

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2130
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact subsection 7 of section 15.1-31-01, sections 25-03.2-01, 25-03.2-02, 25-03.2-03, 25-03.2-03.1, 25-03.2-04, 25-03.2-05, 25-03.2-06, and 25-03.2-07, subsection 4 of section 25-03.2-08, section 25-03.2-10, and subdivision a of subsection 9 of section 43-12.1-04 of the North Dakota Century Code, relating to psychiatric residential treatment facilities for children; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 15.1-31-01 of the North Dakota Century Code is amended and reenacted as follows:

7. A child placed for purposes other than education in a group or residential care facility or in a psychiatric residential treatment center facility is not eligible for open enrollment under this section.

SECTION 2. AMENDMENT. Section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Child" or "children" means a person or persons under the age of twenty-one.
2. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery, provided by qualified mental health professionals.
- 2- 3. "Department" means the department of human services.
- 3- 4. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques provided by a mental health professional.
- 4- 5. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.
- 5- 6. "Mentally ill person" has the same meaning provided for in section 25-03.1-02.
- 6- 7. "Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board certified diplomate in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing. "Psychiatric residential treatment facility for children" means a facility or a distinct part of a facility that provides to children a total, twenty-four hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment, and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. The

facility must meet the requirements of a psychiatric residential treatment facility as set out in title 42, Code of Federal Regulations, part 483.352.

7. ~~8.~~ "Residential treatment" means a twenty four hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of mentally ill persons. "Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board-certified diplomate in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.
8. ~~9.~~ "Residential treatment center for children" means a facility or a distinct part of a facility that provides to children and adolescents a total, twenty four hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment, and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. "Residential treatment" means a twenty-four hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of mentally ill persons.

SECTION 3. AMENDMENT. Section 25-03.2-02 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-02. License required. The operator of a publicly or privately operated psychiatric residential treatment center facility for children shall meet the requirements for licensure and shall secure a license from the department.

SECTION 4. AMENDMENT. Section 25-03.2-03 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03. Requirements for license. The department shall issue a license for the operation of a psychiatric residential treatment center facility for children upon a showing that:

1. The premises to be used are in fit, safe, and sanitary condition and properly equipped to provide good care and treatment;
2. The program director of the center facility holds, at a minimum, a master's degree in social work, psychology, or in a related behavioral science field with at least two years of professional experience in the treatment of children ~~and adolescents~~ suffering from mental illnesses or emotional disturbances. The executive director of the center facility must have, at a minimum, a bachelor's degree in a behavioral science or a bachelor's degree in any field and two years of experience in administration;
3. The staff employed by the center facility is supervised by the program director and qualified by training and experience to provide services to children ~~and adolescents~~ suffering from mental illnesses or emotional disturbances. The center facility annually must provide training to staff which is relevant to the needs of the client population;
4. The health, safety, and well-being of the residents children cared for and treated in the center facility will be properly safeguarded;
5. There are sufficient treatment, educational, recreational and leisure, and physical facilities and services available to the residents children in the center facility;

6. The ~~center~~ facility will provide for a medical and psychological examination of each ~~resident child~~ within seventy-two hours of admission and thereafter as needed by the resident child;
7. An interdisciplinary team consisting of at least one qualified mental health professional will review each individual treatment plan at least monthly and update or amend the plan to meet the needs of the ~~resident child~~; ~~and~~
8. The facility develops postdischarge plans and coordinates facility services and related community services with partial discharge plans with each child's family, school, and community upon discharge to ensure continuity of care; and
9. The ~~center~~ facility is in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441, and with this chapter and with rules adopted under this chapter.

SECTION 5. AMENDMENT. Section 25-03.2-03.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-03.1. (~~Effective through July 31, 2007~~) Moratorium on expansion of psychiatric residential treatment ~~center~~ facility for children bed capacity. Notwithstanding sections 25-03.2-03 and 25-03.2-08, unless a needs assessment conducted by the department indicates a need for the licensing of additional bed capacity, the department may not issue a license under this chapter for any additional bed capacity for a psychiatric residential treatment ~~center~~ facility for children above the state's gross number of beds licensed as of June 30, 2003.

SECTION 6. AMENDMENT. Section 25-03.2-04 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-04. Conviction not bar to licensure - Exceptions. Conviction of an offense by an owner or operator of a ~~center~~ facility does not disqualify the center from licensure unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a psychiatric residential treatment ~~center~~ facility for children, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 7. AMENDMENT. Section 25-03.2-05 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-05. Content of license. The license to operate a psychiatric residential treatment ~~center~~ facility for children must specify:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of ~~residents~~ children who may be received in the premises at any one time.
4. The date of expiration of the license.

SECTION 8. AMENDMENT. Section 25-03.2-06 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-06. Admission criteria. A child may be admitted to a psychiatric residential treatment ~~center~~ facility for children if, the child has been diagnosed by a psychiatrist or psychologist as suffering from a mental illness or emotional disturbance and the child is in need of and able to respond to active psychotherapeutic intervention and cannot be effectively treated in the child's family, in another home, or in a less restrictive setting. The ~~center~~ facility must take into account the age and diagnosis of the child in order to provide an environment that is safe and therapeutic for all ~~residents~~ children.

SECTION 9. AMENDMENT. Section 25-03.2-07 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-07. Method of providing service. A psychiatric residential treatment center facility for children shall provide for the development of an individual treatment plan, based upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the family, identifies the goals and objectives of the residential therapeutic activities and treatment, provides a schedule for accomplishing the therapeutic activities and treatment goals and objectives, and identifies the individuals responsible for providing services, consistent with the individual treatment plan, to residents children. Clinical supervision of the individual treatment plan must be accomplished by full-time or part-time employment of or contracts with qualified mental health professionals. Clinical supervision must be documented by the qualified mental health professionals cosigning individual treatment plans and by entries in the resident's child's record regarding supervisory activity.

SECTION 10. AMENDMENT. Subsection 4 of section 25-03.2-08 of the North Dakota Century Code is amended and reenacted as follows:

4. The owner, operator, or an employee of the center facility is or has been found guilty of an offense determined by the department to have a direct bearing on the person's ability to serve as an owner, operator, or employee, or the department determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 11. AMENDMENT. Section 25-03.2-10 of the North Dakota Century Code is amended and reenacted as follows:

25-03.2-10. Department may adopt rules. The department may adopt rules for the conduct of psychiatric residential treatment centers facilities for children.

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

- a. Within psychiatric residential treatment centers facilities for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;

SECTION 13. EFFECTIVE DATE. This Act becomes effective on July 1, 2007.

SECTION 14. EMERGENCY. This Act is declared to be an emergency measure.

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 Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2130 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

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

Vote: Yeas 83 Nays 1 Absent 10

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at ___ o'clock _____ M.

Secretary of State