psychologist:

- (1) The loan repayment may not exceed twelve thousand dollars per year, and may not exceed sixty thousand dollars over five years; and
 - (2) The matching funds must equal twenty-five percent of the amount required in paragraph 1.
 - c. For an advanced practice registered nurse or a physician assistant:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
 - d. For a behavioral health professional:
 - (1) The loan repayment may not exceed four thousand dollars per year, and may not exceed twenty thousand dollars over five years; and
 - (2) The matching funds must equal ten percent of the amount required in paragraph 1.
 - e. For purposes of this section, a behavioral health professional means an individual who practices in the behavioral health field and is:
 - (1) A licensed addiction counselor;
 - (2) A licensed professional counselor;
 - (3) A licensed social worker;
 - (4) A registered nurse;
 - (5) A specialty practice registered nurse; or
 - (6) A licensed behavior analyst.
2.
 - a. Payments under this section must be made on behalf of the health care professional directly to the Bank of North Dakota or to another participating lending institution.
 - b. Except as otherwise provided, payments under this section may be made only at the conclusion of each twelve month period of service.
 - c. Prorated payments may be made only if:
 - (1) The repayment of the loan requires less than a full annual payment;
 - (2) The health care professional is terminated or resigns from his or her position; or
 - (3) The health care professional is unable to complete a twelve-month period of service due to the individual's death, a certifiable medical condition or disability, or a call to military service.
3. Payments under this section terminate upon the earlier of:
 - a. The full repayment of the health care professional's student loan; or
 - b. The completion of five years as a participant in the student loan repayment program.
4. The ~~health council~~department of health and human services shall waive the requirements of this section that pertain to matching funds if the health care professional opens a new practice as a solo practitioner in a city that has fewer than fifteen thousand residents.

SECTION 85. AMENDMENT. Section 43-12.3-07 of the North Dakota Century Code is amended and reenacted as follows:

43-12.3-07. Powers of the ~~health council~~department - Continuing appropriation.

1. The ~~health council~~department of health and human services may:
 - a. Receive and expend any gifts, grants, and other funds for the purposes of this program;
 - b. Participate in any federal programs providing for the repayment of student loans on behalf of health care professionals; and
 - c. Do all things necessary and proper for the administration of this chapter.
2. All moneys received by the ~~health council~~department of health and human services under this section are appropriated to the ~~health council~~department of health and human services on a continuing basis, to be used exclusively for the purposes of this chapter.

SECTION 86. AMENDMENT. Subsection 14 of section 43-15-10 of the North Dakota Century Code is amended and reenacted as follows:

14. To adopt, amend, and repeal rules determined necessary by the board for the proper administration and enforcement of this chapter, chapter 19-02.1 as that chapter pertains to drugs, subject to approval of the ~~director~~commissioner of the department of health and human services or designee, and chapter 19-03.1.

SECTION 87. AMENDMENT. Section 43-28.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-01. Loan repayment program - Dentists - Defined need - Maximum amount of funds.

Annually, the ~~state health council~~department of health and human services shall select, from a pool of applicants, dentists who will provide dental services in cities or surrounding areas, or both, in this state which the ~~state health council~~department of health and human services identifies as having a defined need for dental services. The dentists selected from this pool of applicants shall agree to accept medical assistance patients and assignments or provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic. A selected dentist who agrees to the terms of this program is eligible to receive funds for the repayment of the dentist's education loans. The funds, which are payable over a five-year period, may not exceed one hundred thousand dollars per applicant. If the ~~state health council~~department of health and human services accepts any gifts, grants, or donations under this chapter, the ~~council~~department of health and human services may select additional dentists for participation in the loan repayment program under this chapter.

SECTION 88. AMENDMENT. Section 43-28.1-03 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-03. Criteria.

1. The ~~health council~~department of health and human services shall establish criteria to be used in selecting qualified dentists and in identifying cities or surrounding areas, or both, that have a defined need for dental services. The criteria must include consideration of:
 - a. The number of dentists already providing dental services in the city or surrounding areas, or both;
 - b. Access to dental services in the city and the surrounding areas;

- c. How the dentist will provide dental services to individuals on medical assistance or in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic; and
 - d. The dentist's training in general dentistry or in a dental specialty and the extent to which such services are needed in the identified city or surrounding areas, or both.
2. As a term of receipt of funds under this chapter, a dentist shall accept medical assistance patients and assignments or provide dental services in a public health clinic, a practice with a focus on an underserved population, or a nonprofit dental clinic. For purposes of a dentist selected for loan payment under this chapter who practices within fifteen miles [24.14 kilometers] of the city limits of one of the three largest cities in the state, to qualify to receive a yearly disbursement under this chapter during that year of obligated service, the dentist must have:
 - a. Received dental medical payments of at least twenty thousand dollars in the form of medical assistance reimbursement; or
 - b. Practiced at least two full workdays per week at a public health clinic or at a nonprofit dental clinic that uses a sliding fee schedule to bill the nonprofit dental clinic's patients.
 3. The ~~health council~~department of health and human services may consult with public and private sector entities in establishing criteria and evaluating needs based on the criteria.

SECTION 89. AMENDMENT. Section 43-28.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-05. Eligible loans.

The ~~state health council~~department of health and human services may provide for loan repayment funds to a dentist who has received an education loan. The ~~council~~department of health and human services may not provide funds for the repayment of any loan that is in default at the time of the application. The amount of repayment must be related to the dentist's outstanding education loans. A dentist is eligible to receive loan repayment funds in an amount equal to the outstanding balance of the dentist's education loans with applicable interest, or one hundred thousand dollars, whichever is less. Loan repayment funds may not be used to satisfy other service obligations under similar programs.

SECTION 90. AMENDMENT. Section 43-28.1-07 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-07. Contract obligation.

The ~~state health council~~department of health and human services shall enter a contract with a selected dentist. The contract must provide the ~~state health council~~department of health and human services agrees to make payments of loan repayment funds to the selected dentist, subject to the dentist meeting the requirements and limitations established by the ~~state health council~~department of health and human services under this chapter.

SECTION 91. AMENDMENT. Section 43-28.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-08. Payment - Termination.

1. The ~~state health council~~department of health and human services may not provide any loan repayment funds to a dentist under this chapter until the dentist has practiced at least six months on a full-time basis in the city or surrounding areas, or both, the ~~state health council~~department of health and human services has identified as having a defined need for dental services.

2. Except as otherwise provided, the ~~state health council~~department of health and human services shall make payments under this chapter at the conclusion of each of the five twelve-month periods of service during which the dentist met the qualifying terms of the contract. The ~~state health council~~department of health and human services may make a prorated payment under this chapter if during the twelve-month period the dentist failed to meet the qualifying terms of the contract.
3. Payments under this chapter terminate upon the earlier of completion of five years as a participant in this loan repayment program or failure of the dentist to meet the qualifying terms under the contract.

SECTION 92. AMENDMENT. Section 43-28.1-09 of the North Dakota Century Code is amended and reenacted as follows:

43-28.1-09. Gifts, grants, and donations - Continuing appropriation.

The ~~state health council~~department of health and human services may accept any conditional or unconditional gift, grant, or donation for the purpose of providing funds for the repayment of dentists' educational loans. If any entity desires to provide funds to the ~~council~~department of health and human services to allow an expansion of the program beyond the dentists contemplated by this chapter, the entity shall commit to fund fully the expansion for a period of five years. The ~~council~~department of health and human services may contract with any public or private entity and may expend any moneys available to the ~~council~~department of health and human services to obtain matching funds for the purposes of this chapter. All money received as gifts, grants, or donations under this section is appropriated as a continuing appropriation to the ~~state health council~~department of health and human services for the purpose of providing funds for the repayment of additional dentists' educational loans.

SECTION 93. AMENDMENT. Section 43-29.1-01 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-01. Loan repayment program - Veterinarians - Maximum amount of funds.

Each year the ~~state health council~~department of health and human services, in consultation with the state board of animal health, shall select qualified applicants to participate in a loan repayment program, as provided for in this chapter. Each applicant must be a veterinarian and must agree to provide food animal veterinary medicine services to communities in this state. The selected applicants are eligible to receive up to eighty thousand dollars in loan repayment funds. The number of applicants that the ~~council~~department of health and human services may select for participation in the loan repayment program is limited only by the moneys available to support the program, as provided for in this chapter.

SECTION 94. AMENDMENT. Section 43-29.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-02. Loan repayment program - Veterinarians - Powers of ~~state health council~~department.

The ~~state health council~~department of health and human services may:

1. Determine the eligibility and qualifications of an applicant for loan repayment funds under this chapter;
2. Identify communities that are in need of a veterinarian and establish a priority ranking for participation in the program by the selected communities;
3. Create and distribute a loan repayment application;

4. Determine the amount of the loan repayment funds for which an applicant may be eligible under this chapter and, in making this determination, examine any outstanding education loans incurred by the applicant;
5. Establish conditions regarding the use of the loan repayment funds;
6. Enter a nonrenewable contract with the selected applicant and the selected community to provide to the applicant funds for the repayment of education loans in exchange for the applicant agreeing to actively practice in the selected community;
7. Receive and use funds appropriated for the program;
8. Enforce any contract under the program;
9. Cancel a contract for reasonable cause;
10. Participate in federal programs that support the repayment of education loans incurred by veterinarians and agree to the conditions of the federal programs;
11. Accept property from an entity; and
12. Cooperate with the department of health and human services to effectuate this chapter.

SECTION 95. AMENDMENT. Subsection 1 of section 43-29.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. In establishing the criteria regarding eligibility for loan repayment funds under this chapter, the ~~state health council~~department of health and human services shall consider the applicant's:
 - a. Training in food animal veterinary medicine, ability, willingness to engage in food animal veterinary medicine, and the extent to which such services are needed in a selected community;
 - b. Commitment to serve in a community that is in need of a veterinarian;
 - c. Compatibility with a selected community;
 - d. Date of availability for service to the selected community; and
 - e. Competence and professional conduct.

SECTION 96. AMENDMENT. Section 43-29.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-04. Community selection criteria.

1. In selecting a community with a defined need for the services of a veterinarian, the ~~health council~~department of health and human services shall consider:
 - a. The size of the community and give priority:
 - (1) First to rural communities having a population under five thousand;
 - (2) Second to communities having a population between five thousand and ten thousand; and
 - (3) Third to communities having a population greater than ten thousand.
 - b. The number of veterinarians practicing in the community and the surrounding area.

- c. The access by residents to veterinarians practicing in the community and the surrounding area.
- d. The degree to which residents support the addition of a veterinarian within the community.
2. The ~~state health council~~department of health and human services shall give priority for participation to a community that demonstrates a need for a veterinarian.
3. In evaluating communities for participation in this program, the ~~state health council~~department of health and human services may consult with public and private entities and visit the communities.

SECTION 97. AMENDMENT. Section 43-29.1-05 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-05. Eligible loans.

The ~~state health council~~department of health and human services may provide for loan repayment funds to a veterinarian who has received an education loan. The ~~council~~department of health and human services may not provide funds for the repayment of a loan that is in default at the time of the application. The amount of the repayment must be related to the veterinarian's outstanding education loans.

SECTION 98. AMENDMENT. Section 43-29.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-06. Release from contract obligation.

1. The ~~state health council~~department of health and human services shall release a veterinarian from the veterinarian's loan repayment contract without penalty if:
 - a. The veterinarian has completed the service requirements of the contract;
 - b. The veterinarian is unable to complete the service requirement of the contract because of a permanent physical disability;
 - c. The veterinarian demonstrates to the ~~state health council~~department of health and human services extreme hardship or shows other good cause justifying the release; or
 - d. The veterinarian dies.
2. A decision by the ~~state health council~~department of health and human services not to release a veterinarian from the veterinarian's loan repayment contract without penalty is reviewable by district court.

SECTION 99. AMENDMENT. Subsection 5 of section 43-29.1-07 of the North Dakota Century Code is amended and reenacted as follows:

5. If any moneys remain in the state veterinary loan repayment account after the ~~health council~~department of health and human services has met all statutory and contractual obligations established under this chapter, the ~~health council~~department of health and human services may use the moneys to increase the number of veterinarians participating in the loan repayment program.

SECTION 100. AMENDMENT. Section 43-29.1-08 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-08. Gifts, grants, and donations - Continuing appropriation.

1. The ~~state health council~~department of health and human services may accept any conditional or unconditional gifts, grants, and donations for the purpose of providing moneys for the repayment of veterinarians' education loans. However, if an entity desires to provide moneys to the ~~state health council~~department of health and human services for the location of a veterinarian in or at a specific site, the entity shall commit to provide the full amount required under this program for a period of four years.
2. The ~~state health council~~department of health and human services may contract with a public or private entity and may expend any moneys available to the ~~council~~department of health and human services to obtain matching funds for the purposes of this chapter.
3. All moneys received as gifts, grants, or donations under this section are appropriated on a continuing basis to the ~~state health council~~department of health and human services for the purpose of increasing the number of veterinarians participating in the loan repayment program under this chapter.

SECTION 101. AMENDMENT. Section 43-34-02 of the North Dakota Century Code is amended and reenacted as follows:

43-34-02. Composition of the board.

There is hereby created the state board of examiners for nursing home administrators which consists of nine members.

1. Two members of the board must be the state health officer and the ~~executive director~~commissioner of the department of health and human services or the members' designees.
2. One member of the board must be a physician appointed to the board for a three-year term by the governor.
3. One member of the board must be a hospital administrator appointed to the board for a three-year term by the governor.
4. Four members of the board must be licensed nursing home administrators appointed to the board for three-year terms by the governor.
5. One member of the board must be a nurse appointed to the board for a three-year term by the governor.
6. Any vacancies occurring in the appointments made by the governor must be filled by the governor.
7. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 102. AMENDMENT. Section 43-38-01 of the North Dakota Century Code is amended and reenacted as follows:

43-38-01. Definitions.

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

1. "Department" means the department of health and human services.
2. "Electrologist" means a qualified and licensed person proficient in the removal of hair by means of the electric needle.

- ~~2-3.~~ "Electrolysis" means the removal of superfluous hair by use of the electric needle or electronic process.
- ~~3-4.~~ "Electronic hair removal technician" means a qualified and licensed person proficient in the removal of hair by means of an electronic process other than the electric needle.
4. ~~"State health council" means the state health council as defined in chapter 23-01.~~

SECTION 103. AMENDMENT. Section 43-38-02 of the North Dakota Century Code is amended and reenacted as follows:

43-38-02. Electrologist and electronic hair removal technician licensure - Duties of state health council.

The ~~state health council~~department shall issue an electrologist's or electronic hair removal technician's license. The annual license must be determined annually ~~by the council~~ but may not exceed fifty dollars for new licenses and not exceed twenty-five dollars for relicensure.

SECTION 104. AMENDMENT. Section 43-38-03 of the North Dakota Century Code is amended and reenacted as follows:

43-38-03. Rulemaking authority of department of health and human services.

- ~~1.~~ The department ~~of health and human services~~ shall establish standards, rules, and regulations that are found necessary for the maintenance of public health, including sanitation and disease control. The department ~~of health and human services~~ has the following powers:
 1. ~~a.~~ To establish minimum age levels.
 2. ~~b.~~ To establish education and training levels for electrologists and electronic hair removal technicians.
 3. ~~c.~~ To issue, deny, suspend, or revoke licenses.
 4. ~~d.~~ To develop application and licensure forms.
 5. ~~To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it.~~
 6. ~~e.~~ To promulgate such requirements as may be found necessary to carry out the intent of this chapter.
2. All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the department ~~of health and human services~~ upon proof, satisfactory to the department, of having met the qualifications.

SECTION 105. AMENDMENT. Subsection 1 of section 43-43-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Advisory board" means the following or their appointed agents: state health officer or designee as chairperson, the commissioner of the North Dakota department of agriculture, and the president of the North Dakota environmental health association. The state health officer or designee shall appoint one agent of a district or local health unit environmental health practitioner and one consumer.

SECTION 106. AMENDMENT. Section 43-43-03 of the North Dakota Century Code is amended and reenacted as follows:

43-43-03. Advisory board duties and compensation.

The advisory board shall meet at the request of the state health officer or designee to assist in implementation of duties as defined in section 43-43-04. The advisory board must be reimbursed for any necessary expenses, but shall serve without further compensation except as may be authorized and fixed by the department of health and human services by rule.

SECTION 107. AMENDMENT. Section 43-43-05 of the North Dakota Century Code is amended and reenacted as follows:

43-43-05. Exception from requirements.

The ~~state health officer~~department of health and human services must license all persons actually engaged in the practice of environmental health in this state upon receipt of proof of a bona fide practice in this state; however, the applicant must file an application and present such proof prior to July 1, 1986, or become subject to licensure requirements of this chapter.

SECTION 108. AMENDMENT. Subsection 10 of section 50-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

10. Are the custodian designees of the ~~executive director~~commissioner of the department for any child in the custody of the department.

SECTION 109. AMENDMENT. Section 50-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.1. Department of health and human services to be substituted for public welfare board of North Dakota and social service board of North Dakota, members of board, ~~executive director~~commissioner, and department of human services.

When the terms "public welfare board of North Dakota", "social service board of North Dakota", "executive director of the public welfare board", "executive director of the social service board", "department of human services", or "executive director of the department of human services", "member of the public welfare board", or "member of the social service board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, appear in the North Dakota Century Code, the term "department of health and human services", or the term "~~executive director~~commissioner of the department of health and human services", as the case may be, must be substituted therefor. It is the intent of the legislative assembly that the department of health and human services must be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota, by the social service board of North Dakota, by the department of human services, or by the state department of health. The legislative council may replace references to the "department of human services" or "executive director of the department of human services" or any derivatives of those terms with "department of health and human services" or "executive director of the department of health and human services" in any measure enacted by the sixty-seventh legislative assembly. The legislative council may replace references to the "executive director of the department of human services" or any derivatives of those terms with "commissioner of the department of health and human services or designee" in any measure enacted by the sixty-eighth legislative assembly.

SECTION 110. AMENDMENT. Section 50-06-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.3. Appointment of ~~executive director~~commissioner - Compensation - Deputy.

1. The governor shall appoint the ~~executive director~~commissioner of the department who shall serve at the pleasure of the governor. The ~~executive director~~commissioner shall take the oath of office required of civil officers by section 44-01-05. The ~~executive director~~commissioner is

entitled to receive compensation in the amount established by the governor within the limits of legislative appropriations.

2. The commissioner of the department may appoint a deputy commissioner.
3. The commissioner of the department may delegate any of the commissioner's authority as the commissioner determines necessary.

SECTION 111. 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, a vocational rehabilitation unit, public health division, and other units or offices and administrative and fiscal support services as the ~~executive director~~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, 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:
 - (1) ~~A policy division responsible for 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; and providing policy leadership in partnership with public and private entities; and~~
 - (2) ~~A service delivery division responsible for 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.
 - 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 executive director~~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 in the provision of special education services. ~~The executive director~~commissioner of the department or commissioner's designee shall also maintain a close liaison with human service zones.
 3. By August 1, 2019, 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 112. AMENDMENT. Subsection 3 of section 50-06-05.3 of the North Dakota Century Code is amended and reenacted as follows:

3. Each human service center must have a human services 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 ~~executive director~~commissioner of the department or commissioner's designee, and five additional members appointed by the ~~executive director~~commissioner of the department or commissioner's designee. Each 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 director~~commissioner of the department or commissioner's designee shall select the appointed members of each human service advisory group on the basis of population of the counties in the region served by the human service center. Each county in the region must be represented by at least one member on the human service advisory group. To the extent possible, appointed membership of the advisory group must reflect regional interests in the fields of developmental disabilities, social services, mental health, and substance use disorders. ~~The executive director~~commissioner of the department or commissioner's designee shall appoint a chairman for each advisory group from the membership of the advisory group. ~~The executive director~~commissioner of the department or commissioner's designee shall fill a vacancy occurring within an 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 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 113. 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 center - Medical director.

Each regional human service center must be headed by a regional director appointed by the ~~executive director~~commissioner of the department. The regional director must be accountable to the ~~executive director~~commissioner of the department or the ~~director's~~commissioner's designee. Each regional director may employ the staff necessary to discharge the center's responsibilities. A regional director, subject to the approval of the ~~executive director~~commissioner of the department or the ~~director's~~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 service delivery responsibilities. Each regional director shall hire a qualified medical professional who must be designated as the medical director of the center. 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 director, with the concurrence of the ~~executive director~~commissioner of the department or the ~~director's~~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 114. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume costs of human services.

The department shall pay each human service zone's expenses for administering human services for calendar years after December 31, 2019, based on the payment amount calculated for each human service zone under chapter 50-35. The ~~executive director~~commissioner of the department or commissioner's designee shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county or human service zone, or for a new service or program based on federal or state law.

SECTION 115. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.6. Department may lease real and personal property.

The ~~executive director~~commissioner of the department or commissioner's designee may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The ~~executive director~~commissioner or designee also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The ~~executive director~~commissioner of the department or commissioner's designee may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium.

SECTION 116. AMENDMENT. Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

50-06-30. Interagency agreement between the department of health and human services and the department of corrections and rehabilitation.

The ~~executive director~~commissioner of the department or commissioner's designee and the director of the department of corrections and rehabilitation may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of health and human services with the provision and enforcement of safety and security procedures at the state

hospital for all patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at the state hospital. The amended interagency agreement must provide that the ~~executive director~~commissioner of the department or commissioner's designee shall continue to be responsible for the custody and care of patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

SECTION 117. AMENDMENT. Section 50-06-31 of the North Dakota Century Code is amended and reenacted as follows:

50-06-31. Report to legislative council - Individuals committed to state hospital.

Before March first of each even-numbered year, the department shall report to the legislative council on services provided by the department of corrections and rehabilitation relating to individuals at the state hospital who have been committed to the care and custody of the ~~executive director~~commissioner of the department or commissioner's designee.

SECTION 118. AMENDMENT. Section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32. Autism spectrum disorder task force - Appointment - Duties - Annual reports.

1. The autism spectrum disorder task force consists of:
 - a.
 - (1) The state health officer, or the officer's designee;
 - (2) The ~~director~~commissioner of the department, or the ~~director's~~commissioner's designee;
 - (3) The superintendent of public instruction, or the superintendent's designee; and
 - (4) The executive director of the protection and advocacy project, or the director's designee; and
 - b. The following members appointed by the governor:
 - (1) A pediatrician with expertise in the area of autism spectrum disorder;
 - (2) A psychologist with expertise in the area of autism spectrum disorder;
 - (3) A college of education faculty member with expertise in the area of autism spectrum disorder;
 - (4) A behavioral specialist;
 - (5) A licensed teacher with expertise in the area of autism spectrum disorder;
 - (6) An occupational therapist;
 - (7) A representative of a health insurance company doing business in this state;
 - (8) A representative of a licensed residential care facility that provides care and services to individuals with autism spectrum disorder;
 - (9) A representative who is an enrolled member of a federally recognized Indian tribe;
 - (10) An adult self advocate with autism spectrum disorder;

- (11) A parent of a child with autism spectrum disorder;
 - (12) A family member of an adult with autism spectrum disorder; and
 - (13) A member of the legislative assembly.
2. The ~~director~~commissioner of the department, or the ~~director's~~commissioner's designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.
 3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.
 4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

SECTION 119. AMENDMENT. Subsection 1 of section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

1. The commission on juvenile justice is composed of:
 - a. Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;
 - b. Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;
 - c. The governor, or the governor's designee;
 - d. The superintendent of public instruction, or the superintendent's designee;
 - e. The ~~executive—~~directorcommissioner of the department, or the ~~executive—~~director'scommissioner's designee;
 - f. The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;
 - g. The executive director of the Indian affairs commission, or the executive director's designee;
 - h. A director of juvenile court services, appointed by the chief justice of the supreme court;
 - i. A representative from the commission on legal counsel for indigents; and
 - j. The following members appointed by the governor:
 - (1) A state's attorney;
 - (2) A representative of a children's advocacy center; and
 - (3) A representative of local law enforcement.

SECTION 120. AMENDMENT. Subsection 4 of section 50-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Rules" means rules adopted by the division executive director with the approval of the ~~executive director~~commissioner of the department or commissioner's designee.

SECTION 121. AMENDMENT. Subsection 7 of section 50-10.1-03 of the North Dakota Century Code is amended and reenacted as follows:

7. Carry out any activities consistent with the requirements of this chapter, including the delegation to regional or volunteer community long-term care ombudsmen of any duties imposed by this chapter, which the ~~executive director~~commissioner of the department or commissioner's designee deems appropriate.

SECTION 122. AMENDMENT. Subsection 1 of section 50-11.1-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The North Dakota early childhood council consists of:
 - a. A chairman appointed by the governor;
 - b. The superintendent of public instruction, or the superintendent's designee;
 - c. The state health officer, or the officer's designee;
 - d. The ~~director~~commissioner of the department, or the ~~director's~~commissioner's designee;
 - e. The North Dakota head start - state collaboration administrator, or the administrator's designee;
 - f. The commissioner of higher education, or the commissioner's designee;
 - g. The commissioner of commerce, or the commissioner's designee;
 - h. The chairman of the senate education committee, or the chairman's designee;
 - i. The chairman of the house of representatives education committee, or the chairman's designee;
 - j. The chairman of the senate human services committee, or the chairman's designee;
 - k. The chairman of the house of representatives human services committee, or the chairman's designee; and
 - l. The following individuals appointed by the governor:
 - (1) The superintendent of a school district having at least one thousand students in average daily membership;
 - (2) The superintendent of a school district having fewer than one thousand students in average daily membership;
 - (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;
 - (4) An individual representing a non-religious-based provider of a four-year old program;
 - (5) An individual representing a religious-based provider of a four-year old program;

- (6) An individual representing a center-based licensed child care provider;
- (7) An individual representing a home-based licensed child care provider;
- (8) An individual representing a reservation-based head start program;
- (9) An elected member of a school board;
- (10) The parent of a child not yet enrolled in elementary school;
- (11) The parent of a child with disabilities not yet enrolled in elementary school; and
- (12) An individual representing children with disabilities.
- (13) A special education director.

SECTION 123. AMENDMENT. Section 50-21-02 of the North Dakota Century Code is amended and reenacted as follows:

50-21-02. Administration of revolving fund.

The revolving fund and loans made therefrom must be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this chapter for the construction of nursing homes or combination nursing homes and basic care facilities must be made to the department of health and human services, which department is authorized, ~~subject to the approval of the North Dakota health council,~~ to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. All applications for the construction of basic care facilities must be made to the department of health and human services, which department shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. Applications approved by the department of health and human services ~~and the North Dakota health council~~ must be forwarded to the Bank of North Dakota. Upon approval of such application by the president of the Bank of North Dakota, loans must be granted by the Bank of North Dakota from the revolving fund in accordance with the provisions of this chapter.

SECTION 124. AMENDMENT. Section 50-21-04 of the North Dakota Century Code is amended and reenacted as follows:

50-21-04. Standards - Administration procedure.

The department of health and human services shall establish standards of construction which must be followed by all applicants receiving loans of funds for the construction of nursing homes or combination nursing homes and basic care facilities. The department of health and human services shall establish standards of construction which must be followed by all applicants for loans for the construction of basic care facilities. ~~The health council~~ department of health and human services, in the case of the construction of nursing homes or basic care facilities or combination nursing homes and basic care facilities, shall approve all building plans and specifications for any facilities to be constructed in whole or in part with loans of funds provided under the provisions of this chapter prior to the disbursement of any such funds. Administrative procedures established by the department of health and human services must, except to construction standards, be in general in accordance with the procedures established for the administration of the federal grant-in-aid program for similar purposes under the Hill-Burton Act, or federal acts supplemental thereto.

SECTION 125. AMENDMENT. Section 50-24.6-02 of the North Dakota Century Code is amended and reenacted as follows:

50-24.6-02. Drug use review board.

1. The board is established within the department for the implementation of a drug use review program.

2. The board consists of seventeen members. The pharmacy administrator of the department and the medical consultant to the department are ex officio nonvoting board members who shall provide administrative services to the board. A majority of the appointed members must be physicians and pharmacists participating in the medical assistance program. Four or more of the appointed members must have experience with a drug use review process or have participated in programs in which prior authorization is used. The appointed members of the board must be:
 - a. Four physicians licensed in this state and actively engaged in the practice of medicine, one of whom is a psychiatrist, appointed by the North Dakota medical association;
 - b. Two physicians licensed in this state and actively engaged in the practice of medicine, appointed by the ~~executive director~~commissioner of the department or commissioner's designee;
 - c. Four pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the North Dakota pharmaceutical association;
 - d. Two pharmacists licensed in this state and actively engaged in the practice of pharmacy, appointed by the ~~executive director~~commissioner of the department or commissioner's designee;
 - e. One individual who represents consumer interests, appointed by the governor;
 - f. One pharmacist or physician representing the brand pharmaceutical industry appointed by the pharmaceutical research and manufacturers of America; and
 - g. One pharmacist or physician representing the generic pharmaceutical industry appointed by the generic pharmaceutical association.
3. Appointed board members shall serve staggered three-year terms. An appointed member may be reappointed for a period not to exceed three 3-year terms. A vacancy on the board must be filled for the balance of the unexpired term from the appropriate board category as provided under subsection 2. The ~~executive director~~commissioner of the department or commissioner's designee may replace an appointed member of the board who fails to attend three consecutive meetings of the board without advance excuse or who fails to perform the duties expected of a board member. The pharmaceutical industry representatives are nonvoting board members.
4. Voting board members shall select a chairman and a vice chairman on an annual basis from the board's voting membership.
5. The board shall meet in person at least once every three months and may meet at other times by teleconference or electronically at the discretion of the chairman. A board member is entitled to receive from the department per diem compensation and reimbursement of expenses as determined by the department, except that no compensation under this section may be paid to any board member who receives compensation or salary as a state employee or official.

SECTION 126. AMENDMENT. Subsection 3 of section 50-25.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination whether child abuse or neglect is indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When a report includes an allegation or report of institutional child abuse and neglect as defined in section 50-25.1-02, the state child protection team promptly shall notify the ~~executive director~~commissioner of the department or

commissioner's designee of the determination. Notwithstanding section 50-25.1-11, the department shall notify the superintendent of public instruction, the school district administrator, and the president or chairman of the school board or a private school's governing body or entity if the subject of the report is a public or private school.

SECTION 127. AMENDMENT. Subsection 1 of section 50-28-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~executive director~~commissioner of the department or commissioner's designee shall:
 - a. Execute one or more interstate compacts on behalf of this state, not inconsistent with this chapter, to implement the purposes of this chapter; and
 - b. Designate a compact administrator and a deputy compact administrator as the ~~executive director~~commissioner or designee deems necessary.

SECTION 128. AMENDMENT. Subsection 1 of section 50-28-05 of the North Dakota Century Code is amended and reenacted as follows:

1. This state's joinder of the compact is effective upon execution of the compact by the ~~executive director~~commissioner of the department or commissioner's designee.

SECTION 129. AMENDMENT. Subsection 2 of section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Director" means the ~~executive director~~commissioner of the department or the ~~executive director's~~commissioner's designee.

SECTION 130. AMENDMENT. Section 54-44.3-31 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-31. Political subdivision may request to be exempted from state merit system.

A political subdivision subject to the merit system under this chapter may file a request with the division and the ~~executive director~~commissioner of the department of health and human services or commissioner's designee to be exempted from the merit system. The request must describe a plan and policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The division and the ~~executive director~~commissioner of the department of health and human services or commissioner's designee shall authorize the political subdivision plan within sixty days of receiving a request under this section if the plan and policies meet federal requirements. If the division and the ~~executive director~~commissioner of the department of health and human services or commissioner's designee determine that the proposed plan and policies fail to meet the federal requirements, the division and the ~~executive director~~commissioner or designee shall deny the request and notify the requester of the specific reasons for the denial.

SECTION 131. AMENDMENT. Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 2-05-01, 4.1-05-02, 4.1-26-02, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, ~~23-01-02~~, 23.1-01-02, 36-01-01, 37-18.1-01, 50-06-05.6, 54-34.3-10, 54-54-02, 55-01-01, and 61-02-04, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk marketing board.

- c. The dairy promotion commission.
- d. The state banking board.
- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
- i. The state board of public school education.
- j. The education standards and practices board.
- k. The board of trustees of the teachers' fund for retirement.
- l. The state game and fish advisory board.
- m. ~~The health council.~~
- n. The environmental review advisory council.
- ~~o.~~n. The board of animal health.
- ~~p.~~o. The administrative committee on veterans' affairs.
- ~~q.~~p. The committee on aging.
- ~~r.~~q. The commission on the status of women.
- ~~s.~~r. The North Dakota council on the arts.
- ~~t.~~s. The state historical board.
- ~~u.~~t. The state water commission.

SECTION 132. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for state and human service zone records - Administrator to adopt.

The administrator shall adopt rules in accordance with chapter 28-32 for state and human service zone records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records. The administrator, prior to adoption, amendment, or repeal of rules concerning state and human service zone records, shall consult with the ~~executive director~~commissioner of the department of health and human services or commissioner's designee.

SECTION 133. AMENDMENT. Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the ~~executive director~~commissioner of the department of health and human services or the ~~executive director's~~commissioner's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a

replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency.

SECTION 134. AMENDMENT. Section 54-59-33 of the North Dakota Century Code is amended and reenacted as follows:

54-59-33. Statewide longitudinal data system committee - Membership.

1. The statewide longitudinal data system committee consists of:
 - a. The commissioner of the board of higher education or the commissioner's designee;
 - b. The superintendent of public instruction or the superintendent's designee;
 - c. The chief information officer or the officer's designee;
 - d. The director of the department of career and technical education or the director's designee;
 - e. The director of job service North Dakota or the director's designee;
 - f. The commissioner of commerce or the commissioner's designee;
 - g. The ~~executive director~~commissioner of the department of health and human services or the ~~director's~~commissioner's designee;
 - h. The executive director of the North Dakota council of educational leaders or the executive director's designee;
 - i. The director of the North Dakota workforce development council or the director's designee; and
 - j. Two members of the legislative assembly appointed by the chairman of the legislative management.
2. The governor shall designate the chairman of the committee.

SECTION 135. AMENDMENT. Section 57-60-03 of the North Dakota Century Code is amended and reenacted as follows:

57-60-03. Measurement and recording of synthetic natural gas, byproducts, beneficiated coal, or electricity produced and carbon dioxide capture.

The production of synthetic natural gas, byproducts, beneficiated coal, or electrical power and data necessary to determine the amount of carbon dioxide captured must be measured at the place of production or generation, and any person subject to the imposition of the taxes provided by this chapter shall maintain devices to measure and record the cumulative periodic totals of synthetic natural gas, byproducts, beneficiated coal, and electrical power generated and data necessary to determine the amount of carbon dioxide captured. Any person subject to the taxes imposed by this chapter shall maintain accurate records of the daily and monthly totals of synthetic natural gas, beneficiated coal, and electrical power generated and subject to such taxes and data necessary to determine the amount of carbon dioxide captured. On or before October first of each year, the operator of any coal gasification

plant shall file a report with the ~~state health officer~~department of environmental quality listing the quantity of byproducts produced during the year ending June thirtieth of that year. The commissioner shall have access to such records at reasonable times and places.

SECTION 136. REPEAL. Sections 23-01-01, 23-01-06, and 23-07-07 of the North Dakota Century Code are repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1165.

House Vote: Yeas 88 Nays 3 Absent 3

Senate Vote: Yeas 45 Nays 1 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.


Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-01. State Department of Health

NDCC, 23-01-05

§ 23-01-05. Health officer--Qualifications, salary, term, duties

Currentness

1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.
2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.
3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.
4. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor.
5. The duties of the state health officer are as follows:
 - a. Provide strategy and policy advice to improve health and wellness.
 - b. Serve in an advisory capacity for local public health and local health officers.
 - c. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions.
 - d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity and decontamination measure.

(1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue a statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1 and the governor consents to the order. The statewide order is limited in duration to the duration of the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1.

(2) A written order issued under this section has the same effect as a physician's standing medical order.

(3) The state health officer shall apply to the district court in a judicial district in which a communicable disease is present for an injunction canceling a public event or closing a place of business. On application of the state health officer showing the necessity of the cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

(4) Notwithstanding any other provision of law, an order issued pursuant to this subsection may not:

(a) Substantially burden a person's exercise of religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest;

(b) Treat religious conduct more restrictively than any secular conduct of reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or

(c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit.

(5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees.

e. Perform all duties required or provided by law.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013; S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022; S.L. 2023, ch. 229 (H.B. 1165), § 9, eff. July 1, 2023.

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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Showing differences between versions effective [See Text Amendments] to April 21, 2021 and July 1, 2023 [current]

Key: ~~deleted text~~ **added text**

46 deletions · 39 additions

NDCC, 23-01-05

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

1. The governor shall appoint the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department.

2. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business.

3. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years.

~~4. If~~ **4. If** ~~The governor shall appoint the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people. The state health officer is entitled to receive a salary commensurate with that person's training and experience. The governor shall set the salary~~ **office** ~~of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years beginning January 1~~ **filled temporarily** ~~, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:~~

5. The duties of the state health officer are as follows:

- ~~1. Enforce all rules~~ **a. Provide strategy** ~~and regulations as promulgated by the~~ **policy advice to improve** ~~health council~~ **and wellness** .
- ~~2. Hold public health unit boards of health responsible for enforcement of state rules, serve~~ **b. Serve** ~~in an advisory capacity to~~ **for local** ~~public health unit boards of health, and provide for coordination of~~ **local** ~~health activities~~ **officers** .
- ~~3. Establish and enforce minimum standards of performance of the work of the local department of health.~~
- ~~4. Study health problems and plan for their solution as may be necessary.~~

5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.

6 **[c]**. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council .

7. Collect **[d. Issue a written order relating to a disease control measure necessary to prevent the spread of a communicable disease. A disease control measure may include a special immunization activity]** and ~~distribute health education material~~ **[decontamination measure]**.

8. Maintain **[(1) The state health officer shall limit a written order issued under this section to the geographical area affected by the communicable disease. The state health officer may not issue]** a ~~central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary~~ **[statewide order under this section unless the governor has declared a statewide disaster or emergency under chapter 37-17.1]** and ~~chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention~~ **[the governor consents to the order. The statewide order is limited in duration to the duration]** of disease and their distribution for public health purposes **[the declared disaster or emergency unless terminated earlier pursuant to chapter 37-17.1]**.

9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions **[(2) A written order issued under this section has the same effect as a physician's standing medical order]**.

10. Comply with the state merit system policies of personnel administration.

11. Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. **[(3)]** The state health officer ~~may~~ **[shall]** apply to the district court in a judicial district ~~where~~ **[in which]** a communicable disease is present for an injunction canceling **[a]** public ~~events~~ **[event]** or closing ~~places~~ **[a place]** of business. On application of the state health officer showing the necessity of ~~such~~ **[the]** cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

13. Make bacteriological examination of bodily secretions and excretions and of waters and foods.

14. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent **[(4) Notwithstanding any other provision]** of public health, or by any physician who has been regularly licensed **[law, an order issued pursuant]** to ~~practice in~~ this state. **[subsection may not:]**

15. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.

16. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

17. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.

18. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.

19. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:

(1) ~~A statement~~ | **a) Substantially burden a person's exercise** | of ~~whether there are known environmental causes~~ | **religion unless the order is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest** |;

(2) ~~If there are known environmental causes identified, a recommendation~~ | **b) Treat religious conduct more restrictively than any secular conduct** | of ~~how they can be remediated or mitigated; and~~ | **reasonably comparable risk, unless the government demonstrates through clear and convincing scientific evidence that a particular religious activity poses an extraordinary health risk; or** |

(3) ~~If there are no known environmental causes identified, a statement that no known causes exist~~ | **c) Treat religious conduct more restrictively than comparable secular conduct because of alleged economic need or benefit** |.

~~b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified environmental concern related to the epidemiological assessment is the burden of the building owner~~ | **(5) A person claiming to be aggrieved by a violation of paragraph 1 may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief, including costs and reasonable attorney's fees** |.

e. Perform all duties required or provided by law.

Credits

S.L. 1885, ch. 63, §§ 2, 3, 6, 15; S.L. 1889, ch. 22, § 1; S.L. 1897, ch. 35, § 1; S.L. 1899, ch. 58, § 1; S.L. 1903, ch. 181, § 1; S.L. 1923, ch. 227, § 3; S.L. 1933, ch. 189, § 1; S.L. 1943, ch. 207, § 1; S.L. 1947, ch. 200, § 5; S.L. 1977, ch. 104, § 5; S.L. 1987, ch. 290, § 1; S.L. 1993, ch. 218, § 7; S.L. 1993, ch. 247, § 1; S.L. 1995, ch. 243, § 2; S.L. 1999, ch. 242, § 1; S.L. 2001, ch. 29, § 11; S.L. 2005, ch. 32, § 13; S.L. 2013, ch. 203, § 1, eff. Aug. 1, 2013 |; **S.L. 2021, ch. 191 (H.B. 1118), § 1, eff. April 22, 2021; S.L. 2021, ch. 192 (S.B. 2181), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 190 (H.B. 1418), § 1, eff. Aug. 1, 2021; S.L. 2021, ch. 92 (H.B. 1410), § 3, eff. Aug. 1, 2021; S.L. 2021, ch. 352 (H.B. 1247), § 107, eff. Sept. 1, 2022; S.L. 2023, ch. 229 (H.B. 1165), § 9, eff. July 1, 2023.**

Codifications: R.C. 1895, §§ 240 to 242, 244, 252; R.C. 1899, §§ 240 to 242, 244, 252; R.C. 1905, §§ 252 to 254, 256, 258; C.L. 1913, §§ 397 to 399, 401, 403; 1925 Supp., § 396d3; R.C. 1943, § 23-0105; 1957 Supp., § 23-0105.

NDCC 23-01-05, ND ST 23-01-05

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1465
(Representatives Westlind, Tveit, Weisz)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Vaccine and infection information.

1. Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither a state government entity nor any of its subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status;
 - b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's vaccination status;
 - (2) The presence of pathogens, antigens, or antibodies; or
 - (3) An individual's post-transmission recovery status.
2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.
3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the

circumstances under which such documentation may be shared, and exemptions from providing such documentation.

5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

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

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section:
 - a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.
 - b. "E-visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.
 - c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.
 - e.d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.
 - d.e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.
 - f. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.
 - e.g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.
 - f.h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end-to-end encryption, and which allows only an individual and the person with whom the individual is communicating to see what is transmitted.
 - i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.
 - g.j. "Telehealth":
 - (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.

- (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.
 - (3) Does not include the use of ~~audio-only telephone~~, electronic mail, or facsimile transmissions, or audio-only telephone unless for the purpose of e-visits or a virtual check-in.
- k. "Virtual check-in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.
2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
 3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as ~~the insurer with the health services providers in the same manner as~~ the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
 4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
 5. This section does not require:
 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
 - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means; or
 - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - HEALTH INSURANCE NETWORKS.

1. During the 2021-22 interim, the legislative management shall consider studying health insurance networks, including narrow networks. The study must include:
 - a. Consideration of the use and regulation of broad and narrow networks in the state by individuals and employers, the sales and marketing of broad and narrow networks, opportunities for consumer choice-of-provider, and premium differentials among states with choice-of-provider laws;
 - b. A review of legislative and court history regarding the impact of choice-of-provider laws on exclusive provider organizations and preferred provider organizations and how choice-of-provider laws apply to risk-pooled health plans regulated by the federal Employee Retirement Income Security Act of 1974;

- c. The impact of the consolidation of the health care market on consumer cash prices, insurance plan deductibles and premiums prices, and consumer options;
 - d. A comparison of health maintenance organizations provider network designs and other health insurer provider network designs;
 - e. A review of how vertical integrated networks utilize HMO plans; and
 - f. A comparison of premiums of health benefit plans offered in the individual and small group markets in relation to the provider network design associated with those plans along with the growth of value-based purchasing.
2. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1465 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 72 Nays 14 Absent 8

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 44 Nays 3 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,
at _____ o'clock _____ M.

Secretary of State

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

This section has been updated. Click [here](#) for the updated version.

NDCC, 23-12-20

§ 23-12-20. Vaccine and infection information

1. Except as provided under [sections 15.1-23-02](#), [23-01-05.3](#), and [23-07-17.1](#), neither a state government entity nor any of its subdivisions, agents, or assigns may:

a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:

- (1) An individual's vaccination status;
- (2) The presence of pathogens, antigens, or antibodies; or
- (3) An individual's post-transmission recovery status;

b. Otherwise publish or share an individual's vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or

c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:

- (1) An individual's vaccination status;
- (2) The presence of pathogens, antigens, or antibodies; or
- (3) An individual's post-transmission recovery status.

2. A private business located in this state may not require a patron or customer to provide any documentation certifying vaccination or post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a health care provider including a long-term care provider.

3. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

4. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.

5. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

6. This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization.

Credits

[S.L. 2021, ch. 204 \(H.B. 1465\), § 1](#), eff. May 10, 2021.

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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**Sixty-seventh Legislative Assembly of North Dakota
In Special Session Commencing Monday, November 8, 2021**

HOUSE BILL NO. 1511
(Representatives Weisz, Becker, Devlin, Lefor, Meier, Paulson, Porter, Schauer)
(Senators Lee, Wardner)
(Approved by the Delayed Bills Committee)

AN ACT to create and enact a new section to chapter 34-03 of the North Dakota Century Code, relating to employer-required COVID-19 vaccinations; to amend and reenact sections 23-01-05.3 and 23-12-20 of the North Dakota Century Code, relating to vaccine passports and limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status; to repeal section 23-12-20 of the North Dakota Century Code and section 2 of this Act, relating to limitations on requiring documentation of COVID-19 vaccinations, antibodies, and post-transmission recovery status and employer-required COVID-19 vaccinations; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data. (Effective through August 31, 2022)

1. The state department of health may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The state department of health may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The state department of health shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The state department of health may not create, administer, provide, or contract for electronic machine-readable code or a vaccine passport.

Immunization data. (Effective after August 31, 2022)

1. The department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.
2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:
 - a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.
 - b. The department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.
3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.
4. The department of health and human services may not create, administer, provide, or contract for electronic machine-readable code or a vaccine passport.

SECTION 2. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. ~~Vaccine~~COVID-19 vaccination and infection information.

1. ~~Except as provided under sections 15.1-23-02, 23-01-05.3, and 23-07-17.1, neither~~Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to state property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or

(3) An individual's COVID-19 post-transmission recovery status.

2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.
- ~~3.4.~~ This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
- ~~4.5.~~ Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
- ~~5.6.~~ This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
- ~~6.~~ This section is limited in application to a vaccination authorized by the federal food and drug administration pursuant to an emergency use authorization
7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

SECTION 3. A new section to chapter 34-03 of the North Dakota Century Code is created and enacted as follows:

COVID-19 vaccination requirements - Exemptions.

1. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.
2. If an employer or contractor requires an employee, prospective employee, or independent contractor in this state to be vaccinated against COVID-19 as a condition of employment or a term of a contract:
 - a. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit proof of COVID-19 antibodies as an exemption to the vaccination requirement. Such proof is valid for six months from the date of the antibody test.
 - b. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit to periodic COVID-19 tests as an exemption to the vaccination requirement.
 - c. The employer or contractor shall allow the employee, prospective employee, or independent contractor to submit one of the following certificates as an exemption to the vaccination requirement:

- (1) A certificate from a North Dakota licensed physician, physician assistant, or advanced practice registered nurse stating the physical condition of the employee, prospective employee, or independent contractor is such that immunization would endanger the life or health of the employee, prospective employee, or independent contractor; or
 - (2) A certificate signed by the employee, prospective employee, or independent contractor stating the employee's, prospective employee's, or independent contractor's religious, philosophical, or moral beliefs are opposed to such immunization.
3. This section does not apply to the extent an employer or an independent contractor is required to comply with federal law, rules, or guidance relating to requirements for vaccinations for COVID-19 or resulting from Title 42, Code of Federal Regulations, part 416 et seq. [86 FR 61555 et seq. (2021)]; Title 29, Code of Federal Regulations, part 1910 et seq. [86 FR 61555 et seq. (2021)]; or the presidential executive order on ensuring adequate COVID safety protocols for federal contractors, issued September 9, 2021.

SECTION 4. REPEAL. Section 23-12-20 of the North Dakota Century Code and section 3 of this Act are repealed.

SECTION 5. EFFECTIVE DATE. Section 4 of this Act becomes effective August 1, 2023. The remainder of this Act becomes effective upon its filing with the secretary of state.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1511.

House Vote: Yeas 76 Nays 11 Absent 7

Senate Vote: Yeas 33 Nays 14 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

This section has been updated. Click [here](#) for the updated version.

NDCC, 23-12-20

§ 23-12-20. COVID-19 vaccination and infection information

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under [section 12-44.1-01](#), the state hospital, or a public health unit.
3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This

subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.

6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Credits

S.L. 2021, ch. 204 (H.B. 1465), § 1, eff. May 10, 2021; S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 2, eff. Nov. 15, 2021.

Editors' Notes

REPEAL

<This section is repealed by S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 4, eff. Aug. 1, 2023.>

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2274
(Senators Clemens, Beard, Larsen, Magrum)
(Representative Vetter)

AN ACT to amend and reenact section 23-12-20 of the North Dakota Century Code, relating to vaccination and infection information.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-20 of the North Dakota Century Code is amended and reenacted as follows:

23-12-20. COVID-19 vaccination and infection information. (~~Repealed effective August 1, 2023~~)

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under section 12-44.1-01, the state hospital, or a public health unit.
3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.
5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.
6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.
7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2274.

Senate Vote: Yeas 29 Nays 17 Absent 1

House Vote: Yeas 87 Nays 3 Absent 4

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-12. Public Health, Miscellaneous Provisions

NDCC, 23-12-20

§ 23-12-20. COVID-19 vaccination and infection information

Currentness

1. Neither a state government entity nor any of its political subdivisions, agents, or assigns may:
 - a. Require documentation, whether physical or electronic, for the purpose of certifying or otherwise communicating the following before providing access to property, funds, or services:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status;
 - b. Otherwise publish or share an individual's COVID-19 vaccination record or similar health information, except as specifically authorized by the individual or otherwise authorized by statute; or
 - c. Require a private business to obtain documentation, whether physical or electronic, for purposes of certifying or otherwise communicating the following before employment or providing access to property, funds, or services based on:
 - (1) An individual's COVID-19 vaccination status or vaccination status for a vaccine that is under emergency use authorization from the federal food and drug administration;
 - (2) The presence of COVID-19 pathogens, antigens, or antibodies; or
 - (3) An individual's COVID-19 post-transmission recovery status.
2. Subsection 1 does not apply to the department of corrections and rehabilitation, a correctional facility as defined under [section 12-44.1-01](#), the state hospital, or a public health unit.

3. A private business located in this state or doing business in this state may not require a patron, client, or customer in this state to provide any documentation certifying COVID-19 vaccination or vaccination authorized by the federal food and drug administration under emergency use authorization, the presence of COVID-19 pathogens, antigens, or antibodies, or COVID-19 post-transmission recovery to gain access to, entry upon, or services from the business. This subsection does not apply to a developmental disability residential facility or a health care provider, including a long-term care provider, basic care provider, and assisted living provider. As used in this subsection, a private business does not include a nonprofit entity that does not sell a product or a service.

4. This section may not be construed to interfere with an individual's rights to access that individual's own personal health information or with a person's right to access personal health information of others which the person otherwise has a right to access.

5. Subsection 1 is not applicable to the state board of higher education, the university system, or institutions under the control of the state board of higher education to the extent the entity has adopted policies and procedures governing the type of documentation required, the circumstances under which such documentation may be shared, and exemptions from providing such documentation.

6. This section is not applicable during a public health disaster or emergency declared in accordance with chapter 37-17.1.

7. As used in this section, the term "COVID-19" means severe acute respiratory syndrome coronavirus 2 identified as SARS-CoV-2 and any mutation or viral fragments of SARS-CoV-2.

Credits

S.L. 2021, ch. 204 (H.B. 1465), § 1, eff. May 10, 2021; S.L. 2021, Sp. Sess., ch. 558 (H.B. 1511), § 2, eff. Nov. 15, 2021; S.L. 2023, ch. 248 (S.B. 2274), § 1, eff. Aug. 1, 2023.

NDCC 23-12-20, ND ST 23-12-20

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

End of Document

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**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1323
(Representatives Hoverson, Magrum)
(Senator O. Larsen)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Limitations on requirements to wear a mask.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1323.

House Vote: Yeas 67 Nays 24 Absent 3

Senate Vote: Yeas 30 Nays 17 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State

Honorable Al Jaeger
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1323, together with the objections of Governor Burgum, was returned to the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 22, 2021, at 12:46 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	66
	Nays	27
	Absent and not voting	1

Speaker of the House

Chief Clerk of the House

Honorable Al Jaeger
Secretary of State
Bismarck, North Dakota

I certify this Act, House Bill No. 1323, together with the objections of Governor Burgum, was received from the House, being the body in which it originated, on April 22, 2021; that the objections of the Governor were read at length on April 22, 2021, and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 22, 2021, at 5:26 p.m.; and the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	32
	Nays	15
	Absent and not voting	0

President of the Senate

Secretary of the Senate

West's North Dakota Century Code Annotated
Title 23. Health and Safety
Chapter 23-07. Reportable Diseases

NDCC, **23-07-12.1**

§ **23-07-12.1**. Limitations on requirements to wear a mask

[Currentness](#)

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

Credits

S.L. 2021, ch. 198 (H.B. 1323), § 1, eff. Aug. 1, 2021.

NDCC **23-07-12.1**, ND ST **23-07-12.1**

Current with legislation from the 2023 Regular Session and Special Session. The statutes are subject to change as determined by the North Dakota Code Revisor. (These changes will be incorporated later this year.)

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State Health Officer Orders

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Wells County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Walsh County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Divide County, McKenzie County, Mountrail County, and Williams County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Traill County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Towner County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Steele County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Adams County, Billings County, Bowman County, Dunn County, Golden Valley County, Hettinger County, Slope County, and Stark County

[Feedback \(+\)](#)

April 30, 2021 | [Testing Order](#) | [BinaxNOW](#)**Testing**

State Health Officer Order for BinaxNow testing in Sargent County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Rolette County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Richland County

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State Health Officer Order for BinaxNow testing in Ransom County

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State Health Officer Order for BinaxNow testing in Pembina County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Nelson County and Griggs County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in McIntosh County

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State Health Officer Order for BinaxNow testing in LaMoure County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Benson County, Eddy County, Pierce County, and Ramsey County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Kidder County

Feedback (+)

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BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Grand Forks County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Foster County

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BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Bottineau County, Burke County, McHenry County, McLean County, Renville County, Sheridan County, and Ward County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Cass County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Emmons County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Dickey County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Grant County, Mercer County, Morton County, Oliver County, and Sioux County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Barnes County

April 30, 2021 | [Testing Order](#)  |

BinaxNOW Testing

State Health Officer Order for BinaxNow testing in Logan County and Stutsman County

Feedback (+)

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Cavalier County

April 30, 2021 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing in Burleigh County

April 30, 2021 | [Order #2020-07.1](#)  |**Revocation of order #2020-07**

This Order revokes Order # 2020-07 State Health Officer Order for Disease Control Measures to Prevent the Spread of 2019-nCoVICOVID-19 Pursuant to North Dakota Century Code§ 23-1- 05(12), dated April 26, 2020.


April 30, 2021 | [Order #2020-05.3](#)  |**Revocation of order #2020-05.2**

This Order revokes Order # 2020-05.2 State Health Officer Confinement Order Relating to Disease Control Measures to Prevent the Spread of 2019-nCoVICOVID-19 Pursuant to North Dakota Century Code§ 23-1-05(12), dated November 9, 2020.

December 16, 2020 | [Testing Order](#)  |**BinaxNOW Testing**

State Health Officer Order for BinaxNow testing.


December 9, 2020 | [Order #2020-08.1](#)  |**Amended Mask Order**


The mask order requires face coverings in indoor businesses and indoor public settings, as well as in outdoor business and public settings when it's not possible to maintain physical distancing through January 17. Please also see the [FAQ document](#) .

November 13, 2020 | [Order #2020-08](#)  |**Mask Order**

The mask order requires face coverings in indoor businesses and indoor public settings, as well as in outdoor business and public settings when it's not possible to maintain

Feedback (+)


physical distancing. Please also see the [FAQ document](#) .

November 9, 2020 | [Order #2020-05.2](#)  | **Amended Isolation Order**


Allows **asymptomatic**, COVID-positive health care workers to work in the COVID unit of a licensed health care facility, so long as they remain asymptomatic and additional precautions are taken as recommended by the CDC and ND Department of Health to protect the worker and the community.

September 26, 2020 | [Order #2020-06.2](#)  | **Rescinded Close Contact Quarantine Order**

Lifts the close contact quarantine order. *Please note: Although the close contact order has been rescinded, quarantining when you're a close contact is still necessary and recommended by both the NDDoH and the CDC.*

September 23, 2020 | [Order #2020-06.1](#)  | **Amended Quarantine Order to Add Close Contacts**

In addition to household contacts, close contacts must also quarantine if they're named as close contacts. Workforce exemptions still apply.

September 21, 2020 | [Order #2020-02.4](#)  | **Lifted Travel Quarantine Order**

Lifts the 14-day quarantine order for those returning from international travel.

July 28, 2020 | [Order #2020.02.3](#)  | **Amended Travel Quarantine Order**

Allows people to travel freely in within the United States and releases requirements for everyone except international travelers. Exemptions are made for people commuting to and from ND for work, essential critical infrastructure workers and university students enrolled in a college or university located in ND, with restrictions. Find more information on the [NDDoH travel website](#).

June 9, 2020 | [Testing Order](#)  | **First District Health Unit**

[Feedback \(+\)](#)


State Health Officer Order for First District
Health Unit testing for 2019-nCoV/COVID-19.

**May 26, 2020 | [Testing Order](#)  | Long
Term Care**

State Health Officer Order for testing for 2019-nCoV/COVID-19 as a Disease Control Measures to prevent the spread 2019-nCoV/COVID-19.

**May 14, 2020 | [Testing Order](#)  | Grand
Forks County**


Grand Forks Public Health Department staff will conduct all testing for 2019-nCoV/COVID-19 authorized by this order

**May 8, 2020 | [Order #2020.02.2](#)  |
Amended Travel Quarantine Order**

Allows people to travel freely in within the United States and releases requirements for everyone except international travelers. Find more information on the [NDDoH travel website](#).

**May 8, 2020 | [Order #2020.05.1](#)  |
Amended Order for Positive Cases**


Updates the time a person who tests positive must isolate from seven days to 10 days to align with CDC recommendations.

**April 26, 2020 | [Order #2020-07](#)  | COVID-
19 Named Post-mortem Communicable
Disease**

For the purpose of the application of ND Administrative Code chapter 33-05-02, COVID-19 is declared a "post-mortem communicable disease."

**April 18, 2020 | [Quarantine Order](#)  | LM
Quarantine Executed**


All persons employed by LM Power (ND), INC. located in Grand Forks, North Dakota, are subject to an order to quarantine.

**April 10, 2020 | [Order #2020-06](#)  |
Provides exemptions for essential
workforce who are household contacts of
people who test positive**


Provides workforce exemptions for individuals who are household contacts of individuals who

Feedback (+)


have tested positive for COVID-19 as defined by the [U.S. Department of Homeland Security CDC Guidance for Workers Exposed to COVID-19](#)

April 8, 2020 | [Order #2020.05](#)  | **Order for positive cases**

Individuals in the state who have been identified by the ND Department of Health as being positive for COVID-19 are subject to isolation immediately upon notification and for at least seven days after the onset of symptoms and 72 hours after becoming fever free and with symptom improvement.

April 8, 2020 | [Order #2020.02.1](#)  | **Travel quarantine order**

Find more information on the [NDDoH travel website](#).

April 4, 2020 | [Order #2020-03](#)  | **Order for testing**

For individuals residing in Southwestern District Health Unit to be tested for COVID-19 for the duration of the declared emergency.

[Also See the Governor's Executive Orders](#)

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