

Sixty-fourth  
Legislative Assembly  
of North Dakota

## REENGROSSED HOUSE BILL NO. 1359

Introduced by

Representatives Kreidt, Hofstad, Kempenich, J. Nelson

Senator Unruh

1 A BILL for an Act to create and enact section ~~50-24.5-02~~50-24.5-02.3 of the North Dakota  
2 Century Code, relating to basic care payment rates; and to amend and reenact sections  
3 50-32-02 and 50-32-04 of the North Dakota Century Code, relating to assisted living facilities.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Section ~~50-24.5-02~~50-24.5-02.3 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **50-24.5-02~~50-24.5-02.3~~. Basic care payment rates.**

- 8 1. The department shall establish, by rule, procedures for determining rates for the care  
9 of residents of basic care facilities that qualify as vendors of an aged, blind, and  
10 disabled persons program and for implementing provisions of this chapter. The  
11 procedures must be based on methods and standards that the department finds are  
12 adequate to recognize the costs that must be incurred for the care of residents in  
13 efficiently and economically operated basic care facilities.
- 14 2. The department shall identify costs that are recognized for establishing payment rates.
- 15 3. ~~The department shall establish limits on actual allowable historical operating cost~~  
16 ~~per diem based on cost reports of allowable operating costs. For the rate year~~  
17 ~~beginning July 1, 2016, the department annually shall establish limits for cost~~  
18 ~~categories using the costs reports submitted by all participating basic care providers~~  
19 ~~for the report year preceding the rate year. The department shall establish the direct~~  
20 ~~care rate limit by taking the highest rate and lowest rate from the cost reports~~  
21 ~~submitted for the report year preceding the rate year, and multiplying the averaged~~  
22 ~~amount by seventy percent. The department shall establish the indirect care rate limit~~  
23 ~~by taking the highest rate and lowest rate from the cost reports submitted for the report~~  
24 ~~year preceding the rate year, and multiplying the averaged amount by seventy~~

1 ~~percent.~~For the rate year beginning July 1, 2016, the department shall establish the  
2 limits by using the average of the highest and lowest rates from the 2014 rate year.  
3 The direct care limit must be ninety-five percent of the average and the indirect care  
4 limit must be ninety percent of the average. Beginning with the July 1, 2017, rate year,  
5 the department shall adjust the limits by using the cost percentage change from the  
6 prior two rate years, within the limits of legislative appropriations.

7 4. The department shall provide, by rule, within the limits of legislative appropriations, for  
8 payment of rates paid by the aged, blind, and disabled persons program for a  
9 maximum of ~~twenty~~thirty days per occurrence for leave days for a resident who is in a  
10 licensed health care facility when the resident is expected to return to the facility.

11 5. Within the limits of legislative appropriations, the department shall establish an  
12 uncompensated care expense of one hundred eighty days.

13 **SECTION 2. AMENDMENT.** Section 50-32-02 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **50-32-02. Licensing of assisted living facilities - Penalty.**

- 16 1. An entity may not keep, operate, conduct, manage, or maintain an assisted living  
17 facility or use the term "assisted living" in its advertising unless it is licensed by the  
18 department.
- 19 2. An assisted living facility shall pay to the department an annual license fee of  
20 seventy-five dollars for each facility. License fees collected under this section must be  
21 deposited in the department's operating fund in the state treasury. An expenditure from  
22 the fund is subject to appropriation by the legislative assembly.
- 23 3. An assisted living facility shall apply annually to the department for a license. After the  
24 fifty-ninth day following the notification of noncompliance with annual licensing, the  
25 department may assess a fine of up to fifty dollars per day against an entity that  
26 provides assisted living services or uses the term assisted living in its marketing  
27 without a license approved by the department. Fines collected under this section must  
28 be deposited in the department's operating fund in the state treasury. An expenditure  
29 from the fund is subject to appropriation by the legislative assembly.
- 30 4. If there are one or more deficiencies or a pattern of deficiencies related to quality of  
31 care or compliance with licensing requirements, the department may issue a

1 provisional license. A provisional license may not be valid for more than ninety days. A  
2 provisional license may be renewed once for no longer than an additional ninety days.  
3 If the deficiencies have not been corrected upon the expiration of a provisional license,  
4 the department may deny the assisted living facility's application or revoke its license.

5 5. Religious orders providing individualized support services to vowed members residing  
6 in the order's retirement housing are not subject to this chapter.

7 ~~5.6.~~ No more than two people may occupy one bedroom of each living unit of an assisted  
8 living facility.

9 **SECTION 3. AMENDMENT.** Section 50-32-04 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **50-32-04. Assisted living facility health services - Limitations on hospice services.**

12 1. An entity may provide health services to individuals residing in an assisted living  
13 facility owned or operated by that entity. For purposes of this ~~section~~subsection, health  
14 services means services provided to an individual for the purpose of preventing  
15 disease and promoting, maintaining, or restoring health or minimizing the effects of  
16 illness or disability.

17 2. A tenant of an assisted living facility who is in need of hospice services and who  
18 exceeds tenancy criteria, as determined by the facility, may remain in the facility only if  
19 the tenant contracts with a third party, such as a hospice agency, or utilizes family  
20 support, or both, to meet those needs.