

HEALTH AND SAFETY

CHAPTER 228

HOUSE BILL NO. 1294

(Representatives Weisz, Beltz, Fegley, Nelson, Rohr, M. Ruby)
(Senators Klein, Lee)

AN ACT to provide an exemption; and to provide for the distribution of state financial assistance to eligible ambulance service operations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. EXEMPTION - AMBULANCE SERVICE OPERATION FUNDING DISTRIBUTION. Notwithstanding section 23-46-04 relating to state financial assistance for emergency medical services, during the biennium beginning July 1, 2023, and ending June 30, 2025, the department of health and human services, in consultation with the emergency medical services advisory council, shall provide state financial assistance to each eligible ambulance service operation pursuant to the following calculation:

1. The minimum reasonable budget for each operation must be determined by adding the product of the operation's average number of runs for the two most recent calendar years multiplied by the cost of a run. The cost of a run for this biennium is one thousand seven hundred fifty dollars. If the average runs multiplied by the cost of a run equals less than one hundred twenty-five thousand dollars, the minimum reasonable budget for that ambulance service is one hundred twenty-five thousand dollars.
2. The operation's grant amount must be determined by deducting the following amounts from the operation's budget calculated under subsection 1:
 - a. The product of the operation's average number of runs for the two most recent calendar years multiplied by the reimbursement for a run. The reimbursement for a run is seven hundred fifty dollars; and
 - b. The product of the property tax valuation of the operation's response area for the most recent taxable year multiplied by five mills. The property tax valuation of the operation's response area must be provided by the county auditor annually no later than July thirty-first. If the response area covers multiple counties, the county auditor with the most response area is responsible for coordinating with the other county auditors.
3. The maximum total grant calculation for each operation, after accounting for the deductions in subsection 2, may not exceed two hundred twenty-five thousand dollars.
4. The department shall distribute a prorated share of the operation's calculated grant amount if legislative appropriations for state financial assistance for

emergency medical services is not sufficient to provide full grant funding calculated under this section.

5. An operation is not eligible to receive funding under this section if the operation's average number of runs for the two most recent fiscal years is more than seven hundred.
6. A response area acquired after April 1, 2022, due to an adjacent ambulance service closure is not calculated in the operations response area for the purpose of the grant calculation.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 229**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 tofor local public health unit boards of health; and provide for coordination oflocal health activitiesofficers.
 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.
 - c. (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:
 - (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 a 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.
- 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.

¹³² **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

¹³² Section 23-01-08.1 was also amended by section 3 of Senate Bill No. 2102, chapter 214.

- 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.

¹³³ **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

¹³³ Section 23-02.1-01 was also amended by section 1 of House Bill No. 1139, chapter 234, section 5 of House Bill No. 1474, chapter 66, and section 1 of Senate Bill No. 2379, chapter 233.

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:

4. "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.

¹³⁴ **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

¹³⁴ Section 23-10-12 was also amended by section 2 of Senate Bill No. 2243, chapter 244.

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:
 1. 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.

¹³⁵ **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

¹³⁵ Section 25-04-08.1 was also amended by section 12 of Senate Bill No. 2052, chapter 271.

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.

¹³⁶ **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;

¹³⁶ Section 43-12.3-06 was also amended by section 1 of Senate Bill No. 2344, chapter 381.

- (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:
 4. 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.

¹³⁷ **SECTION 108. AMENDMENT.** Subsection 10 of section 50-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

¹³⁷ Section 50-01.1-06 was also amended by section 5 of House Bill No. 1046, chapter 417.

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.

¹³⁸ **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

¹³⁸ Section 50-06-01.4 was also amended by section 1 of House Bill No. 1048, chapter 420.

- 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.

¹³⁹ **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

¹³⁹ Section 50-06-05.3 was also amended by section 4 of Senate Bill No. 2083, chapter 272.

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.

¹⁴⁰ **SECTION 118. AMENDMENT.** Section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

¹⁴⁰ Section 50-06-32 was repealed by section 3 of Senate Bill No. 2335, chapter 69.

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 director~~commissioner of the department, or the ~~executive director's~~commissioner'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.

¹⁴¹ **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

¹⁴¹ Section 50-24.6-02 was also amended by section 1 of Senate Bill No. 2156, chapter 441.

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.

¹⁴² **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.

¹⁴² Section 50-35-01 was also amended by section 7 of House Bill No. 1046, chapter 417.

- 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.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 230

SENATE BILL NO. 2227

(Senators Lee, Dever, Hogan)
(Representatives Nelson, M. Ruby, Weisz)

AN ACT to amend and reenact sections 23-01-02 and 23-01-03 of the North Dakota Century Code, relating to the membership and duties of the health council.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-02 of the North Dakota Century Code is amended and reenacted as follows:

23-01-02. Health council - Members, terms of office, vacancies, compensation, officers, meetings.

1. ~~The health council shall assure the coordination of the health division with all other health activities of the state. The health council consists of ninetwelve members appointed by the governor including four persons from the health care field, and five persons representing consumer interests. The governor may select members to the council from recommendations submitted by trade, professional, and consumer organizations. On the expiration of the term of any member, the governor, in the manner provided by this section, shall appoint for a term of three years, persons to take the place of members whose terms on the council are about to expire. The officers of the council must be elected annually. Any state agency may serve in an advisory capacity to the health council at the discretion of the council. The council shall meet at least twice each year and at other times as the council or its chairman may direct. The health council shall have as standing committees any committees the council may find necessary. The chairman of the council shall select the members of these committees. The members of the council are entitled to receive compensation at the rate set for a member of the legislative assembly under subsection 1 of section 54-03-20 and their necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 while attending council meetings or in the performance of any special duties as the council may direct. The per diem and expenses must be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section may not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state:~~
 - a. One member representing tribal health, appointed by the director of the Indian affairs commission for a term of at least one year.
 - b. One member representing the university of North Dakota school of medicine and health sciences, appointed by the dean of the school for a term of at least one year.
 - c. One member representing the university of North Dakota, appointed by the president of the university for a term of at least one year.

- d. One member representing North Dakota state university, appointed by the president of the university for a term of at least one year.
 - e. One local health officer from a public health unit, appointed by the state health officer for a term of at least one year.
 - f. Seven members appointed by the state health officer as provided under this subdivision for terms of three years. The state health officer shall identify statewide entities representing each of the following interests and shall request each entity submit the name of one individual to represent the entity.
 - (1) An entity representing pharmacists.
 - (2) An entity representing physicians.
 - (3) An entity representing hospitals.
 - (4) An entity representing public health unit administrators.
 - (5) An entity representing nurses.
 - (6) An entity representing long-term care facilities.
 - (7) An entity representing dietitians.
2. Each member of the health council shall serve until the member's successor is appointed. If a member ceases to represent the entity the member is appointed to represent, the member is no longer qualified to serve and must be replaced.
 3. The council shall elect from its membership a presiding officer. The state health officer shall serve as executive secretary of the health council. The executive secretary does not have voting privileges. The council shall meet no fewer than two times per year and shall meet at the call of the presiding officer and at the request of the state health officer.
 4. At the request of the health council, a state agency may serve in an advisory capacity to the council.
 5. The health council may appoint standing committees as determined necessary. The presiding officer shall select the members of any standing committee.
 6. A member of the health council is entitled to receive per diem at the rate set for a member of the legislative assembly under subsection 1 of section 54-03-20 and necessary mileage and travel expenses as provided under sections 44-08-04 and 54-06-09 while attending council meetings or in the performance of any special duties as the council may direct. To the extent a member of the council receives salary or other compensation from the state or a political subdivision, that member is not eligible to receive per diem or reimbursement under this subsection.

SECTION 2. AMENDMENT. Section 23-01-03 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03. Powers and duties of the health council.

The health council shall:

1. Fix, subject to the provisions of section 23-01-02, the time and place of the meetings of the council.
2. Make regulations for the government of the council and its officers and meetings.
3. ~~Establish~~ Collaborate and advise in the establishment of standards, rules, and regulations, which are found necessary for the maintenance of public health, including sanitation and disease control.
4. ~~Provide for~~ Collaborate and support the development, ~~establishment, and enforcement~~ of basic standards for hospitals and related medical institutions which render medical and nursing care, and for the construction and maintenance of ~~such~~ the institutions, ~~such~~ standards to cover matters pertaining to sanitation, building construction, fire protection measures, nursing procedures, and preservation of medical records. ~~No regulation~~ A rule may ~~not~~ be adopted with respect to building construction of existing medical hospitals or related medical institutions unless the ~~regulation~~ rule relates to safety factors or the hospital or related medical institution changes the scope of service in such a way that a different license is required from the department pursuant to rules adopted under chapter 23-16.
5. Hold hearings on all matters brought before ~~it~~ the council by applicants and licensees of medical hospitals with reference to the denial, suspension, or revocation of licenses and make appropriate determination ~~as specified herein~~ regarding these matters.

~~The council may direct the state health officer to do or cause to be done any or all of the things which may be required in the proper performance of the various duties placed upon the department of health and human services~~

6. Inform and advise the governor, department of health and human services, legislative assembly, and North Dakotans on public health issues that are important to the needs of North Dakotans, and in the event of a public health emergency.
7. Monitor progress on the state public health strategic plan and advocate for evidence-based practices and policies necessary to improve the health of North Dakotans.
8. In consultation with the state health officer and other agencies, associations, and institutions represented on the health council, study and make recommendations regarding the strategic plan and programs of the health division of the department of health and human services. The recommendation may address public health education and training, factors influencing the practice environment for health care professionals, access to health care, and patient safety.
9. As the health council determines appropriate, consult with an individual or entity in performing the council's duties under this section.

Approved April 25, 2023

Filed April 26, 2023

CHAPTER 231

HOUSE BILL NO. 1045

(Human Services Committee)

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

AN ACT to amend and reenact section 23-01-37 of the North Dakota Century Code, relating to a life safety survey process of any health care facility licensed by the department of health and human services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-37 of the North Dakota Century Code is amended and reenacted as follows:

23-01-37. Survey program - Health care facilities construction or renovation projects - Innovation waivers - Continuing appropriation.

1. The department of health and human services shall conduct a life safety survey process for all health care facilities licensed by ~~the division of health facilities~~ of the department of health and human services during and at the conclusion of a construction, renovation, or construction and renovation project.
 - a. In conducting a survey under this section, if the department uses a third party to review construction and renovation plans, the licensed provider shall negotiate and approve the price of the review services, the department shall contract with the third party, and the licensed provider shall pay the department for the review services.
 - b. The department shall deposit in the department's operating account any payments received from a licensed provider under subdivision a. There is appropriated to the department on a continuing basis any funds deposited under subdivision a for the purpose of paying a third-party reviewer.
2. The department of health and human services may charge a reasonable fee for the review of plans for construction, renovation, or construction and renovation projects performed under this section based on the size of the project. Revenues derived from the fees collected under this subsection must be deposited in the department's operating fund in the state treasury.
3. The department of health and human services shall make an initial determination on a construction, renovation, or construction and renovation project of:
 - a. No more than one million dollars within twenty-eight days of receipt of a complete application;
 - b. More than one million dollars but no more than four million dollars within forty-two days of receipt of a complete application; ~~and~~

- c. More than four million dollars, and less than fifteen million dollars, within fifty-six days of receipt of a complete application; and
 - d. More than fifteen million dollars by notifying the applicant of the time the department will require to complete the review, allowing the applicant to determine whether to use a third-party reviewer.
- 4. Following an initial determination under subsection 3, the department of health and human services shall make any followup determination on a construction, renovation, or construction and renovation project within fourteen days of receipt of the licensed provider's response to the initial determination.
 - 5. The department of health and human services may approve a request for a waiver of a state law or rule relating to an innovative construction, renovation, or construction and renovation project if the lack of compliance does not adversely affect health or safety.
 - 6. The department of health and human services shall design and operate the program in a manner that will provide that the surveyor that performs a life safety survey under this section does not violate the federal requirements associated with Medicare-certified life safety surveys.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 232

HOUSE BILL NO. 1297

(Representatives Kasper, Koppelman, Prichard, Rohr, D. Ruby, M. Ruby, Steiner,
VanWinkle)
(Senators Boehm, Clemens, Myrdal)

AN ACT to create and enact a new section to chapter 23-02.1 of the North Dakota Century Code, relating to correction or amendment of birth records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-02.1 of the North Dakota Century Code is created and enacted as follows:

Birth records - Amendments and corrections - Sex change.

1. The sex designation on a birth record of an individual born in this state may not be amended under section 23-02.1-25 due to a gender identity change.
2. The sex designation on a birth record of an individual born in this state may not be amended or corrected under section 23-02.1-25 unless:
 - a. The sex of the individual was listed incorrectly on the original birth record as a result of a scrivener's error or data entry error;
 - b. The sex of the individual was misidentified on the original birth record and the request for correction is accompanied by a copy of the results of chromosomal, molecular, karyotypic, DNA, or genetic testing that identifies the sex of the individual, together with an affidavit from the health care facility, health care professional, or laboratory testing facility that conducted the test or analyzed the test results, attesting to the test results and the accuracy of the test results; or
 - c. The sex of the individual was changed with anatomically correct genitalia for the identified sex as certified by a medical provider.
3. As used in this chapter, "sex" means the biological state of being male or female, based on an individual's nonambiguous sex organs, chromosomes, or endogenous hormone profiles at birth.

Approved May 8, 2023

Filed May 9, 2023

CHAPTER 233

SENATE BILL NO. 2379

(Senators Weston, Cleary, Lee)
(Representatives M. Ruby, Weisz)

AN ACT to amend and reenact section 23-02.1-01 and subsection 1 of section 23-02.1-27 of the North Dakota Century Code, relating to homeless youth access to birth records; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴³ **SECTION 1. AMENDMENT.** Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.
2. "Certified" means a copy of the original record on file with the department of health and human services which is signed and sealed by the state registrar or deputy state registrar.
3. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.
4. "Electronic birth registration system" means the electronic birth registration system maintained by the department of health and human services.
5. "Electronic death registration system" means the electronic death registration system maintained by the department of health and human services.
6. "Facts of death" means the demographic and personal information pertaining to an individual's death.
7. "Fetal death" or "birth resulting in stillbirth" means death occurring before the complete expulsion or extraction from its mother of a product of human conception. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

¹⁴³ Section 23-02.1-01 was also amended by section 1 of House Bill No. 1139, chapter 234, section 26 of House Bill No. 1165, chapter 229, and section 5 of House Bill No. 1474, chapter 66.

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 for registration by the state registrar.
9. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.
10. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.
11. "Homeless youth" means an individual under sixteen years of age living in one of the situations described in 42 U.S.C. 11434(a)(2) and who is not in the care and physical custody of a parent or legal guardian.
12. "Homeless youth agency" means an agency assisting a homeless youth in obtaining the homeless youth's birth record.
13. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which individuals are committed by law.
- 42-14. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.
- 43-15. "Medical certification" means the medical information pertaining to an individual's death, including the cause and manner of death.
- 44-16. "Miscarriage of birth" means the expulsion of a fetus from the womb, spontaneously or as a result of an accident, before twenty weeks gestation.
- 45-17. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.
- 46-18. "Physician" means an individual authorized or licensed to practice medicine or osteopathy under chapter 43-17.
- 47-19. "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.
- 48-20. "Relative" means an individual's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.

~~19-21.~~ "Subregistrar" means a funeral practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing final disposition-transit permits.

~~20-22.~~ "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.

~~21-23.~~ "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.

¹⁴⁴ **SECTION 2. AMENDMENT.** Subsection 1 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

1. A certified copy of a birth record may be issued to the individual named on the record if that individual is at least sixteen years old, to a parent named on the record, to an authorized representative, to a homeless youth agency, or by the order of a court of competent jurisdiction. If the individual named on a birth record is deceased, a certified copy of that record also may ~~also~~ be issued to a relative. If the date of birth on any birth record is more than one hundred and twenty-five years old, that record is an open record and a certified copy may be issued to anyone, except that adoption records remain confidential.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 12, 2023

Filed April 13, 2023

¹⁴⁴ Section 23-02.1-27 was also amended by section 1 of House Bill No. 1326, chapter 235, and section 1 of House Bill No. 1481, chapter 236.

CHAPTER 234

HOUSE BILL NO. 1139

(Representatives Satrom, S. Olson, Schauer, Strinden)
(Senators Clemens, Conley, Rust)

AN ACT to amend and reenact sections 23-02.1-01, 23-02.1-13, and 23-02.1-15 of the North Dakota Century Code, relating to required elements of birth records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁵ **SECTION 1. AMENDMENT.** Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.
2. "Birth record" means a record reporting a live birth.
3. "Certified" means a copy of the original record on file with the department of health and human services which is signed and sealed by the state registrar or deputy state registrar.
- ~~3-4.~~ "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.
- ~~4-5.~~ "Electronic birth registration system" means the electronic birth registration system maintained by the department of health and human services.
- ~~5-6.~~ "Electronic death registration system" means the electronic death registration system maintained by the department of health and human services.
- ~~6-7.~~ "Facts of death" means the demographic and personal information pertaining to an individual's death.
- ~~7-8.~~ "Fetal death" or "birth resulting in stillbirth" means death occurring before the complete expulsion or extraction from its mother of a product of human conception. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

¹⁴⁵ Section 23-02.1-01 was also amended by section 26 of House Bill No. 1165, chapter 229, section 5 of House Bill No. 1474, chapter 66, and section 1 of Senate Bill No. 2379, chapter 233.

- 8-9. "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 for registration by the state registrar.
- 9-10. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.
- 40-11. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.
- 44-12. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which individuals are committed by law.
- 42-13. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, ~~irrespective~~regardless of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.
- 43-14. "Medical certification" means the medical information pertaining to an individual's death, including the cause and manner of death.
- 44-15. "Miscarriage of birth" means the expulsion of a fetus from the womb, spontaneously or as a result of an accident, before twenty weeks gestation.
- 45-16. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.
- 46-17. "Physician" means an individual authorized or licensed to practice medicine or osteopathy under chapter 43-17.
- 47-18. "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.
- 48-19. "Relative" means an individual's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.
- 49-20. "Sex" means the biological state of being female or male, based on the individual's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.
21. "Subregistrar" means a funeral practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing final disposition-transit permits.

- ~~20-22.~~ "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.
- ~~24-23.~~ "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.

SECTION 2. AMENDMENT. Section 23-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-13. Birth registration.

1. A birth record for each live birth that occurs in this state must be filed with the state registrar.
2. ~~When~~If a birth occurs in an institution, the person in charge of the institution or a designated representative ~~must~~shall use the department of health and human services' electronic birth registration system to report the birth, including all personal and medical facts, to the state registrar within five days after the birth.
3. ~~When~~If a birth occurs outside an institution, the required forms prescribed by the department of health and human services must be prepared and filed with the state registrar, within thirty days of the birth by one of the following in the indicated order of priority:
 - a. The physician in attendance at or immediately after the birth, or in the absence of such an individual;
 - b. Any other individual in attendance at or immediately after the birth, or in the absence of such an individual; or
 - c. The father, the mother, or in the absence of the father and the inability of the mother, the individual in charge of the premises where the birth occurred.
4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the man must be entered on the birth record as the father of the child unless the presumption of paternity has been rebutted by a court decree.
5. If the child is not born during the marriage of the mother, or within three hundred days after a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth record unless:
 - a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in

apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

- (1) He has acknowledged his paternity of the child in writing filed with the state registrar; or
 - (2) He is obligated to support the child under a written voluntary promise or by court order;
- b. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity on a form prescribed by the department of health and human services, signed by the child's natural mother and biological father, and filed with the state registrar; or
 - c. A court or other entity of competent jurisdiction has adjudicated paternity.
6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the birth record, the child's surname must be shown on the birth record as the current legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is filed with the department of health and human services.
 7. A birth record must include the designation of the sex of the child which must be either male or female. An entry of "not yet determined" may not be entered unless the sex cannot be determined based on the child's nonambiguous sex organs, chromosomes, and endogenous hormone profiles at birth.

SECTION 3. AMENDMENT. Section 23-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-15. Delayed registration of birth.

1. ~~When~~If the birth of an individual born in this state has not been registered, a birth record may be filed in accordance with the regulations of the department of health and human services. ~~Such~~The birth record must be registered subject to such evidentiary requirements as the department of health and human services shall prescribe to substantiate the alleged facts of birth.
2. ~~Records of~~A birth record registered one year or more after the date of occurrence must be marked "delayed" and show on the face of the birth record the date of delayed registration.
3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the birth record.
4. a. ~~When~~If an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the birth record or documentary evidence, the state registrar may not register the delayed birth record and shall advise the applicant of the reasons for this action. ~~In the event that~~If the deficiencies are not corrected, the state registrar shall advise the applicant of the right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.

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- b. The department of health and human services ~~may~~ by regulation may provide for the dismissal of an application that is more than one year old and is not being actively pursued.
 5. A report of live birth may not be registered for a deceased individual one year or more after that individual's date of birth.

Approved April 7, 2023

Filed April 10, 2023

CHAPTER 235

HOUSE BILL NO. 1326

(Representatives Cory, Pyle)
(Senators Hogue, Kreun)

AN ACT to amend and reenact subsection 2 of section 23-02.1-27 of the North Dakota Century Code, relating to access to death records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁶ **SECTION 1. AMENDMENT.** Subsection 2 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician, or a genetic sibling for the purposes of researching family medical history, a funeral director reporting the facts of death, the commissioner of veterans' affairs for a death record of an individual designated as having served in the United States armed forces, or a person with personal or real property interests that depend upon information contained in the complete death record or by the order of a court of competent jurisdiction and may include the cause of death and the social security number. A certified copy of the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified copy of an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.

Approved March 23, 2023

Filed March 23, 2023

¹⁴⁶ Section 23-02.1-27 was also amended by section 1 of House Bill No. 1481, chapter 236, and section 2 of Senate Bill No. 2379, chapter 233.

CHAPTER 236

HOUSE BILL NO. 1481

(Representative Dobervich)

AN ACT to create and enact a new subsection to section 44-04-18.7 of the North Dakota Century Code, relating to exempt records of coroners and medical examiners; and to amend and reenact subsection 2 of section 23-02.1-27 and subdivision a of subsection 2 of section 44-04-18.18 of the North Dakota Century Code, relating to access to death records and training of coroner and medical personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁴⁷ **SECTION 1. AMENDMENT.** Subsection 2 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

2. A certified copy of a complete death record may be issued to a relative, an authorized representative, the child fatality review board, a licensed physician, or a genetic sibling for the purposes of researching family medical history; a funeral director, coroner, medical examiner, or state forensic examiner reporting the facts of death; ~~or~~; a person with personal or real property interests that depend upon information contained in the complete death record; or by the order of a court of competent jurisdiction, and may include the cause of death and the social security number. A certified copy of the facts of death record that includes the facts of death and the social security number may be issued to any person that may obtain a certified copy of a complete death record or to any licensed attorney who requires the copy for a bona fide legal determination. A certified copy of an informational death record may be issued to the general public, but the copy may not contain the cause of death or the social security number.

¹⁴⁸ **SECTION 2.** A new subsection to section 44-04-18.7 of the North Dakota Century Code is created and enacted as follows:

An image taken by a coroner, a medical examiner, or coroner or medical examiner personnel, using a digital camera or similar device is an exempt record.

SECTION 3. AMENDMENT. Subdivision a of subsection 2 of section 44-04-18.18 of the North Dakota Century Code is amended and reenacted as follows:

- a. After redacting all information identifying the decedent, including name, address, and social security number, and anonymizing facial recognition, a medical examiner, coroner, or physician may use an autopsy photograph, image, or recording for:

¹⁴⁷ Section 23-02.1-27 was also amended by section 1 of House Bill No. 1326, chapter 235, and section 2 of Senate Bill No. 2379, chapter 233.

¹⁴⁸ Section 44-04-18.7 was also amended by section 2 of Senate Bill No. 2232, chapter 394, and section 1 of House Bill No. 1262, chapter 397.

- (1) Medical or scientific teaching or training purposes;
- (2) Teaching or training of law enforcement personnel;
- (3) Teaching or training of attorneys or others with a bona fide professional need to use or understand forensic science;
- (4) Conferring with medical or scientific experts; or
- (5) Publication in a scientific or medical journal or textbook; or
- (6) Teaching or training of coroner personnel or other licensed or certified medical professionals.

Approved March 23, 2023

Filed March 23, 2023

CHAPTER 237

SENATE BILL NO. 2139

(Senators Rummel, Cleary)
(Representatives Lefor, Steiner)

AN ACT to amend and reenact sections 11-19.1-15 and 23-06-03 of the North Dakota Century Code, relating to final disposition of individuals who are indigent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-19.1-15 of the North Dakota Century Code is amended and reenacted as follows:

11-19.1-15. Notice of next of kin, disposition of personal belongings - Disposition of body when next of kin cannot be found.

The coroner of the county in which a death is discovered shall take charge of the case and ensure that relatives or friends of the deceased individual, if known, are notified as soon as possible, giving details of the death and disposition of the deceased individual. If the relatives or friends of the deceased are unknown, the coroner shall dispose of the personal effects and body in the following manner:

1. After using such clothing as may be necessary in the final disposition of the body, the remaining personal effects of the deceased must be turned over to law enforcement for appropriate disposition.
2. The remains must be:
 - a. Disposed of in accordance with section 23-06-14; or
 - b. Otherwise disposed of in accordance with the laws governing ~~the burial~~final disposition of residents within the state who are indigent ~~persons within this state.~~

¹⁴⁹ **SECTION 2. AMENDMENT.** Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

23-06-03. Duty of final disposition - Indigent ~~burial~~Final disposition of individuals who are indigent - Decedent's instructions.

1. The duty of final disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
 - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the

¹⁴⁹ Section 23-06-03 was also amended by section 1 of House Bill No. 1363, chapter 238.

- individual would otherwise have the duty of final disposition under this section;
- b. The surviving spouse if the deceased was married;
 - c. If the deceased was not married but left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
 - d. The surviving parent or parents of the decedent, each having equal authority;
 - e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
 - f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
 - g. The grandparent or the grandparents of the decedent, each having equal authority;
 - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;
 - i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;
 - j. An adult who exhibited special care and concern for the decedent;
 - k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or
 - l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the human service zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred. I

the duty of final disposition devolves to this level, the appropriate public or court authority may direct final disposition to a mortician or funeral director after the coroner notifies the appropriate public or court authority in writing that no individuals identified in subdivisions a through k have accepted the duty of final disposition. A person identified under this subdivision who exercises the duty of final disposition of the body of a deceased individual is immune from civil liability for any act or omission arising out of the duty of final disposition.

2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.
3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:
 - a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or
 - b. To the individual in the next degree of relationship to the decedent under subsection 1.
4. If a dispute exists regarding the right to control or duty of final disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of final disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:
 - a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
 - b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;
 - c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and
 - d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.
5. If the individual who has the duty of final disposition does not arrange for final disposition of the body within the time required by this chapter, the individual next specified shall ~~bury or otherwise dispose~~arrange for final disposition of the body within the requirements of this chapter.

6. a. If the deceased did not leave sufficient means to pay for expenses of final disposition, ~~including the cost of a casket~~, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within ~~fifteen~~seven days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within ~~fifteen~~seven days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within ~~fifteen~~seven days of application for assistance the human service zone in which the deceased was a resident for general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.
- b. ~~The department of health and human services may negotiate with the interested funeral directors or funeral homes regarding cremation reimbursement for expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand of final disposition under this subsection is three thousand five hundred dollars.~~
- c. The department of health and human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the ~~negotiated expenses of reimbursement rate under this section~~subsection or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary ~~casket~~urn.
- d. ~~The human service zone shall pay the charge for funeral expenses as negotiated by the department of health and human services final disposition of an individual who is indigent as provided under this section. The human service zone shall create a process to review and accommodate a request for burial due to religious beliefs. The deceased is eligible for indigent final disposition, the human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by ~~kin~~ spouse, parent, adult children, or any other party to defray the expenses of ~~burial or cremation~~final disposition. Funds adequate to allow for burial instead of cremation are considered nominal under this section.~~
- e. Except for burial conducted under subdivision d, final disposition must be conducted by cremation.
- f. The department of health and human services and human service zones shall maintain a standardized eligibility policy and application form to be used for the purposes of indigent final disposition application.
7. If the individual with the duty of final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a

pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.

8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.
9. A funeral director or mortician has complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the final disposition if:
 - a. The funeral director or mortician has actual knowledge none of the individuals described in subsection 1 exist, can be found after reasonable inquiry, or can be contacted by reasonable means; and
 - b. Within thirty-six hours after having been given written notice of the facts, the appropriate court or public authority fails to assume responsibility for disposition of the remains. Written notice may be delivered by hand, United States mail, or facsimile transmission.

Approved April 26, 2023

Filed April 26, 2023

CHAPTER 238

HOUSE BILL NO. 1363

(Representatives Rios, Conmy, Dakane, Dyk, Roers Jones, Swiontek)
(Senators Beard, Bekkedahl)

AN ACT to amend and reenact section 23-06-03 of the North Dakota Century Code, relating to the duty of final disposition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵⁰ **SECTION 1. AMENDMENT.** Section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

23-06-03. Duty of final disposition - Indigent burial - Decedent's instructions.

1. The duty of disposition of the body of a deceased individual devolves upon the following individual in the order of priority:
 - a. Any legally competent adult given the duty of final disposition by the deceased individual in a statement conforming with section 23-06-31, except the legally competent adult specified in the statement conforming with section 23-06-31 may decline the duty of final disposition unless the individual would otherwise have the duty of final disposition under this section;
 - b. The surviving spouse if ~~the~~:
 - (1) The deceased was married;
 - (2) The surviving spouse has not been arrested for, or pled guilty or nolo contendere to, or has been found guilty of intentionally and feloniously killing the deceased; and
 - (3) The surviving spouse has not admitted to or been charged with intentionally and feloniously killing the deceased.
 - c. If the deceased was not married ~~but~~ was intentionally and feloniously killed by the surviving spouse, or the surviving spouse was arrested for, admitted to, or was charged with intentionally and feloniously killing the deceased, and left kindred, upon the majority of the adult children of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the child who represents to be the sole surviving child or the children who represent to constitute a majority of the surviving children;
 - d. The surviving parent or parents of the decedent, each having equal authority;

¹⁵⁰ Section 23-06-03 was also amended by section 2 of Senate Bill No. 2139, chapter 237.

- e. The adult sibling or the majority of the adult siblings of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by the sibling who represents to be the sole surviving sibling or the siblings who represent to constitute a majority of the surviving siblings;
 - f. The adult grandchild or the majority of the adult grandchildren of the decedent; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a grandchild who represents to be the only grandchild reasonably available to control final disposition of the decedent's remains or the grandchildren who represent to constitute a majority of grandchildren reasonably available to control final disposition of the decedent's remains;
 - g. The grandparent or the grandparents of the decedent, each having equal authority;
 - h. The adult nieces and nephews of the decedent or a majority of the adult nieces and nephews; however, in the absence of actual knowledge to the contrary, a funeral director or mortician may rely on instructions given by a niece or nephew, who represents to be the only niece or nephew reasonably available to control final disposition of the decedent's remains or the nieces and nephews who represent to constitute a majority of the nieces and nephews reasonably available to control final disposition of the decedent's remains;
 - i. An individual who was acting as the guardian of the decedent with authority to make health care decisions for the decedent at the time of death;
 - j. An adult who exhibited special care and concern for the decedent;
 - k. An individual respectively in the next degree of kinship in the order named by law to inherit the estate of the decedent; or
 - l. The appropriate public or court authority, as required by law. For purposes of this subdivision, the appropriate public or court authority includes the human service zone of the county in which the death occurred if the individual dies without apparent financial means to provide for final disposition or the district court in the county in which the death occurred.
2. If there is only one individual in a degree of relationship to the decedent described in subsection 1, and a district court determines the person and the decedent were estranged at the time of death, the right to control and the duty of disposition devolves to the next degree of relationship under subsection 1. For purposes of this subsection, "estranged" means having a relationship characterized by mutual enmity, hostility, or indifference.
 3. If an individual to whom the right to control and duty of disposition devolves under subsection 1, refuses to accept or declines to act upon the right or duty, that right and duty passes as follows:
 - a. To another individual with the same degree of relationship to the decedent as the individual refusing to accept or declining to act; or

- b. To the individual in the next degree of relationship to the decedent under subsection 1.
4. If a dispute exists regarding the right to control or duty of disposition, the parties in dispute or the mortician or funeral director may file a petition in the district court in the county of residence of the decedent requesting the court make a determination in the matter. If the right to control and duty of disposition devolves to more than one individual with the same degree of relationship to the decedent and those individuals do not, by majority vote, make a decision regarding arrangements and final disposition and a district court has been petitioned to make a determination, the court shall consider the following factors in making a determination:
 - a. The reasonableness, practicality, and resources available for payment of the proposed arrangements and final disposition;
 - b. The degree of the personal relationship between the decedent and each of the individuals in the same degree of relationship to the decedent;
 - c. The expressed wishes and directions of the decedent and the extent to which the decedent provided resources for the purpose of carrying out the wishes or directions; and
 - d. The degree to which the arrangements and final disposition will allow for participation by all who wish to pay respect to the decedent.
5. If the individual who has the duty of final disposition does not arrange for final disposition of the body within the time required by this chapter, the individual next specified shall bury or otherwise dispose of the body within the requirements of this chapter.
6.
 - a. If the deceased did not leave sufficient means to pay for expenses of final disposition, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within fifteen days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the human service zone in which the deceased was a resident for general assistance purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.
 - b. The department of health and human services may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.
 - c. The department of health and human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section

- 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.
- d. The human service zone shall pay the charge for funeral expenses as negotiated by the department of health and human services. The human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.
7. If the individual with the duty of final disposition under this section, or the personal representative of the decedent's estate, if any, is aware of the decedent's instructions regarding the disposition of the remains, that person shall honor those instructions, to the extent reasonable and possible, to the extent the instructions do not impose an economic or emotional hardship. A decedent's instructions may be reflected in a variety of methods, including pre-need funeral arrangements a deceased articulated and funded in a pre-need funeral service contract, a health care directive, a durable power of attorney for health care, a power of attorney, a will, a document created under section 23-06-31, or a document of gift for an anatomical gift.
 8. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces, or the national guard, as provided by 10 U.S.C. 1481 section (a)(1) through (8) as effective through December 2001, and completed a United States department of defense record of emergency data, DD form 93, or its successor form or its equivalent branch's form, the duty to bury or cremate the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.
 9. A funeral director or mortician has complete authority to control the final disposition and to proceed under this chapter to recover reasonable charges for the final disposition if:
 - a. The funeral director or mortician has actual knowledge none of the individuals described in subsection 1 exist, can be found after reasonable inquiry, or can be contacted by reasonable means; and
 - b. Within thirty-six hours after having been given written notice of the facts, the appropriate court or public authority fails to assume responsibility for disposition of the remains. Written notice may be delivered by hand, United States mail, or facsimile transmission.

Approved April 4, 2023

Filed April 5, 2023

CHAPTER 239

SENATE BILL NO. 2302

(Senators Wanzek, Dever, Lee, K. Roers)
(Representatives Steiner, Weisz)

AN ACT to create and enact a new section to chapter 23-06.6 of the North Dakota Century Code, relating to prohibiting discrimination in the organ transplant process.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-06.6 of the North Dakota Century Code is created and enacted as follows:

Discrimination prohibited.

A person may not discriminate against a recipient at any point in the organ transplant process, solely on the basis of the recipient's mental or physical disability, unless the disability has been adequately determined to be medically significant to the provision of an anatomical gift.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 240

SENATE BILL NO. 2125

(Senators Mathern, Erbele, Hogan)
(Representatives Dobervich, Kasper, Swiontek)

AN ACT to amend and reenact sections 23-06.5-06 and 23-06.5-17 of the North Dakota Century Code, relating to health care directive acceptance of appointment as agent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-06.5-06 of the North Dakota Century Code is amended and reenacted as follows:

23-06.5-06. Acceptance of appointment - Withdrawal as agent.

~~To be effective, the agent must accept the appointment in writing.~~ Subject to the right of the agent to withdraw, the ~~acceptance~~health care directive creates authority for the agent to make health care decisions on behalf of the principal at such time as the principal becomes incapacitated. Until the principal becomes incapacitated, the agent may withdraw by giving notice to the principal. After the principal becomes incapacitated, the agent may withdraw by giving notice to the attending physician. The attending physician shall cause the withdrawal to be recorded in the principal's medical record.

SECTION 2. AMENDMENT. Section 23-06.5-17 of the North Dakota Century Code is amended and reenacted as follows:

23-06.5-17. Optional health care directive form.

The following is an optional form of a health care directive and is not a required form:

HEALTH CARE DIRECTIVE

I _____, understand this document allows me to do ONE OR ALL of the following:

PART I: Name another ~~person~~individual (called the health care agent) to make health care decisions for me if I am unable to make and communicate health care decisions for myself. My health care agent must make health care decisions for me based on the instructions I provide in this document (Part II), if any, the wishes I have made known to him or her, or my agent must act in my best interest if I have not made my health care wishes known.

AND/OR

PART II: Give health care instructions to guide others making health care decisions for me. If I have named a health care agent, these instructions are to be used by the agent. These instructions may also be used by my health care providers, others assisting with my health care, and my family, in the event I cannot make and communicate decisions for myself.

AND/OR

PART III: Allows me to make an organ and tissue donation upon my death by signing a document of anatomical gift.

PART I: APPOINTMENT OF HEALTH CARE AGENT

THIS IS WHO I WANT TO MAKE HEALTH CARE DECISIONS FOR ME IF I AM UNABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS FOR MYSELF

(I know I can change my agent or alternate agent at any time

and I know I do not have to appoint an agent or an alternate agent)

NOTE: If you appoint an agent, you should discuss this health care directive with your agent and give your agent a copy. If you do not wish to appoint an agent, you may leave Part I blank and go to Part II and/or Part III. None of the following may be designated as your agent: your treating health care provider, a nonrelative employee of your treating health care provider, an operator of a long-term care facility, or a nonrelative employee of a long-term care facility.

When I am unable to make and communicate health care decisions for myself, I trust and appoint _____ to make health care decisions for me. This ~~person~~individual is called my health care agent.

Relationship of my health care agent to me: _____

Telephone number of my health care agent: _____

Address of my health care agent: _____

(OPTIONAL) APPOINTMENT OF ALTERNATE HEALTH CARE AGENT: If my health care agent is not reasonably available, I trust and appoint _____ to be my health care agent instead.

Relationship of my alternate health care agent to me: _____

Telephone number of my alternate health care agent: _____

Address of my alternate health care agent: _____

THIS IS WHAT I WANT MY HEALTH CARE AGENT TO BE ABLE TO DO IF I AM UNABLE TO MAKE AND COMMUNICATE HEALTH CARE DECISIONS FOR MYSELF

(I know I can change these choices)

My health care agent is automatically given the powers listed below in (A) through (D). My health care agent must follow my health care instructions in this document or any other instructions I have given to my agent. If I have not given health care instructions, then my agent must act in my best interest.

Whenever I am unable to make and communicate health care decisions for myself, my health care agent has the power to:

(A) Make any health care decision for me. This includes the power to give, refuse, or withdraw consent to any care, treatment, service, or procedures. This includes deciding whether to stop or not start health care that is keeping me or might keep me alive and deciding about mental health treatment.

(B) Choose my health care providers.

(C) Choose where I live and receive care and support when those choices relate to my health care needs.

(D) Review my medical records and have the same rights that I would have to give my medical records to other people.

If I DO NOT want my health care agent to have a power listed above in (A) through (D) OR if I want to LIMIT any power in (A) through (D), I MUST say that here:

My health care agent is NOT automatically given the powers listed below in (1) and (2). If I WANT my agent to have any of the powers in (1) and (2), I must INITIAL the line in front of the power; then my agent WILL HAVE that power.

____(1) To decide whether to donate any parts of my body, including organs, tissues, and eyes, when I die.

____(2) To decide what will happen with my body when I die (burial, cremation).

If I want to say anything more about my health care agent's powers or limits on the powers, I can say it here:

PART II: HEALTH CARE INSTRUCTIONS

NOTE: Complete this Part II if you wish to give health care instructions. If you appointed an agent in Part I, completing this Part II is optional but would be very helpful to your agent. However, if you chose not to appoint an agent in Part I, you MUST complete, at a minimum, Part II (B) if you wish to make a valid health care directive.

These are instructions for my health care when I am unable to make and communicate health care decisions for myself. These instructions must be followed (so long as they address my needs).

(A) THESE ARE MY BELIEFS AND VALUES ABOUT MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

I want you to know these things about me to help you make decisions about my health care:

My goals for my health care:

My fears about my health care:

My spiritual or religious beliefs and traditions:

My beliefs about when life would be no longer worth living:

My thoughts about how my medical condition might affect my family:

(B) THIS IS WHAT I WANT AND DO NOT WANT FOR MY HEALTH CARE

(I know I can change these choices or leave any of them blank)

Many medical treatments may be used to try to improve my medical condition or to prolong my life. Examples include artificial breathing by a machine connected to a tube in the lungs, artificial feeding or fluids through tubes, attempts to start a stopped heart, surgeries, dialysis, antibiotics, and blood transfusions. Most medical treatments can be tried for a while and then stopped if they do not help.

I have these views about my health care in these situations:

(Note: You can discuss general feelings, specific treatments, or leave any of them blank).

If I had a reasonable chance of recovery and were temporarily unable to make and communicate health care decisions for myself, I would want:

If I were dying and unable to make and communicate health care decisions for myself, I would want:

If I were permanently unconscious and unable to make and communicate health care decisions for myself, I would want:

If I were completely dependent on others for my care and unable to make and communicate health care decisions for myself, I would want:

In all circumstances, my health care providers will try to keep me comfortable and reduce my pain. This is how I feel about pain relief if it would affect my alertness or if it could shorten my life:

There are other things that I want or do not want for my health care, if possible:

Who I would like to be my health care provider:

Where I would like to live to receive health care:

Where I would like to die and other wishes I have about dying:

My wishes about what happens to my body when I die (cremation, burial, whole body donation):

Any other things:

PART III: MAKING AN ANATOMICAL GIFT

(A) I WANT TO BE AN ORGAN DONOR

I would like to be an organ donor at the time of my death. I have told my family my decision and ask my family to honor my wishes. I wish to donate the following (initial one statement):

Any needed organs and tissue.

Only the following organs and tissue: _____

(B) I DO NOT WANT TO BE AN ORGAN DONOR

I do not want to be an organ donor at the time of my death. I have told my family my decision and ask my family to honor my wishes.

PART IV: MAKING THE DOCUMENT LEGAL

~~PRIOR~~EARLIER DESIGNATIONS REVOKED. I revoke any ~~prior~~earlier health care directive.

DATE AND SIGNATURE OF PRINCIPAL

(YOU MUST DATE AND SIGN THIS HEALTH CARE DIRECTIVE)

I sign my name to this Health Care Directive Form on _____
at _____

(date)

(city)

(state)

(you sign here)

(THIS HEALTH CARE DIRECTIVE WILL NOT BE VALID UNLESS IT IS NOTARIZED OR SIGNED BY TWO QUALIFIED WITNESSES WHO ARE PRESENT WHEN YOU SIGN OR ACKNOWLEDGE YOUR SIGNATURE. IF YOU HAVE ATTACHED ANY ADDITIONAL PAGES TO THIS FORM, YOU MUST DATE AND SIGN EACH OF THE ADDITIONAL PAGES AT THE SAME TIME YOU DATE AND SIGN THIS HEALTH CARE DIRECTIVE.)

NOTARY PUBLIC OR STATEMENT OF WITNESSES

This document must be (1) notarized or (2) witnessed by two qualified adult witnesses. The ~~person~~individual notarizing this document may be an employee of a health care or long-term care provider providing your care. At least one witness to the execution of the document ~~must~~may not be a health care or long-term care provider providing you with direct care or an employee of the health care or long-term care provider providing you with direct care. None of the following may be used as a notary or witness:

1. ~~A person~~An individual you designate as your agent or alternate agent;
2. Your spouse;
3. ~~A person~~An individual related to you by blood, marriage, or adoption;
4. ~~A person~~An individual entitled to inherit any part of your estate upon your death; or
5. ~~A person~~An individual who has, at the time of executing this document, any claim against your estate.

Option 1: Notary Public

State of _____

County of _____

In my presence on _____ (date), _____ (name of declarant) acknowledged the declarant's signature on this document or acknowledged that the declarant directed the ~~person~~individual signing this document to sign on the declarant's behalf.

(Signature of Notary Public)

My commission expires _____, 20__.

Option 2: Two Witnesses

Witness One:

- (1) In my presence on _____ (date), _____ (name of declarant) acknowledged the declarant's signature on this document or acknowledged that the declarant directed the ~~person~~individual signing this document to sign on the declarant's behalf.
- (2) I am at least eighteen years of age.
- (3) If I am a health care provider or an employee of a health care provider giving direct care to the declarant, I must initial this box: [].

I certify that the information in (1) through (3) is true and correct.

(Signature of Witness One)

(Address)

Witness Two:

- (1) In my presence on _____ (date), _____ (name of declarant) acknowledged the declarant's signature on this document or acknowledged that the declarant directed the ~~person~~individual signing this document to sign on the declarant's behalf.
- (2) I am at least eighteen years of age.
- (3) If I am a health care provider or an employee of a health care provider giving direct care to the declarant, I must initial this box: [].

I certify that the information in (1) through (3) is true and correct.

(Signature of Witness Two)

(Address)

~~ACCEPTANCE OF APPOINTMENT OF POWER OF ATTORNEY. I accept this appointment and agree to serve as agent for health care decisions. I understand I have a duty to act consistently with the desires of the principal as expressed in this appointment. I understand that this document gives me authority over health care decisions for the principal only if the principal becomes incapacitated. I understand that I must act in good faith in exercising my authority under this power of attorney. I understand that the principal may revoke this power of attorney at any time in any manner.~~

If I choose to withdraw during the time the principal is competent, I must notify the principal of my decision. If I choose to withdraw when the principal is not able to make health care decisions, I must notify the principal's health care provider.

(Signature of agent/date)

(Signature of alternate agent/date)

PRINCIPAL'S STATEMENT

I have read a written explanation of the nature and effect of an appointment of a health care agent thatwhich is attached to my health care directive.

Dated this ____ day of _____, 20 ____.

(Signature of Principal)

Approved March 20, 2023

Filed March 21, 2023

CHAPTER 241

HOUSE BILL NO. 1390

(Representatives Hanson, Beltz, Nelson, Weisz)
(Senators Cleary, Hogan, Lee)

AN ACT to create and enact a new section to chapter 23-07 of the North Dakota Century Code, relating to the creation of a suicide fatality review commission; and to provide an appropriation.

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:

Suicide fatality review commission.

1. The commissioner of the department of health and human services shall appoint the members of the suicide fatality review commission and select the presiding officer from the membership. Members serve at the pleasure of the commissioner. The commissioner may invite a temporary member based on the member's relevant expertise for a particular case. Commission membership may include representatives of the following:
 - a. A mental health practitioner from the public sector;
 - b. A mental health practitioner from the private sector;
 - c. A county coroner;
 - d. A public health epidemiologist;
 - e. The state forensic examiner;
 - f. The forensic pathology department at the university of North Dakota school of medicine and health sciences;
 - g. An emergency medical services provider;
 - h. A crisis line;
 - i. A public elementary or secondary school;
 - j. A veterans organization;
 - k. A national suicide prevention organization;
 - l. The faith community;
 - m. Law enforcement; and
 - n. One or more tribal nations in the state.

2. The commission shall review suicide deaths that have occurred in the state with the goal of:
 - a. Identifying the risk factors, protective factors, systems, and services involved in each case;
 - b. Recommending policies, protocols, and other actions to improve community, service, and system responses to individuals at risk of suicide; and
 - c. Providing consultation and coordination for agencies involved in the prevention and investigation of suicide.
3. In conducting the duties of the commission, the commission may investigate and review the facts and circumstances of all deaths that occur in the state as a result of suicide, focusing on system and process issues not the performance of individuals. All deaths by suicide may be reviewed; however, all deaths may not be reviewed with the same level of intensity.
 - a. The review may include necessary and appropriate information the commission determines to be relevant to the review, including laws and policies, actions taken by persons related to or involved with the incident, and confidential and other appropriate records of an organization related to the suicide.
 - b. Upon the written request of the presiding officer of the commission, a health care facility and health care provider shall disclose all patient records of the facility or provider which are requested by the commission and pertain to an identified suicide fatality, as permitted under federal law. The presiding officer may request records from the most recent thirty-six month period. The commission may access relevant autopsy records, police records, school records, child protective services records, and adult protective services records as needed for a case review.
 - c. The determinations, conclusions, and recommendations of the commission are not admissible in a civil or criminal proceeding.
4. The department of health and human services shall notify the commission of suicide deaths for which the investigation of a county coroner or law enforcement has been completed. Notwithstanding confidentiality provisions of chapter 23-07, the department of health and human services shall disclose to the commission records regarding suicide fatalities in the state.
5. Notwithstanding section 50-25.1-04.5, the commission may coordinate with the child fatality review panel in conducting the duties of the commission.
6. The commission shall meet at least two times per year. Notwithstanding section 44-04-19, all meetings of the commission are closed to the public. Notwithstanding section 44-04-18, all records of the commission are confidential, except for annual reports. The commission and each member of the commission shall preserve the confidentiality of each record examined.
7. Before January thirty-first of each year, the commission shall provide the commissioner of the department of health and human services with an annual report from the previous calendar year of the commission's findings and

recommendations. The report may not disclose personally identifiable information regarding suicide fatalities. The department shall post the report on the department's website.

8. The department of health and human services shall provide or arrange for administrative services to assist the commission in performing the duties of the commission which may include collecting and managing case review files, maintaining records and data, training on confidentiality and the suicide critical risk assessment process, and issuing the annual report of the commission.
9. A state employee who is a member of the commission is entitled to receive that employee's regular salary while performing official duties of the commission and is entitled to mileage and expense reimbursement as provided for under sections 44-08-04 and 54-06-09, to be paid by the employing entity. A member of the commission who is not a state employee is entitled to mileage and expense reimbursement as provided for under sections 44-08-04 and 54-06-09, to be paid by the department of health and human services. The department may provide per diem to a member who is not a state employee.

SECTION 2. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES - SUICIDE FATALITY REVIEW COMMISSION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000, or so much of the sum as may be necessary, to the department of health and human services for the purpose of funding the activities of the suicide fatality review commission, for the biennium beginning July 1, 2023, and ending June 30, 2025.

Approved April 11, 2023

Filed April 12, 2023

CHAPTER 242

SENATE BILL NO. 2082

(State and Local Government Committee)
(At the request of the Department of Health and Human Services)

AN ACT to amend and reenact sections 23-09-01, 23-09-03, 23-09-05, and 23-09-07 of the North Dakota Century Code, relating to food and lodging establishments and assisted living facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁵¹ **SECTION 1. AMENDMENT.** Section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

23-09-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility in this chapter includes a facility that is defined as an assisted living facility in any other part of the code. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16, chapter 23-17.7, chapter 25-16, or section 50-11-01.4.
2. "Bakery" means an establishment or any part of an establishment that manufactures or prepares bread or bread products, pies, cakes, cookies, crackers, doughnuts, or other similar products, or candy, whether plain; chocolate or chocolate coated; mixed with nuts, fruits, or other fillers; covered with chocolate or other coating; and shaped, molded, or formed in various shapes. The term does not include food service establishments nor home cake decorators.
3. "Child care food service establishment" means food service that is prepared in a kitchen owned and operated by a child care provider licensed in accordance with chapter 50-11.1 for more than thirty children.
4. "Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored, including a service center or base of operations directly from which mobile food units are supplied or serviced. The term does not include an area

¹⁵¹ Section 23-09-01 was also amended by section 8 of House Bill No. 1038, chapter 65.

or conveyance at a vending machine location used for the temporary storage of packaged food or beverages.

- 4-5. "Department" means the department of health and human services.
- 5-6. "Food establishment" means any fixed restaurant, limited restaurant, coffee shop, cafeteria, short-order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, catering kitchen, delicatessen, bakery, grocery store, meat market, food processing plant, school, child care, mobile or temporary food establishment, or similar place in which food or drink is prepared for sale or service to the public on the premises or elsewhere with or without charge.
- 6-7. "Food processing plant" means a commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer.
- 7-8. "Limited restaurant" means a food service establishment that is restricted to a specific menu as determined by the department or an establishment serving only prepackaged foods, such as frozen pizza and sandwiches, which receive no more than heat treatment and are served directly in the package or on single-serve articles.
- 8-9. "Lodging establishment" includes every building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished ~~for pay to transient guests for a charge~~. The term does not include ~~a facility providing personal care services directly or single structures with five or fewer guest rooms and ten or fewer total occupants, a series or group of buildings or structures containing five or fewer guest rooms and ten or fewer total occupants operated as one entity under a single ownership on the same property or physical location, or a facility providing personal care services directly~~ through contract services as defined in section 23-09.3-01 or 50-32-01.
- 9-10. "Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.
- 40-11. "Proprietor" includes the person in charge of a food establishment, lodging establishment, or assisted living facility, whether as owner, lessee, manager, or agent.
- 44-12. "Pushcart" means a non-self-propelled vehicle limited to serving nonpotentially hazardous food or commissary-wrapped food maintained at proper temperatures.
- 42-13. "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, that are permanently kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished. The term includes a limited restaurant restricted to a specified menu.
- 43-14. "Retail food store" means any establishment or section of an establishment where food and food products are offered to the consumer and intended for offpremise consumption. The term includes a delicatessen that offers prepared food in bulk quantities only. The term does not include an

establishment that handles only prepackaged nonpotentially hazardous foods, roadside market that offers only fresh fruits and vegetables for sale, food service establishment, or food and beverage vending machine.

- 44-15. "Retail meat market" means a commercial establishment and buildings or structures connected with it, used to process, store, or display meat or meat products for retail sale to the public for human consumption. The term does not include a meat establishment operating under the federal or state meat inspection program.
- 45-16. "Salvage processing facility" means an establishment engaged in the business of reconditioning or by other means salvaging distressed merchandise for human consumption or use.
- 46-17. "Temporary food service establishment" means any food service establishment that operates at a fixed location for not more than fourteen consecutive days. The term does not include a nonprofit public-spirited organization or person providing a limited type of food service as defined in chapter 23-09.2.
18. "Transient guest" means occupancy of a guest room for a period of fewer than thirty consecutive days or one month, whichever is more.

SECTION 2. AMENDMENT. Section 23-09-03 of the North Dakota Century Code is amended and reenacted as follows:

23-09-03. Exiting requirements.

Every lodging establishment and assisted living facility constructed in the state shall have adequate exiting as defined by the state building code in chapter 54-21.3 and state fire code in chapter 18-01 with the following exceptions:

1. All lodging establishments and assisted living facilities in existence at the time of implementation of this section are required to continue with fire escapes previously provided for within this section providing that they are deemed adequate by the local fire authority having approval, or by the state fire marshal's office.
2. If the lodging establishment or assisted living facility is provided with exterior access balconies connecting the main entrance door of each unit to two stairways remote from each other.

SECTION 3. AMENDMENT. Section 23-09-05 of the North Dakota Century Code is amended and reenacted as follows:

23-09-05. Fire escapes to be kept clear - Notice of location and use of fire escapes required.

Access to fire escapes required under this chapter must be kept free and clear at all times of all obstructions of any nature. The proprietor of the lodging establishment or assisted living facility shall provide for adequate exit lighting and exit signs as defined in the state building code, chapter 54-21.3, and state fire code, chapter 18-01.

SECTION 4. AMENDMENT. Section 23-09-07 of the North Dakota Century Code is amended and reenacted as follows:

23-09-07. Lodging establishments or assisted living facilities with elevators - Protection to prevent spread of fire.

All new construction of, remodeling of, or additions to lodging establishments or assisted living facilities equipped with passenger or freight elevators must comply with state building code fire protection requirements and state fire code, chapter 18-01.

Approved March 20, 2023

Filed March 21, 2023

CHAPTER 243

HOUSE BILL NO. 1290

(Representatives Kreidt, Bellew, Hauck, Rohr)
(Senator Lee)

AN ACT to amend and reenact subsection 1 of section 23-09.3-01.1 and subsection 1 of section 23-16-01.1 of the North Dakota Century Code, relating to the moratorium on basic care and nursing facility bed capacity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2024~~2023, and July 31, ~~2023~~2025, except if:
 - a. A nursing facility converts nursing facility beds to basic care;
 - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the department that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
 - d. The department grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.

SECTION 2. AMENDMENT. Subsection 1 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2024~~2023, and July 31, ~~2023~~2025. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure licensed nursing facility bed capacity more than two times in a twelve-month period.

Approved March 15, 2023

Filed March 16, 2023

CHAPTER 244

SENATE BILL NO. 2243

(Senators Dever, Larson, Paulson)
(Representatives Karls, Kempenich, Louser)

AN ACT to amend and reenact sections 23-10-06.2, 23-10-12, 27-08.1-01, and 47-10-28 of the North Dakota Century Code, relating to the transferability, revocation, and suspension of licenses for a mobile home park, small claims court jurisdiction, and required disclosures to tenants residing in a mobile home park; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-10-06.2 of the North Dakota Century Code is amended and reenacted as follows:

23-10-06.2. License transferability.

The department shall transfer a license without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, recreational vehicle park, or campground will be operated in accordance with this chapter. A new owner applying for a transfer under this section and a person holding a license issued under section 23-10-03, shall provide the name, address, and telephone number for the mobile home park managers and any individual possessing more than a twenty percent ownership interest in the entity subject to the license to the department once per calendar year. The department may assess a civil penalty not exceeding five thousand dollars for each violation of this section thirty days after issuing a notice of noncompliance. The civil penalty may be assessed without notice and a hearing. The civil penalty must be awarded to the department and deposited into the department's general operating fund for use in regulating compliance with this chapter. A person subject to a civil penalty pursuant to an order issued under this section may request a hearing before the department if a written request is made within ten days after the receipt of the order. Upon receipt of a proper and timely request for a hearing, the department shall conduct an adjudicative proceeding under this section in accordance with chapter 28-32, unless otherwise provided for by law. If the department prevails in an adjudicative proceeding under this section, the department may assess the nonprevailing party for all adjudicative proceeding and hearing costs, including reasonable attorney's fees, investigation fees, and costs and expenses of the action.

¹⁵² **SECTION 2. AMENDMENT.** Section 23-10-12 of the North Dakota Century Code is amended and reenacted as follows:

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

1. The department may deny an application or take disciplinary action, up to and including suspension of a license for a mobile home park, recreational vehicle

¹⁵² Section 23-10-12 was also amended by section 36 of House Bill No. 1165, chapter 229.

park, or campground, and revocation of a license for a recreational vehicle park or campground, 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.

2. 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~~during suspension of the license, is guilty of an infraction.

SECTION 3. AMENDMENT. Section 27-08.1-01 of the North Dakota Century Code is amended and reenacted as follows:

27-08.1-01. Small claims court - Jurisdictional limits - Venue.

1. All judges of the district courts may exercise the jurisdiction conferred by this chapter, and while sitting in the exercise of that jurisdiction must be known and referred to as the "small claims court". The jurisdiction of this court is confined to cases for recovery of money, a tenant's claim for civil damages under subsection 9 of section 47-10-28, or the cancellation of any agreement involving material fraud, deception, misrepresentation, or false promise, when the value of the agreement or the amount claimed by the plaintiff or the defendant does not exceed fifteen thousand dollars.
2. The proceedings in this court must be commenced:
 - a. If the defendant is a corporation, limited liability company, or a partnership, in any county in which the defendant has a place of business or in any county in which the subject matter of the claim occurred.
 - b. If the claim is for collection of a check written without sufficient funds or without an account, in the county where the check was passed, or in the county of the defendant's residence or place of business.
 - c. If the defendant is an individual and the claim is for collection of an open account on which credit has been extended:
 - (1) In the county of the defendant's residence or place of business; or
 - (2) If the amount of the claim is less than one thousand dollars and is not from a telephone or mail order transaction, in the county where the transaction occurred or in the county of the defendant's residence or place of business.
 - d. If the defendant is an individual and the claim is not made under subdivision b or c, in the county of the defendant's residence.
 - e. If the defendant is an individual and the claim arose as the result of the defendant's lease of real property or as the result of a dispute over disposition of earnest money or other money deposit arising from a contract to purchase real property, in the county where the real property is

located unless the plaintiff and the defendant consent in writing to a proceeding in a different county.

- f. If the plaintiff is a political subdivision and the claim is for a public utility debt, in the county in which the political subdivision is located.
 - g. If the claim is for civil damages under subsection 9 of section 47-10-28, in the county in which the mobile home park is located.
3. Except for an action under subdivision c, e, ~~or f,~~ or g of subsection 2, the defendant may elect to remove the action to a small claims court in the defendant's county of residence. A claim may not be filed by an assignee of that claim. A garnishment or attachment may not issue from this court until after judgment is entered.

SECTION 4. AMENDMENT. Section 47-10-28 of the North Dakota Century Code is amended and reenacted as follows:

47-10-28. Mobile home park - Ownership - Transfer of ownership - Tenant rights - Penalty.

1. A person that owns or purchases an existing mobile home park shall:
 - a. Obtain an annual license under section 23-10-03;
 - b. Designate an official local office, except if the mobile home park contains fewer than twenty-six lots, which must be operational on the fifth business day after the change of ownership;
 - c. The mobile home park shall:
 - (1) Have a designated telephone number manned on weekdays between the hours of eight a.m. and five p.m.;
 - (2) Have an operational emergency contact number manned at all times;
 - (3) Designate at least one individual for the property who has the authority to make decisions on behalf of and perform, or direct the performance of, duties imposed on the owner; and
 - (4) Provide a tenant with the contact information of the individual under paragraph 3;
 - d. Provide written notice to a tenant of the mobile home park regarding the change of ownership within five business days after the change of ownership becomes effective. The written notice must include the information required under subdivision c; ~~and~~
 - e. Acknowledge receipt of tenant inquiries or complaints regarding the park, pursuant to section 23-10-10.1, within two business days of receiving the inquiry or complaint;
 - f. Provide to each tenant, upon a written request by the tenant or the tenant's agent, a copy of the existing lease terms along with any modifications or amendments, within ten business days of receipt of a written request;

- g. Provide each tenant with the name, address, and telephone number of the legal entity that owns the mobile home park; and
- h. Provide the telephone number of any existing property manager or designated site agent.
2. A person that owns or purchases an existing mobile home park may not require a tenant who owns a mobile home located on the property to sell or transfer ownership of the home to the owner of the mobile home park, except as otherwise provided by law.
3. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules or regulations at least thirty days before the date the modifications take effect. Except for the rules and regulations under subsections 4 and 5, upon the effective date of modifications to park rules and regulations, an owner shall provide a tenant who owns a dwelling unit that fails to comply with the park rules and regulations written notice of the failure to comply and provide the tenant three months to remedy the failure or vacate the premises before initiating an action for eviction against the tenant. During the three-month period the tenant shall comply with the park rules and regulations that were in effect before the modifications became effective, including the payment of rent and any other financial obligations under the terms of the lease. During the three-month period, if the tenant provides the owner a signed document from a person in the business of relocating mobile homes declaring it is not possible to relocate the tenant's dwelling unit within the three-month period, the three-month period must be extended to a date when the dwelling unit can be relocated or the date that is two months after the end of the three-month period, whichever date occurs first.
4. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice of any modifications to park rules and regulations addressing sanitation and safety concerns at least thirty days before the date the modifications take effect.
5. A person that owns or purchases an existing mobile home park shall provide a tenant advance written notice at least thirty days before implementing a rule or regulation regarding the removal of a tongue hitch, or any other modification to the dwelling unit to comply with state or federal housing or financing requirements.
6. Mobile home park rules in effect on the date advance written notice regarding modifications is provided to a tenant remain in effect until the date the modified rules or regulations take effect.
7. A person that purchases an existing mobile home park may not increase the monthly tenant rental obligation for six months if the rental amount was increased within the sixty-day period before the date the new owner acquired ownership of the park. Any month-to-month tenancy agreement must provide a minimum of ninety days' notice to the tenant before any rent increase is effective.
8. A person that owns or purchases an existing mobile home park may purchase utility services, including water and sewer services on behalf of a tenant, and include the amount in the monthly rental obligation or bill the tenant as a

separate charge based on actual usage. An owner may not charge a tenant more than the actual cost per unit amount paid by the landlord to the utility service provider, except for a reasonable administrative fee that may not exceed three dollars. An owner may not charge or back charge for the utility services of a tenant paying for the services as a portion of the tenant's monthly rental obligation, unless the cost of providing the services increases. If the cost of providing utility services increases, an owner of a mobile home park may charge a tenant a reasonable amount to cover the increased cost of providing the service. The owner shall provide the tenant access to the records of meter readings taken at the mobile home lot of the tenant.

9. A person that violates a provision of this section is subject to a civil penalty not ~~exceeding one thousand five hundred dollars but not exceeding the greater of ten thousand dollars or actual damages, whichever is less~~, plus reasonable actual attorney's fees and costs.
10. A mobile home park license, issued under chapter 23-10, may be suspended by the district court of the county where the mobile home park is situated for a violation of this section. The holder of the mobile home park license must be assessed a civil penalty for each day the holder's license remains suspended. The amount of the daily penalty is equal to half of the total rent listed on the rent roll for the mobile home park divided by the number of days in that month. The license holder must prove each violation has been remedied and has satisfied all civil penalties assessed before the license holder's license may be reinstated. The district court has discretion over the terms to be satisfied before a license is reinstated. If a license holder fails to comply with the terms of the district court's order, the district court may revoke the holder's license. All park tenants must be allowed to continue to reside in the mobile home park through the duration of the license suspension, unless the department of health and human services takes further disciplinary action against the license under chapter 23-10. During the period of suspension, the license holder or the license holder's agent may not modify the park rules or regulations, modify any tenant's rental arrangement, increase any tenant's rental rate, or terminate any tenant's lease without cause.
11. In a dispute between a landlord and a tenant under this section, the district court of the county in which the dispute arose has original jurisdiction over the dispute relating to the suspension of a license. For the recovery of civil damages under subsection 9, the tenant may elect to commence the action in small claims court or district court. If an action between a landlord and tenant is commenced, the tenant shall continue paying rent and comply with all park rules and regulations in effect at the time the action was commenced. During a pending action under this section, the license holder or the license holder's agent may not modify the park rules or regulations, modify the tenant's rental arrangement, increase a tenant's monthly rental rate, or terminate a tenant's lease without cause.

Approved April 13, 2023

Filed April 14, 2023

CHAPTER 245

HOUSE BILL NO. 1207

(Representatives D. Anderson, Fegley, Thomas)
(Senator Vedaa)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to the display of vaccine adverse event data.

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 adverse event data - Website.

The department of health and human services shall prominently display, on a website maintained by the department, a link to the federal vaccine adverse event reporting system, along with instructions on how to report an adverse event and how to access state-specific data. The department may compile its own data for use on this website.

Approved April 21, 2023

Filed April 24, 2023

CHAPTER 246

HOUSE BILL NO. 1111

(Representative Hoverson)
(Senator Magrum)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to international health regulations.

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:

International health regulations.

A health-related regulation of an international health organization is not enforceable in this state unless enacted through legislation or a signed executive order.

Approved April 6, 2023

Filed April 10, 2023

CHAPTER 247

HOUSE BILL NO. 1229

(Representatives D. Ruby, Christensen, Headland, Kasper, Nathe, Porter, Rios, M. Ruby)
(Senators Larsen, Meyer, Vedaas)

AN ACT to amend and reenact section 23-12-10 of the North Dakota Century Code, relating to cigar lounges.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10. Smoking restrictions - Exceptions - Retaliation - Application.

1. In order to protect the public health and welfare and to recognize the need for individuals to breathe smoke-free air, smoking is prohibited in all enclosed areas of:
 - a. Public places; and
 - b. Places of employment.
2. Smoking is prohibited within twenty feet [6.10 meters] of entrances, exits, operable windows, air intakes, and ventilation systems of enclosed areas in which smoking is prohibited. Owners, operators, managers, employers, or other persons who own or control a public place or place of employment may seek to rebut the presumption that twenty feet [6.10 meters] is a reasonable minimum distance by making application to the director of the local health department or district in which the public place or place of employment is located. The presumption will be rebutted if the applicant can show by clear and convincing evidence that, given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach the entrances, exits, open windows, or ventilation intakes or enter into such public place or place of employment and, therefore, the public health and safety will be adequately protected by a lesser distance.
3. The following areas are exempt from subsections 1 and 2:
 - a. Private residences, except those residences used as a child care, adult day care, or health care facility subject to licensure by the department of health and human services.
 - b. Outdoor areas of places of employment, except those listed in subsection 2.
 - c. Any area that is not commonly accessible to the public and which is part of an owner-operated business having no employee other than the owner-operator.

- d. A cigar lounge, which has a valid certificate issued by the tax commissioner under this subdivision; has a humidor on the premises; is enclosed by solid walls or windows, a ceiling, and a solid door; and is equipped with a ventilation system by which exhausted air is not recirculated to nonsmoking areas and smoke is not backstreamed into nonsmoking areas. A cigar lounge meeting the requirements of this subdivision may permit the smoking of cigars purchased on the premises, but may not permit the smoking of any other product on the premises.
- (1) A cigar lounge asserting the lounge meets the requirements of this subdivision shall report to the tax commissioner before February first of each year, on a form prescribed by the commissioner, the revenue from the previous calendar year generated from the sale of cigars as a percentage of annual gross income. Upon receipt of a report asserting compliance with the annual gross income requirements of this subdivision, the commissioner shall issue an annual certificate. The commissioner is not required to confirm the accuracy of information reported but may not issue a certificate absent supporting documentation from the lounge. Information reported to the commissioner under this subdivision is subject to the confidentiality provisions of section 57-39.2-23.
- (2) For purposes of this subdivision:
- (a) "Cigar" means an individual roll of tobacco which has a wrapper or cover of whole leaf tobacco; does not contain filler other than tobacco filler; does not contain binder other than tobacco binder; does not contain additives other than water; does not contain a filter, tip, or nontobacco mouthpiece; weighs at least six pounds per thousand count; and is made by hand, except to allow for the use of a manually operated machine to assist in bunching, rolling, and binding.
- (b) "Cigar lounge" means a business dedicated, in whole or in part, to the smoking of cigars which generates fifteen percent or more of the business's annual gross income from the sale of cigars.
4. Smoking as part of a traditional American Indian spiritual or cultural ceremony is not prohibited.
5. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or other person because that person asserts or exercises any rights afforded by this section or reports or attempts to prosecute a violation of this section. An employee who works in a setting where an employer allows smoking does not waive or surrender any legal rights the employee may have against the employer or any other party. Violations of this subsection shall be a class B misdemeanor.
6. This section may not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
7. Notwithstanding any other provision of this chapter, an owner, operator, manager or other person in control of an establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

Approved April 10, 2023

Filed April 11, 2023

CHAPTER 248

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.

Approved April 18, 2023

Filed April 19, 2023

CHAPTER 249

HOUSE BILL NO. 1502

(Representatives Hoverson, Bellew, Dyk, Fisher, Heilman, Henderson, Marschall,
Meier, D. Ruby)
(Senators Paulson, Weston)

AN ACT to create and enact a new section to chapter 23-16 of the North Dakota Century Code, relating to access to hospital care.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-16 of the North Dakota Century Code is created and enacted as follows:

COVID-19 vaccination status - Access to care.

A hospital may not deny health care treatment or services to an individual based on that individual's severe acute respiratory syndrome coronavirus 2, identified as SARS-CoV-2 (COVID-19) vaccination status.

Approved April 7, 2023

Filed April 10, 2023

CHAPTER 250

HOUSE BILL NO. 1050

(Human Services Committee)

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

AN ACT to amend and reenact sections 23-16-01, 50-31-02, 50-31-04, 50-31-05, and 50-31-08 of the North Dakota Century Code, relating to licensure, inspection, suspension, and revocation of a substance abuse treatment program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-16-01 of the North Dakota Century Code is amended and reenacted as follows:

23-16-01. Licensure of medical hospitals and state hospitals.

After July 1, 1947, no person, partnership, association, corporation, limited liability company, county or municipal corporation, or agency thereof, which maintains and operates organized facilities for the diagnosis, treatment, or care of two or more nonrelated persons suffering from illness, injury, or deformity or where obstetrical or other care is rendered over a period exceeding twenty-four hours, may be established, conducted, or maintained in the state of North Dakota without obtaining annually a license therefor in the manner hereinafter provided in sections 23-16-02 and 23-16-03. Chiropractic hospitals, sanatoriums, American society of addiction medicine level 3.7 substance use treatment programs licensed by the department of health and human services that are independent from a medical hospital, and hospitals such as those for unmarried mothers maintained and operated by the department of health and human services are not required to obtain a license under this chapter.

In the case of emergency or transfer beds attached to and forming a part of a licensed medical doctor's office, the department of health and human services has the right of inspection, but no license may be required under the provisions of this chapter when the number of such beds does not exceed four.

SECTION 2. AMENDMENT. Section 50-31-02 of the North Dakota Century Code is amended and reenacted as follows:

50-31-02. License required.

A person, partnership, association, corporation, or limited liability company without a license may not establish, conduct, or maintain in this state a substance ~~abuse~~use disorder treatment program for the care of persons addicted to alcohol or other drugs. The department, in accordance with the laws of this state governing injunctions and other process, may maintain an action in the name of the state against a person, partnership, association, corporation, or limited liability company for establishing, conducting, managing, or operating a substance ~~abuse~~use disorder treatment program without a license.

SECTION 3. AMENDMENT. Section 50-31-04 of the North Dakota Century Code is amended and reenacted as follows:

50-31-04. Inspection and evaluation of licensed premises.

Every licensed substance ~~abuse~~use disorder treatment program shall obtain and provide to the department a local or state authority certification as to the safety of the premises. The department shall evaluate every licensed substance ~~abuse~~use disorder treatment program according to the rules adopted by the department.

SECTION 4. AMENDMENT. Section 50-31-05 of the North Dakota Century Code is amended and reenacted as follows:

50-31-05. Issuance, suspension, and revocation of license.

1. The department may issue licenses to operate substance ~~abuse~~use disorder treatment programs, for a period of three years, which are found to comply with the provisions of this chapter and rules adopted by the department.
2. The department may suspend or revoke a license if a program violates any of the rules adopted by the department.
3. Before a license may be suspended or revoked, written notice by registered mail, personal delivery, or electronic mail must be given to the licenseholder. The licenseholder must be furnished with a copy of the notice by registered mail or personal delivery. If a license is revoked, a new application for a license may be considered by the department when the conditions upon which the revocation were based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and the applicant has complied with all rules adopted by the department. Within thirty days after service of the written charges, the applicant or licensee may submit to the department a written request for an administrative hearing as provided in chapter 28-32.

SECTION 5. AMENDMENT. Section 50-31-08 of the North Dakota Century Code is amended and reenacted as follows:

50-31-08. Opioid treatment programs - Licensure required - Rules.

1. To operate in this state, an opioid treatment program must be granted a license from the department, certification from the United States department of health and human services substance abuse and mental health services administration, and registration from the United States department of justice drug enforcement administration.
2. The department may license a substance ~~abuse~~use disorder treatment program to operate an opioid treatment program in the state. A separate license is required for each location at which an opioid treatment program is operated under this section.
3. The department shall adopt rules relating to licensing and monitoring opioid treatment programs, including rules for:
 - a. Standards for approval and maintenance of license;
 - b. Assessment of need for an opioid treatment program in the proposed location;
 - c. Patient eligibility for admission to an opioid treatment program;

- d. Treatment standards, including counseling and drug testing requirements; and
 - e. Measures to prevent the diversion to illegal use of any drug used by a program to treat an opioid addiction.
4. Each state-licensed opioid treatment program shall submit by electronic means information regarding each prescription dispensed for a controlled substance to the state's prescription drug monitoring program, unless specifically exempted by federal law.

Approved March 14, 2023

Filed March 15, 2023

CHAPTER 251

SENATE BILL NO. 2153

(Senators Lee, Hogan, K. Roers)
(Representatives Dobervich, Rohr, Weisz)

AN ACT to amend and reenact section 23-35-02 of the North Dakota Century Code, relating to the core functions of public health units.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35-02. Public health units - Core functions.

1. ~~All land in the state must be in a public health unit before January 1, 2001. The department of health and human services may issue rules defining the core functions a public health unit shall undertake.~~
2. At a minimum, a public health unit shall provide the following core functions:
 - a. Communicable disease control, which must include:
 - (1) Conducting of disease surveillance for the purpose of preventing and controlling communicable disease, with assistance from the department.
 - (2) Assurance of the availability of community-based programs to provide communicable disease prevention and control services.
 - (3) Recognition, identification, and response to a communicable disease event, in collaboration with the department.
 - b. Chronic disease and injury prevention, which must include conducting programs to reduce the burden of chronic disease and injury through policy, system, and environmental change approach; prevention screening; and education.
 - c. Environmental public health, which must include:
 - (1) Prevention of environmental hazards by the provision of information and education to facility operators and managers and to community members.
 - (2) Assurance of the availability of environmental health services to prevent and respond to community and residential environmental hazards.
 - d. Maternal, child, and family health, which must include:

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- (1) Assessment and monitoring of maternal and child health status to identify and address problems.
 - (2) Implementation of programs to promote the health of women, children, and youth, and their families, through policy, system, and environmental change approaches; prevention screenings; and education.
- e. Access to clinical care, which must include:
- (1) Collaboration with health care system partners to foster access to clinical care.
 - (2) Facilitation of linkages and referrals for appropriate clinical care, services, and resources.

Approved March 27, 2023

Filed March 28, 2023

CHAPTER 252

SENATE BILL NO. 2085

(Human Services Committee)

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

AN ACT to amend and reenact sections 23-47-02 and 39-21-41.4 of the North Dakota Century Code, relating to system registries for a comprehensive emergency cardiovascular medical system and safety belt usage by emergency medical services personnel; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-47-02 of the North Dakota Century Code is amended and reenacted as follows:

23-47-02. Acute cardiovascular emergency medical system - Duties of department.

1. Following consultation with and receipt of a recommendation of the acute cardiovascular emergency medical system of care advisory committee, the department shall establish and maintain a comprehensive emergency cardiovascular medical system for the state. The system must include standards for the following components:
 - a. A system plan.
 - b. Prehospital emergency medical services.
 - c. Hospitals, for which the standards must include:
 - (1) Standards for designation, redesignation, and dedesignation of receiving and referring centers.
 - (2) Standards for evaluation and quality improvement programs for designated centers.
 - (3) Recognition of a hospital as a STEMI receiving center or as a STEMI referring center. In making such recognition, the standards must include consideration of whether the hospital is:
 - (a) Accredited as a mission: lifeline STEMI receiving center or mission: lifeline STEMI referring center by the society of cardiovascular patient care and the American heart association accreditation process; or
 - (b) Accredited by a department-approved, nationally recognized organization that provides mission: lifeline STEMI receiving center and mission: lifeline STEMI referring center accreditation or a substantive equivalent.

- d. System registries, for which the components must include a plan for achieving continuous quality improvement in the quality of care provided under the statewide system, including for STEMI response and treatment.
 - (1) In implementing this plan, the department shall maintain a statewide STEMI heart attack database that aggregates information and statistics on heart attack care. ~~The department shall utilize the ACTION registry get with the guidelines data platform, or other equivalent platform.~~
 - (2) To the extent possible, the department shall coordinate with national voluntary health organizations involved in STEMI heart attack quality improvement to avoid duplication and redundancy.
 - (3) Designated receiving centers shall participate in the registry.
2. The proceedings and records of the program are not subject to subpoena, discovery, or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

¹⁵³ **SECTION 2. AMENDMENT.** Section 39-21-41.4 of the North Dakota Century Code is amended and reenacted as follows:

39-21-41.4. Use of safety belts required in certain motor vehicles - Enforcement - Evidence.

Subject to the limitations of this section and section 39-21-41.5, a driver may not operate upon a highway a motor vehicle designed for carrying fewer than eleven passengers, which was originally manufactured with safety belts unless each front seat occupant is wearing a properly adjusted and fastened safety belt. This section does not apply to a child in a child restraint or safety belt in accordance with section 39-21-41.2; to drivers of implements of husbandry; to operators of farm vehicles as defined in subsection 5 of section 39-04-19; to rural mail carriers while on duty delivering mail; to an occupant with a medical or physically disabling condition that prevents appropriate restraint in a safety belt, if a qualified physician, physician assistant, or advanced practice registered nurse states in a signed writing the nature of the condition and the reason restraint is inappropriate; to an occupant who is an emergency medical services personnel, during the provision of direct patient care; or when all front seat safety belts are in use by other occupants. A physician, physician assistant, or advanced practice registered nurse who, in good faith, provides a statement that restraint would be inappropriate is not subject to civil liability. A violation for not wearing a safety belt under this section is not, in itself, evidence of negligence. The fact of a violation of this section is not admissible in any proceeding other than one charging the violation.

SECTION 3. LEGISLATIVE MANAGEMENT STUDY - EMERGENCY MEDICAL SERVICES. During the 2023-24 interim, the legislative management shall conduct a comprehensive study of the delivery of emergency medical services in the state. The study must include consideration of funding, taxation, access critical areas, demographics, volunteer training, volunteer retention, systems approach to rural areas, employment options, including access to a public safety pension, and educational reimbursements. The study shall also include consideration of distressed ambulance services, which are ambulance services that have indicated an intention

¹⁵³ Section 39-21-41.4 was also amended by section 1 of Senate Bill No. 2362, chapter 362.

to close or change their license level, or an ambulance service that fails to meet performance standards as established by the department of health and human services. The legislative management shall report its findings and recommendations, together with any legislation to implement the recommendations, to the sixty-ninth legislative assembly.

Approved April 26, 2023

Filed April 26, 2023