

# INSANE, FEEBLEMINDED, TUBERCULAR, BLIND, AND DEAF

## CHAPTER 196

H. B. No. 536

(Legislative Research Committee)

### CARE AND TREATMENT OF MENTALLY ILL

#### AN ACT

To amend and reenact sections 11-1524, 11-1525, 12-4727, 12-4728, 12-4729, 12-4730, 14-0307, 25-0101, chapters 25-02 and 25-03, sections 25-0404, 25-0411, subsection 1 of section 25-0808, subsection 2 of section 25-0811, sections 25-08091, 25-0815, 25-0826, 54-2301, 54-2316, 54-2321, and 54-2322 of the North Dakota Revised Code of 1943, as amended, relating to the admission, transportation, care, treatment, and discharge of patients at the state hospital and elsewhere, the powers and duties of the county mental health board, the administration of the state hospital, and the care, treatment, and rights of epileptic persons; providing penalties; and repealing chapter 50-05 and section 54-2310 of the North Dakota Revised Code of 1943, section 25-02051 of the 1953 Supplement thereto, and chapters 184 and 185 of the North Dakota Session Laws of 1955, relating to the treatment of alcoholics and the mentally ill.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.)** Section 25-0101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0101. Definitions.)** In this title unless the context or subject matter otherwise requires

1. "Mentally ill individual" means an individual having a psychiatric or other disease which substantially impairs his mental health;
2. "Feeble-minded person" means any person, minor or adult other than a mentally ill person, who is so mentally defective as to be incapable of managing himself and his affairs and to require supervision, control, and care for his own or the public welfare;
3. "Idiot" is restricted to a person supposed to be naturally without a mind;
4. "State hospital" shall mean the state hospital for the mentally ill;

5. "State school" shall mean the Grafton state school for the feebleminded;
6. "State sanatorium" shall mean the North Dakota state tuberculosis sanatorium;
7. "Blind asylum" shall mean the North Dakota school for the blind;
8. "School for the deaf" shall mean the school for the deaf of North Dakota;
9. "Board" shall mean the board of administration;
10. "Superintendent" shall mean the superintendent of the state hospital, of the state school, of the state sanatorium, of the blind asylum, or of the school for the deaf, as the case may be; and
11. "Licensed physician" means an individual licensed under the laws of this state to practice medicine and also means a medical officer of the government of the United States while in this state in the performance of his official duties.

§ 2. **Amendment.**) Chapter 25-02 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

**25-0201. State Hospital For The Mentally Ill; Location; Title.)** An institution for the care of the mentally ill shall be maintained at the city of Jamestown and shall be known as the state hospital.

**25-0202. Additional Hospital For Mentally Ill Located At Rugby.)** The additional hospital for the mentally ill authorized by amendment to the Constitution of North Dakota which was approved by the electors of the state at the general election in November, 1916, shall be located at or near Rugby, North Dakota.

**25-0203. Object Of State Hospital.)** The state hospital shall receive and care for all mentally ill persons residing within this state who may be committed to its care, in accordance with the provisions of this title, and shall furnish to such mentally ill persons all needed treatment and support which may tend to restore their mental health or to alleviate their illness or suffering.

**25-0204. Superintendent To Possess Certain Qualifications; Employees.)** The superintendent of the state hospital must be either:

1. A duly licensed physician with at least five years' experience, or

2. A competent executive with at least five years' experience in hospital administration.

The superintendent shall have power to appoint an assistant superintendent, necessary physicians, and all other employees, and define their qualifications and duties.

**25-0205. Superintendent To Furnish Forms And Bylaws To County Mental Health Boards.)** The superintendent shall provide the mental health board of each county with such forms or blanks as may be necessary to enable it to comply with the provisions of this title and also a copy of the rules and regulations of the state hospital whenever they are printed. The superintendent of the state hospital shall prepare a form of application for admission to the state hospital which shall contain such questions as the superintendent shall deem necessary to provide information regarding the patient and the county mental health board shall provide answers to such questions to the best of its ability, forwarding a copy of such application to the state hospital when the patient is admitted. Failure by the county mental health board to inquire fully and report to the superintendent answers required in the application for admission shall be sufficient grounds for refusal to receive such patient at the state hospital.

**25-0206. Nonresidents Admitted To State Hospital.)** A resident of another state or territory may be admitted to the state hospital upon payment of the full cost of treatment of such nonresident, but no resident of another state or territory shall be received for treatment to the exclusion of any resident of this state.

**25-0207. Disposition Of Mentally Ill Nonresident.)** If a person who has no legal residence in this state or whose residence is unknown is found by a county mental health board to be a fit subject for custody and treatment in a hospital for the mentally ill, such person shall be sent to the state hospital at the expense of the county in the same manner and accompanied by the same documents as in the case of a resident of this state who is found to be mentally ill. The superintendent of the state hospital shall notify the board of administration which shall make inquiry immediately as to the residence of such person and the propriety of his retention in the state hospital. If the residence of said person is found to be in another state or foreign country, the board of administration or the superintendent shall arrange for the transportation of such person to the place where he belongs. No nonresident person shall be retained permanently in the state hospital as a patient at the expense of the state at large without the formal consent of the board of administration.

**25-0208. Expense For Care Of Patient.)** The state board of administration shall fix the amount to be paid for the care, board, and treatment of patients at the state hospital. The amount chargeable to the county shall not be more than the sum of forty-five dollars per patient per month. Both residents and nonresidents who are financially able to pay for the cost of care and treatment shall at all times pay the actual cost of care, board, and treatment. Each county shall pay to the state treasurer the amount specified by the board as provided in this section for the care and treatment of each patient sent from the county to the state hospital, and such amount shall be a charge against the county until it is paid. A statement verified by the superintendent shall be evidence of the amount due.

**25-0209. Care Of Patients To Be Impartial; Exceptions.)** All patients at the state hospital shall be provided with equal care and treatment in accordance with the different degrees or conditions of mental and physical health. However, if relatives or friends of any patient shall request it and pay the expenses thereof, such patient may receive special care and be provided with a special attendant in such manner as may be agreed upon by the superintendent. In all such cases, the charges for special care and attendants shall be paid quarterly in advance. The relatives or friends of any patient in the hospital shall have the privilege of paying any portion or all of the expenses of such patient and the superintendent shall cause the account of such patient to be credited with any sums so paid. The superintendent shall account to the state board of administration for all money or property which shall come into his hands for the purpose of furnishing extra care or treatment to any patient at the state hospital.

**25-0210. Attorney General To Bring Action Against County.)** Upon the report of the state auditor to the state board of administration in regard to sums due to the state of North Dakota for the care and treatment of patients at the state hospital from the various counties, the attorney general shall bring an action against the county so indebted for the amount due the state.

**25-0211. County Mental Health Board: Members; Appointment; Term; Quorum.)** Each county in this state shall have a county mental health board consisting of:

1. A county judge who shall be chairman of such board;
2. A licensed practicing physician; and
3. A licensed practicing attorney.

The physician and attorney shall be appointed by the board of county commissioners for terms of two years respectively, and

shall hold office until their successors are appointed and qualified. The county commissioners shall have authority to appoint members to the board to fill vacancies that may occur. Two members of the county mental health board shall constitute a quorum.

**25-0212. Oath Required Of Appointive Members.)** Before entering upon the duties of his office, each person appointed as a member of the county mental health board shall take and subscribe the oath of office required of all civil officers and such oath shall be filed with the county judge who shall enter a memorandum thereof on his records.

**25-0213. Meetings Of County Mental Health Board.)** At the organization meeting of the county mental health board one of the members thereof shall be chosen clerk of the board. Meetings shall be held at such times and places as shall be determined by the county judge.

**25-0214. Duties Of Chairman Of County Mental Health Board.)** The county judge, as chairman of the mental health board and without additional compensation, shall:

1. Draw all pleadings necessary in connection with the proceedings of the board;
2. Sign and issue all notices, appointments, orders, subpoenas, and other process required to be given or issued by the board, affixing thereto his official seal as county judge;
3. Make a full and complete record of each case brought before the board;
4. File and carefully preserve in his office all papers connected with any proceeding by the board and properly belonging to his office, and all notices, reports, and other communications to the board; and
5. Keep separate books in which to record the proceedings of the board, and his entries therein shall be sufficiently full to show, with the papers filed, a complete record of the findings, orders, and transactions of the board.

The notices, reports, and communications required to be given or made by the board may be sent by ordinary mail unless otherwise provided, and the fact and date of such sending and of the reception of notices, reports, or communications shall be noted on the proper record.

**25-0215. Absence Of Member Of Mental Health Board; Substitute.)** In the case of the temporary absence of an appointive member of the county mental health board or of

his inability to act, the county judge shall call to his aid a licensed practicing physician or attorney, as the case may be, to replace such member. The person so called shall qualify and act in the same capacity as a regular member of the board. In the temporary absence of the county judge or in case of his inability to act, the state's attorney shall act as chairman, and in such capacity shall execute all the powers of the chairman. The records of the board shall recite all absences from the meetings thereof.

**25-0216. Powers Of Mental Health Board.)** The mental health board shall have power to:

1. Take cognizance of applications to the board for admission to the state hospital or for the safekeeping and treatment of mentally ill persons within their county, except in cases otherwise specifically provided in this title;
2. Issue subpoenas and compel obedience thereto;
3. Administer oaths; and
4. Do any other act necessary and proper in the performance of the functions imposed upon it by the provisions of this title.

**25-0217. Compensation And Expenses Of Mental Health Board.)** Each member of the county mental health board, except the county judge, and the state's attorney while acting as chairman of the board, shall be paid such sum as may be approved by the board of county commissioners but not less than ten dollars per day for the time actually employed in the duties of his office and shall be paid necessary expenses and mileage at the same rate as provided for other officers and officials of this state. Witnesses before the mental health board shall be entitled to the same fees as witnesses in the district courts of this state. All persons performing services at the direction of the mental health board shall be paid such sums as may be approved by the mental health board and may be paid such expense, mileage, and per diem allowances as approved by the board at the rates provided for other state officers and officials. The compensation and expenses of the county mental health board shall be allowed and paid out of the county treasury in the same manner as other county expenses are paid.

**25-0218. Nonliability Of Certain Officers For Detention Of Mentally Ill Persons.)** The warrant or order of the mental health board authorizing the detention of any alleged mentally ill person or the admission of such person to the state hospital as provided in this title shall protect the superinten-

dent of the state hospital and other officers, employees, and agents of the hospital or officers or agents of the mental health board from all liability, civil or criminal, on account of the detention or admission of such person. Such detention, however, shall be in full accordance with the laws of this state, the provisions of this title, and the rules and regulations governing the state hospital, and immunity from civil or criminal liability shall be dependent upon the compliance therewith.

**§ 3. Amendment.)** Chapter 25-03 of the North Dakota Revised Code of 1943, as amended, is hereby amended and reenacted to read as follows:

**25-0301. Authority To Receive Voluntary Patients.)** The superintendent of the state hospital, subject to the availability of suitable accommodations, shall admit for observation, diagnosis, care, or treatment any individual who is mentally ill or who has symptoms of mental illness and who, being sixteen years of age or over, applies therefor, and any individual under sixteen years of age who is mentally ill or who has symptoms of mental illness if his parent or legal guardian applies therefor in his behalf. Upon admittance, the superintendent shall immediately designate a person to make an examination of such patient.

**25-0302. Voluntary Admittance Of Alcoholics And Other Patients.)** Alcoholics and drug addicts shall be admitted to the state hospital by voluntary admission under such rules, regulations, and limitations as may be promulgated by the superintendent, and such patients shall be considered voluntary patients within the meaning of this chapter.

**25-0303. Payments By Voluntary Patients.)** Before admitting any person as a voluntary patient under the provisions of sections 25-0301 and 25-0302, the superintendent of the state hospital shall require that such patient, his parents, legal guardian, or other guarantor

1. Agrees to pay all hospital expenses incurred by his treatment and maintenance therein and may require guarantee for such payment; or
2. Furnishes to the superintendent an affidavit listing his property and showing in such detail as the superintendent shall require his financial condition and stating that he is unable to pay for such hospital care.

**25-0304. Inability To Pay Costs: Investigation.)** In the event such affidavit of inability to pay shall be filed, as provided in section 25-0303, the superintendent shall forward a

copy thereof, together with reports of examination or other material relating to the mental health of the person concerned, and information concerning the names and addresses of relatives responsible by law for the support and care of such patient to the mental health board of the county in which such voluntary patient is a resident and shall bill the county for costs of care and treatment. The county shall pay such costs in the same manner as the costs of judicially committed patients are paid. Upon receipt of such affidavit and information, the mental health board shall immediately inquire into the financial affairs of the patient or of relatives responsible by law for the patient's care and support. For the purpose of this section "responsible relatives" shall mean and include the patient's spouse, father, mother or children. If it is determined by the mental health board that such patient or responsible relatives are financially able to pay all or a portion of the costs of care and treatment of the patient at the state hospital without undue hardship, such costs shall be collected by the county as reimbursement to the county and the state in the same manner as in the case of patients committed under judicial proceedings.

**25-0305. Discharge Of Voluntary Patients.)** The superintendent of the state hospital shall discharge any voluntary patient who has recovered or whose hospitalization he determines to be no longer advisable. The superintendent may also discharge any voluntary patient if to do so would, in his judgment, contribute to the effective use of the state hospital in the care and treatment of the mentally ill.

**25-0306. Right To Release Of Voluntary Patients.)** A voluntary patient who requests his release or whose release is requested in writing by his legal guardian, parent, spouse, or adult next of kin shall be released forthwith, except that

1. If the patient was admitted on his own application and the request for release is made by a person other than the patient, release may be conditioned upon the agreement of the patient thereto;
2. If the patient, by reason of age, was admitted on application of another person, his release prior to his becoming sixteen years of age may be conditioned upon the consent of his parent or guardian; and
3. If the superintendent of the state hospital, within five days from the receipt of the request, files with the mental health board of the county where the patient is hospitalized or the county of the patient's residence a certification that in his opinion the release of the patient would be unsafe for the patient or others,

release may be postponed on application for as long as the mental health board determines to be necessary for the commencement of proceedings for the judicial hospitalization as provided in section 25-0311, but in no event more than seven days.

**25-0307. Authority To Receive Involuntary Patients.)** The superintendent of the state hospital shall, subject to the availability of suitable accommodations, receive therein for observation, diagnosis, care, and treatment any individual whose admission is applied for under the following procedures:

1. Hospitalization by emergency procedure, as provided in this chapter; and
2. Hospitalization by judicial procedure upon order of the mental health board, as provided in this chapter.

**25-0308. Hospitalization; Emergency Procedure.)** Any health or police officer or licensed physician who has reason to believe that an individual is mentally ill and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may take the individual into custody, and in such case shall forthwith obtain the written or verbal consent of the county judge, or in his absence any member of the county mental health board, to apply to a hospital for his emergency admission and transport him thereto. The application for admission shall state the circumstances under which the individual was taken into custody and the reasons for the officer's or physician's belief. The head of the private hospital or the superintendent of the state hospital as the case may be shall require that an immediate examination of such person be made, and if he determines that hospitalization is not warranted, he shall immediately discharge such patient.

**25-0309. Notice Of Hospitalization.)** Whenever a patient is admitted to a hospital pursuant to section 25-0308, the county judge shall immediately notify the patient's legal guardian, spouse, or next of kin, if known.

**25-0310. Right To Release; Application For Judicial Determination.)** Any patient involuntarily hospitalized under the provisions of section 25-0308 who requests to be released or whose release is requested in writing by his legal guardian, spouse, or adult next of kin shall be released within five days after the receipt of such request. It is provided, however, that upon application by the superintendent of the state hospital, or the county judge who consented to the emergency admission, to the mental health board of either the county in which the patient is hospitalized or of the county of the patient's

residence, within five days from the time of such request for release, supported by a certification by the superintendent of the state hospital or a county judge that in his opinion such release would be unsafe for the patient or others, release may be postponed for a period not to exceed seven days as the chairman of the mental health board may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 25-0311. The superintendent of the state hospital or county judge shall provide reasonable means and arrangements for informing patients of their right to release as provided in this section, and for assisting them in making and presenting requests for release. If an examination as required in section 25-0308 is not held within five days after the date of admission to the state hospital or local hospital, or if the superintendent of the state hospital or local hospital or an examiner designated by him fails or refuses after such examination to certify that in his opinion the patient is mentally ill and is likely to injure himself or others if allowed to remain at liberty, the patient shall be immediately discharged.

**25-0311. Hospitalization Upon Order Of Mental Health Board; Judicial Procedure.)**

1. Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application with the mental health board by a friend, relative, spouse, or guardian of the individual, or by a licensed physician, police officer, state's attorney, a health or public welfare officer, or the head of any public or private institution in which the individual may be. Any such application, unless waived by the county judge, shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill and should be hospitalized, or a written statement by the applicant that the individual has refused to submit to or is unable to consent to an examination by a licensed physician.

2. Upon receipt of an application, the mental health board shall give notice of such application to the proposed patient, to his legal guardian, if any, and to his spouse or parent, or nearest known other relative or friend, if such persons can be found. If, however, the mental health board has reason to believe that personal notice to the proposed patient would likely be injurious to him, notice to such proposed patient may be omitted.

3. As soon as practicable after notice of the commencement of proceedings is given or after determination that notice should be omitted, the mental health board shall appoint at least one licensed physician as an examiner who may or may

not be a member of the county mental health board to examine the proposed patient and report to the board his findings as to the mental condition of the proposed patient and the need for his custody, care, or treatment in a mental hospital.

4. The examination shall be made at a hospital or other medical facility, at the home of the proposed patient, or at any other suitable place not likely to have a harmful effect on the proposed patient's health. The proposed patient to whom notice of the commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the designated examiner of refusal to submit to an examination, the mental health board shall give notice to the proposed patient as provided under subsection 2 of this section and order him to submit to such an examination.

5. If the report of the designated examiner shows that the proposed patient is not mentally ill, the mental health board may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice to the persons designated in subsection 2 of this section of a hearing before the county mental health board to be held within ten days from receipt of the report.

6. The proposed patient, the applicant, and all other persons to whom notice is required to be given under subsection 2 of this section shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses, and the mental health board may in its discretion receive the testimony of any other person. The proposed patient shall not be required to be present unless he so desires and all persons not necessary for the conduct of the proceedings shall be excluded, except as the mental health board may admit persons having a legitimate interest in the proceedings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect upon the mental health of the proposed patient. The mental health board shall receive all relevant and material evidence which may be offered and shall not be bound by the rules of evidence. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the mental health board, upon request of the proposed patient, shall appoint counsel. If it is determined that the proposed patient is unable to pay for such counsel, the attorney fees, upon approval by the mental health board, shall be paid by the county.

7. If upon completion of the hearing and consideration of the record the mental health board finds that the proposed patient

- a. Is mentally ill, and because of his illness is likely to injure others or himself if allowed to remain at liberty; or
- b. Is in need of custody, care, or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization,

it shall order his hospitalization at the state hospital or other suitable place, or if it finds otherwise it shall dismiss the proceedings. No person who is being treated by prayer in the practice of the religion of any well recognized church, sect, denomination or organization, shall be ordered detained or committed under the provisions of this chapter unless the county mental health board shall determine that he is or would likely become dangerous to himself or to the person or property of others, or unless, being an adult, he shall consent to such detention or commitment, or, being a minor, his parent or guardian having custody of his person shall consent thereto.

8. The mental health board shall designate the municipal, county, or district health officer or some other person to assure the carrying out of the order for hospitalization.

9. The mental health board is authorized to appoint a special commissioner to assist in the conduct of hospitalization proceedings. In any case in which the mental health board refers an application to the commissioner, the commissioner shall promptly cause the proposed patient to be examined and on the basis thereof shall either recommend dismissal of the application or the holding of a hearing as provided in this section. At such hearing he shall make recommendations to the mental health board regarding the hospitalization of the proposed patient.

10. Every patient admitted pursuant to the provisions of this section shall be examined by the staff of the hospital as soon as practicable after his admission.

#### **25-0312. Hospitalization By An Agency Of The United States.)**

1. If an individual ordered to be involuntarily hospitalized pursuant to section 25-0311 is eligible for hospital care or treatment by any agency of the United States, the mental health board, upon receipt of notice from such agency showing that facilities are available and that the individual is eligible

for care or treatment therein, may order him to be placed in the custody of such agency for hospitalization. When any such individual is admitted pursuant to the order of the mental health board to any hospital or institution operated by any agency of the United States within or without the state, he shall be subject to the rules and regulations of such agency. The chief officer of any hospital or institution operated by such agency in which the individual is so hospitalized, shall with respect to such individual be vested with the same powers as the heads of hospitals within this state with respect to detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is retained in the committing mental health board or in the appropriate courts of this state at any time to inquire into the mental condition of an individual so hospitalized, and to determine the necessity for continuance of his hospitalization, and every order of hospitalization issued pursuant to this section is so conditioned.

2. An order of a court of competent jurisdiction of another state, or of the District of Columbia, authorizing hospitalization of an individual by any agency of the United States shall have the same force and effect as to the individual while in this state as in the jurisdiction in which is situated the court entering the order; and the courts of the state or district issuing the order shall be deemed to have retained jurisdiction of the individual so hospitalized for the purpose of inquiring into his mental condition and of determining the necessity for continuance of his hospitalization, as is provided in subsection 1 of this section with respect to individuals ordered hospitalized by the courts of this state. Consent is hereby given to the application of the law of the state or district in which is located the court issuing the order for hospitalization with respect to the authority of the chief officer of any hospital or institution operated in this state by any agency of the United States to retain custody, transfer, conditionally release, or discharge the individual hospitalized.

#### **25-0313. Transportation; Temporary Detention.)**

1. Whenever an individual is about to be involuntarily hospitalized under the provisions of section 25-0311, the municipal, county, or district health officer or other person designated by the mental health board shall arrange for the individual's transportation to the hospital with suitable medical or nursing attendants and by such means as may be suitable for his medical condition. Whenever practicable, the individual to be hospitalized shall be permitted to be accompanied by one or more of his friends or relatives, and when practicable shall not be transported by police officers or in police vehicles.

2. Pending his removal to a hospital, a patient taken into custody or ordered to be hospitalized may be detained in his home, or any other suitable facility under such reasonable conditions as the mental health board may fix, but he shall not except during an extreme emergency be detained in a nonmedical facility used for the detention of individuals charged with or convicted of penal offenses. The mental health board shall take such reasonable measures, including the provision of medical care, as may be necessary to assure proper care of an individual temporarily detained pursuant to this section. If the proposed patient is unable to pay for such expenses prior to admittance to the state hospital, and expenses of transportation thereto, and friends or relatives do not oblige themselves to pay such expenses, the mental health board may direct that such expenses be paid by the county of the patient's residence.

#### **25-0314. Transfer of Patients.)**

1. The superintendent of the state hospital may transfer, or authorize the transfer of, an involuntary patient from one hospital to another hospital or facility if the superintendent determines that it would be consistent with the medical needs of the patient to do so. Whenever a patient is transferred, written notice thereof shall be given to his legal guardian, parents, or spouse, or, if none be known, then notice shall be given to his nearest known relative or friend. In all such transfers, due consideration shall be given to the relationship of the patient to his family, legal guardian or friends, so as to maintain relationships and encourage visits beneficial to the patient. Whenever any public or private institution licensed by any state for the care and treatment of the mentally ill shall by agreement with a parent, a brother, a sister, a child of legal age, or guardian of any patient accept such patient for treatment, the superintendent of the state hospital shall release the patient to said institution.

2. Upon receipt of notice from an agency of the United States that facilities are available for the care or treatment of any individual heretofore ordered hospitalized pursuant to law in any hospital for care or treatment of the mentally ill and such individual is eligible for care or treatment in a hospital or institution of such agency, the superintendent of the state hospital may cause his transfer to such agency of the United States for hospitalization. Upon effecting any such transfer, the mental health board ordering hospitalization, the legal guardian, spouse, or parents, or if none be known, his nearest known relative or friend shall be notified thereof immediately by the superintendent of the state hospital. No person shall be transferred to any agency of the United States

if he be confined pursuant to conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of mental illness unless prior to transfer the court originally ordering confinement of such person enters an order for such transfer after appropriate motion and hearing. Any person transferred as provided in this section to an agency of the United States shall be deemed to be hospitalized by such agency pursuant to the original order of hospitalization.

**25-0315. Discharge.)** The superintendent of the state hospital shall as frequently as practicable, but not less often than every six months, examine or cause to be examined every patient in the hospital. Whenever he determines that the conditions justifying hospitalization no longer exist, he shall discharge the patient and immediately notify the state board of administration and the mental health board of the county of residence of the patient. Unless a patient is discharged as cured or released in convalescent status as provided in section 25-0316, the mental health board shall cause such patient to be removed from the hospital and shall provide all needed or suitable care, and the expense of such care shall be paid by the county of the patient's residence. If the mental health board fails or neglects to remove and care for such discharged patient within thirty days from the notice of the order discharging him, the county shall be liable to the state for the full and actual cost of care of such patient as determined by the superintendent, commencing at the expiration of thirty days after the date of such notice. Such costs of care shall be paid by the county in the same manner as costs of care of other patients of the county at the state hospital are charged and paid. Upon the discharge of any patient, the superintendent shall furnish the patient, unless otherwise supplied, with suitable clothing and a sum of money not exceeding twenty dollars, which shall be charged to the county of the patient's residence as other expenses of such patient in the hospital are charged.

**25-0316. Convalescent Status; Rehospitalization.)**

1. The superintendent of the state hospital may release a patient on convalescent status when he believes that such release is in the best interests of the patient. Release on convalescent status shall include provisions for continuing responsibility to and supervision by the hospital, and may include a plan of treatment on an out-patient or non-hospital patient basis. Prior to the end of a year on convalescent status, and not less frequently than annually thereafter, the superintendent of the state hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent status and, if he determines in view of the condition of the patient

that hospitalization is no longer necessary, he shall discharge the patient and make a report thereof to the state board of administration and the mental health board of the county of residence.

2. Prior to such discharge, the superintendent of the state hospital may at any time order the rehospitalization of the convalescent patient. Such an order, if not voluntarily complied with, shall, upon the endorsement by a judge of the county court in which the patient is a resident or present, authorize any health or police officer to take the patient into custody and transport him to the state hospital. The costs of returning such patient to the state hospital shall be paid by either the patient, his relatives legally responsible for his support, or by the county, as the county judge may direct.

**25-0317. Petition For Reexamination Of Order Of Hospitalization.)** Any patient hospitalized pursuant to the provisions of this chapter shall be entitled to a reexamination of any order requiring his hospitalization on his own petition, or that of his legal guardian, parent, spouse, relative, or friend, to the mental health board of the county in which he is a resident or is detained. Upon receipt of the petition, the mental health board shall conduct, or cause to be conducted by a special commissioner, proceedings in accordance with section 25-0311, except that such proceedings shall not be required to be conducted if the petition is filed sooner than six months after the issuance of the order of hospitalization, or less than one year after the filing of a previous petition under this section.

**25-0318. Right To Humane Care And Treatment; Penalties And Civil Liability For Mistreatment.)** Every patient shall be entitled to humane care and treatment and, to the extent that facilities, equipment, and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice. Any person having the care of a mentally ill person and restraining such person either with or without authority, who shall treat such person with undue severity or with harshness or cruelty, or who shall abuse such person in any way, shall be guilty of a misdemeanor, and shall be further liable in a civil action for damages. Any officer or person required to perform any act under the provisions of this chapter who willfully refuses or neglects to perform his duty as prescribed in this chapter shall be guilty of a misdemeanor and shall be liable in a civil action for damages.

**25-0319. Mechanical Restraints.)** Mechanical restraints shall not be applied to a patient unless it is determined by

the superintendent of the hospital or by the medical staff to be required by the medical needs of the patient or safety of hospital personnel. Every use of a mechanical restraint and the reasons therefor shall be made a part of the clinical record of the patient under the signature of the superintendent of the hospital or a member of the medical staff.

**25-0320. Right To Communication And Visitation; Exercise Of Civil Rights.)**

1. Subject to the general rules and regulations of the hospital and except to the extent that the superintendent of the hospital determines that it is necessary for the medical welfare of the patient to impose restrictions, every patient shall be entitled

- a. to communicate by sealed mail or otherwise with persons, including official agencies, inside or outside the hospital;
- b. to receive visitors; and
- c. to exercise all civil rights unless he has been adjudicated incompetent by normal procedures provided by law for the determination of incompetency and has not been restored to legal capacity. Voluntary or involuntary hospitalization under the provisions of this chapter shall not be an adjudication of incompetency.

2. Notwithstanding any limitations authorized under this section on the right of communication, every patient shall be entitled to communicate by sealed mail with at least one friend or relative of his choice, with the state board of administration, and with the mental health board of the county which ordered his hospitalization.

3. Any authorized limitations imposed by the superintendent of the hospital on the exercise of these rights by the patient and the reasons for such limitations shall be made a part of the clinical record of the patient.

4. Every patient shall be entitled to have private interviews with the hospital chaplains or with ministers, priests, rabbis, and Christian Science practitioners, not associated as staff members of the hospital. Patients shall be allowed every religious freedom available in the hospital without regard to his or her mental or emotional condition.

**25-0321. Patients Entitled To Writ Of Habeas Corpus.)** All patients confined or hospitalized as mentally ill or as requiring treatment or observation in any hospital shall be entitled to the benefit of the writ of habeas corpus, and the question of mental illness or of the necessity for treatment or observation in a hospital shall be decided at such hearing. If the court

shall decide that the patient is mentally ill or that he requires treatment or observation at a hospital, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such patient shall have been cured or no longer needs hospitalization.

**25-0322. Disclosure Of Information; Penalty.)** All certificates, applications, records, and reports made for the purpose of this chapter and directly or indirectly identifying a patient or former patient or an individual whose hospitalization has been sought under this chapter shall be kept confidential and shall not be disclosed by any person except so far as

1. the individual identified or his legal guardian, if any, or if he is a minor his parent or legal guardian, shall consent; or
2. disclosure may be necessary to carry out any of the provisions of this chapter; or
3. a court or mental health board may direct upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make such disclosure would be contrary to the public interest; or
4. requested by any committee of the legislative assembly or as may otherwise be provided by law.

Nothing in this section shall preclude disclosure upon proper inquiry of information as to a patient's current medical condition to any members of the family of a patient or his family physician, relatives or friends. Any person violating any provision of this section shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars or by imprisonment for not more than one year or by both such fine and imprisonment.

**25-0323. Detention Pending Judicial Determination; Detention Without Proper Authority Prohibited.)** No person alleged to be mentally ill or in need of treatment or observation shall be restrained or deprived of his liberty by any person except pursuant to authority provided in this chapter, or except in criminal proceedings as provided by law. However, a patient or proposed patient with respect to whom proceedings for judicial hospitalization have been commenced may be detained during the pendency of such proceedings unless his release or discharge is ordered by a court of competent jurisdiction or by a mental health board having jurisdiction in the proceedings or upon the report of the superintendent of the state hospital that the patient may be discharged with safety.

**25-0324. Escape Of Patient From Hospital.)** If any patient shall escape from the state hospital, the superintendent of the state hospital may cause an immediate search to be made, and if the patient cannot be found he shall cause notice of such escape to be given forthwith to the mental health board of the county of residence of such patient and to such health officials or officers of the law as may be of assistance in locating such patient. If the patient is found in the county of residence, the mental health board shall at the request of the superintendent cause him to be returned to the hospital and shall issue its order to that effect, and the patient shall thereupon be transported to the hospital as provided in other cases. Should the patient be found other than in the county of his residence he may be transported at the request of the superintendent to the state hospital as directed and at the expense of the hospital.

**25-0325. Reports To And Additional Powers Of State Board Of Administration.)** The superintendent of the state hospital shall notify the board of administration of all admissions to the state hospital. In addition to the specific authority granted under the provisions of this chapter, the state board of administration shall have authority to require reports from the head of any hospital relating to the admission, examination, diagnosis, release, or discharge of any mentally ill patient; to visit any such hospital regularly to review the commitment procedures of all new patients admitted between visits; to investigate by personal visit complaints made by any patient or by any person on behalf of a patient; and to adopt such rules and regulations not inconsistent with the provisions of this chapter as it may find to be reasonably necessary for proper and efficient hospitalization of the mentally ill.

**25-0326. Expenses Of Stutsman County Mental Health Board.)** All expenses of the mental health board of Stutsman County resulting from procedures involving residents of another county shall be repaid to Stutsman County by the county of residence of the patient or proposed patient in the same manner as other expenses or costs of mental health boards are paid. The expenses of the Stutsman County mental health board involving patients from the state at large shall be paid by the state hospital.

**25-0327. Filing With County Judge Sufficient.)** All petitions, applications, notices or other instruments required to be filed with a mental health board of any county shall be deemed to have been properly filed with the mental health board upon being delivered or filed with the county judge of such county.

**25-0328. Unwarranted Hospitalization Or Denial Of Rights; Penalties.)** Any person who willfully and maliciously causes

or conspires with or assists another to cause the unwarranted hospitalization of any individual under the provisions of this chapter, or the denial to any individual of any of the rights accorded to him under the provisions of this chapter, shall be punished by a fine not exceeding one thousand dollars or by imprisonment of not more than one year, or by both such fine and imprisonment.

§ 4. **Amendment.)** Section 11-1524 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**11-1524. Transportation Of Prisoner.)** The sheriff of each county shall conduct to the penitentiary all persons convicted in his county and sentenced to be confined in said penitentiary as soon as may be after such conviction. The sheriff may conduct patients to the state hospital when directed to do so by the county mental health board.

§ 5. **Amendment.)** Section 11-1525 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**11-1525. Fees For Transporting Persons Committed To Penitentiary Or State Hospital.)** A sheriff or his deputy shall receive for transporting persons committed to the penitentiary or to the state hospital the mileage prescribed in this chapter. The sheriff or his deputy, however, shall utilize the least expensive method of transportation, and the mileage allowed shall be based only upon the use of such least expensive method of transportation and shall be paid only after the filing with the county auditor of an itemized statement verified by affidavit showing the mileage traveled, the manner in which traveled, the days traveled, and the purpose of the travel and showing that the method of travel was the least expensive method of transportation. Such statement and affidavit shall be submitted to the board of county commissioners and such claims shall be approved by such board before the same shall be allowed or paid.

§ 6. **Amendment.)** Section 12-4727 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-4727. Transfer Of Penitentiary Inmate To State Hospital; Report Of Warden; Order By Board Of Pardons.)** Whenever the warden of the penitentiary shall report to the board of pardons that any person confined in the penitentiary has become mentally ill during his confinement and is still mentally ill, the board shall make inquiry in regard thereto, and if it determines that such person is mentally ill, it shall order

and direct that such person be taken from the penitentiary and confined and treated in the state hospital. The warden shall deliver such mentally ill person to the superintendent of the state hospital upon such order of the board.

§ 7. Amendment.) Section 12-4728 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-4728. Copy Of Order Of Board Of Pardons Delivered To Superintendent Of State Hospital; Superintendent To Receive Inmate; Filing Of Receipt.)** The warden of the penitentiary shall deliver to the superintendent of the state hospital, with any person ordered transferred thereto as provided in section 12-4727, a correct copy of the order of the board of pardons directing such transfer. The superintendent of the state hospital shall receive such person into the hospital upon the presentation of such order and shall deliver to the warden a certificate acknowledging the receipt of such person and of the original order. The certificate of the superintendent of the state hospital shall be retained by the warden and filed in his office.

§ 8. Amendment.) Section 12-4729 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-4729. Recovery Of Person Transferred: Duty Of Superintendent; Return Or Release; Allowance On Discharge.)** The superintendent of the state hospital shall notify the warden of the penitentiary of the recovery of any person transferred to the state hospital from the penitentiary, and if the term of sentence of such person has not expired, the warden shall return him to the penitentiary immediately. If the term of commitment of such person has expired at the time of his recovery, the warden shall direct that he be released from further custody by the superintendent. The warden shall provide any person so released with the same allowance of clothing, money, and transportation as that to which other persons discharged from the penitentiary are entitled.

§ 9. Amendment.) Section 12-4730 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**12-4730. Expense Of Transferring Inmates To And From State Hospital.)** The expense of transferring any person to the state hospital and of his return to the penitentiary shall be audited by the state auditing board and paid out of the state treasury.

§ 10. **Amendment.)** Subsection 1 of section 25-0808 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

1. Mentally ill or has symptoms of mental illness or who, although not mentally ill, is a patient in the state hospital for observation and treatment;

§ 11. **Amendment.)** Section 25-08091 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-08091. Reciprocal Exchange Of Mentally Ill Or Feeble-minded Persons.)** The board of administration is hereby authorized and empowered to enter into reciprocal agreements with any other state or states, through the duly authorized authorities thereof, regarding the mutual exchange, return, and transportation of mentally ill or feeble-minded persons who are within the confines of one state but have legal residence or legal settlement in another state. Such agreements shall contain no provision conflicting with any laws of this state.

§ 12. **Amendment.)** Subsection 2 of section 25-0811 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

2. The "institutional support fund, state hospital";

§ 13. **Amendment.)** Section 25-0815 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0815. Allocation Of Moneys In The Charitable Institutions Revolving Fund To Various Institutions; Basis For Allocation.)** The board, on or before March thirty-first, June thirtieth, September thirtieth, and December thirty-first, in each year, shall certify to the state treasurer, to the state auditor, and to the superintendent of the state hospital, the superintendent of the state school, and the superintendent of the state sanatorium the amount to be placed to the credit of the institutional support fund, state hospital, the institutional support fund, Grafton state school, and the institutional support fund, state sanatorium, respectively. The board shall credit to each county the proportion that the total quarterly charges against said county for the care of patients or pupils in the state hospital, in the state school, and in the state sanatorium bear to the total quarterly charges against all counties for the care of patients or pupils in such institutions, respectively, and shall allocate to each of the institutional support funds the portion of the amounts so credited to the counties to which each such institution is entitled.

**§ 14. Amendment.)** Section 54-2301 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2301. Institutions Under Control Of Board Of Administration.)** The board of administration shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the state hospital, the penitentiary, the blind asylum, the school for the deaf, the Grafton state school, the state training school, the state tuberculosis sanatorium, and such other charitable, reformatory, and penal institutions as have been or may be created or established according to law. The board shall not have the power to manage, control, and govern the soldiers' home. The term "board" as used in this chapter shall mean the board of administration.

**§ 15. Amendment.)** Section 54-2316 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2316. Power Of Board To Investigate Mental Health Of Patients.)** The board may investigate the mental health and the condition of any person admitted to the state hospital, and shall order the discharge of any person so admitted or restrained, if, in its opinion, such person is not mentally ill, or can be cared for after such discharge without danger to others and with benefit to the patient. In determining whether the patient shall be discharged, the recommendation of the superintendent of the state hospital shall be secured. The granting of this power to the board to determine the mental health of a person is merely permissive, and does not repeal or alter any statute respecting the discharge from, or admission to, the state hospital.

**§ 16. Amendment.)** Section 54-2321 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2321. Collection Of Information By Board; Investigation Of Treatment Of Mentally Ill And Feeble-minded.)** The board shall gather and present information embodying the experience of charitable, reformatory, and penal institutions, in this and other countries, regarding the best and most successful methods of caring for the mentally ill, delinquent, and criminal classes. It shall encourage and urge the scientific investigation of the treatment of mental illness by the medical staff of the state hospital and the Grafton state school, and shall publish, from time to time, bulletins and reports of the scientific and clinical work now done in such institutions or which it may require to be done therein.

§ 17. **Amendment.)** Section 54-2322 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**54-2322. Transfer Of Inmates From One Institution To Another.)** The board may transfer inmates of the state training school to the state hospital or to the Grafton state school, or transfer patients of the state hospital to the Grafton state school, or patients or pupils of the Grafton state school to the state hospital whenever the superintendent of any such institution shall recommend such transfer and the board is satisfied, upon investigation, that such transfer is advisable. If any inmate, so transferred, is maintained at the expense of the county from which he was committed, the cost of his maintenance in the institution to which he is transferred shall be charged to such county and shall be collected therefrom upon notice to the county auditor of said county by the board.

§ 18. **Amendment.)** Section 14-0307 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**14-0307. Marriages Prohibited.)** Marriage by a woman under the age of forty-five years or by a man of any age, unless he marries a woman over the age of forty-five years, is prohibited if such man or woman is a chronic alcoholic, an habitual criminal, an imbecile, a feebleminded person, an idiot, an insane person, a person who has been afflicted with hereditary insanity, or with any contagious venereal disease.

§ 19. **Amendment.)** Section 25-0404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0404. Who May Receive Benefits Of State School.)** Subject to the payment of the sums provided for in this chapter and to such rules and regulations as may be made by the board, the benefits of the state school may be received by persons who are residents of this state and who are:

1. Feebleminded and, in the opinion of the superintendent of the state school, are of suitable age and capacity to receive instruction in such school and whose defects prevent them from receiving proper training and instruction in the public schools; or
2. Idiotic.

§ 20. **Amendment.)** Section 25-0411 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0411. Disposition Of Feeble-minded Nonresident.)** If a person who has no legal residence in this state is found by a county mental health board to be feeble-minded or idiotic, such person shall be sent, at the expense of the county, to the state school in the manner and accompanied by the documents prescribed in the case of a resident of this state who is found to be feeble-minded, and the superintendent of the state school shall arrange for the transportation of such person to the place where he belongs. The mental health board shall ascertain the place where such person belongs when the same conveniently can be done.

**§ 21. Amendment.)** Section 25-0826 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0826. County Auditor Authorized To Collect Expenses.)** The county auditor is hereby authorized to collect the expenses for the treatment and maintenance of the county's patients at the state hospital, state school, or the state sanatorium, incurred by the county or the state, including the amount advanced by the state from the institutional support funds. Such expenses may be collected from such patients after they have been discharged from such institutions as cured, or from their estates after they are dead.

The full and actual costs of the county and state for care and treatment of patients hospitalized at the state hospital shall be collected monthly by the county auditor from the patient or his estate or from relatives responsible by law for such patient's support in all instances where such patient or responsible relatives are financially able to pay. For the purpose of this section "responsible relatives" shall mean and include the patient's spouse, father, mother or children. Immediately after the entry of an order directing hospitalization, the county mental health board shall inquire into the financial affairs of the patient or responsible relatives and shall determine whether such persons are financially able to pay all or a portion of such costs without undue hardship, and its determination shall be entered upon the records of the case and reported to the county auditor. The provisions of section 25-0824 shall apply to the use of guardianship estate property for the payments provided herein. If the person liable for the payment of costs as provided herein shall fail or refuse to pay such amount, the county auditor shall inform the county mental health board, and it shall direct the state's attorney to bring suit for the recovery of delinquent payments. The county auditor shall submit quarterly reports to the state auditor showing the total of all collections for the care of persons at state institutions. The county shall retain such

amounts as may have been paid by the county for the care and treatment of the patient and shall remit the balance quarterly to the state treasurer.

§ 22. **Repeal.**) Chapter 50-05 and section 54-2310 of the North Dakota Revised Code of 1943, section 25-02051 of the 1953 Supplement thereto, and chapters 184 and 185 of the North Dakota Session Laws of 1955 are hereby repealed.

Approved March 18, 1957.

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## CHAPTER 197

H. B. No. 533

(Legislative Research Committee)

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### GRAND FORKS TB SANATORIUM AND SAN HAVEN

#### AN ACT

To appropriate money for the construction of a tuberculosis sanatorium to be located at Grand Forks, and for expenses for the renovation of the facilities of San Haven for the care of the feebleminded, and directing the state health department and the state health planning council to exert efforts to obtain federal funds for the construction of the tuberculosis sanatorium, to create and enact subsection 12 of section 25-0101, and to amend and reenact sections 25-0401, 25-0501, and 25-0512 of the North Dakota Revised Code of 1943 and section 25-0102 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to state schools for the feebleminded and the North Dakota state tuberculosis sanatorium.

*Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. **Amendment.**) Subsection 12 of section 25-0101 of the North Dakota Revised Code of 1943 is hereby created and enacted to read as follows:

12. "State school" as defined in subsection 5 shall also mean the San Haven state school for the feebleminded.

§ 2. **Amendment.**) Section 25-0102 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0102. General Supervision Over State Hospital, State School, State Sanatorium, Blind Asylum, And School For Deaf.)** The board shall have general control and management of the state hospital, the state school, the state sanatorium, blind asylum and the school for the deaf. The board shall

make all bylaws, rules, and regulations, not inconsistent with the laws of this state, which are necessary for the government of such institutions, and for the admission of persons thereto and the parole and discharge of persons therefrom. The board shall be authorized to transfer patients between the Grafton state school for the feeble-minded and the San Haven state school for the feeble-minded for such purposes the board may deem necessary.

§ 3. **Amendment.)** Section 25-0401 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0401. State School For The Feeble-minded; Maintained; Name.)** An institution for the feeble-minded shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton State School for the Feeble-minded. The sanatorium at Dunseith known as San Haven shall henceforth be known as the San Haven State School for the Feeble-minded, and wherever the words "state school" appear in this chapter it shall mean and include both the Grafton state school for the feeble-minded and the San Haven state school for the feeble-minded.

§ 4. **Amendment.)** Section 25-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0501. North Dakota State Tuberculosis Sanatorium; Maintained; Location.)** There shall be maintained at Grand Forks, in the county of Grand Forks, a sanatorium known as the North Dakota state tuberculosis sanatorium for the prevention and treatment of tuberculosis of every kind or nature. The North Dakota state tuberculosis sanatorium and the North Dakota state medical center at the University of North Dakota shall cooperate in the joint use of facilities in the furtherance of the purposes for which each institution is organized, but the state board of administration shall be in charge of the administration of the tuberculosis sanatorium in the manner provided by law.

§ 5. **Amendment.)** Section 25-0512 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

**25-0512. Electric Power May Be Furnished To City Of Dunseith From State School Power Plant.)** The board may furnish to the city of Dunseith, and to the inhabitants thereof, electric current for light, heat, and power from the electric plant maintained and operated by the state in connection with the state school upon the following conditions:

1. Such current shall be furnished upon a basis which will not result in a loss to the state;
2. The city of Dunseith shall pay for all wiring required in connection with the furnishing of such current to the city and to the inhabitants thereof; and
3. The city of Dunseith shall make all collections and do all necessary bookkeeping in connection with, and make payments to the board or to its authorized agent for, all current furnished to or used by the city or the inhabitants thereof.

**§ 6. Federal Funds.)** The state board of higher education, with the cooperation of other state agencies, is hereby directed to exert all possible efforts to obtain approval by the appropriate agencies of the United States for grants of federal funds for use by the state board of higher education in the construction of a state tuberculosis sanatorium in connection with the medical center on the campus of the university of North Dakota. The state board of higher education is hereby authorized to accept and to expend such funds along with such other funds as may be appropriated for the construction of such tuberculosis sanatorium. The board of higher education is further authorized to execute such assurances as may be necessary in order to guarantee the completion of the sanatorium should the federal grant funds together with other moneys available be insufficient. The state medical center is also directed to exert all possible efforts to obtain such other federal grant funds which may be made available for teaching or research facilities and which can suitably be expended in the construction of such tuberculosis sanatorium. The state board of higher education shall submit the plans for the construction of the tuberculosis sanatorium to the state board of administration for its approval prior to letting the contract for its construction, and shall consult with the state board of administration in regard to such other matters as may be desirable in the course of the construction of the sanatorium.

**§ 7. Appropriation.)** There is hereby reappropriated from the unexpended balance of the 1955-1957 biennial appropriation for operation of the state tuberculosis sanatorium in the state treasury the sum of one hundred seventy-five thousand dollars or the unexpended balance thereof as of June 30, 1957, to the state board of administration for the renovation of the facilities at the San Haven sanatorium in preparation for the conversion of that institution to a state school for the feeble-minded.

**§ 8. Appropriation.)** There is hereby appropriated out of the medical center fund in the state treasury the sum of six

hundred thousand dollars to the state board of higher education to be used, together with such federal grant funds as may be available, in the construction of a state tuberculosis sanatorium to be located and associated with the state medical center on the campus of the university of North Dakota in Grand Forks, provided, however, that no transfer of money from the medical center fund shall be made for this purpose until such time as federal grant funds shall be available.

In addition to the amount herein appropriated the state board of higher education is hereby authorized to expend from medical center funds in the state treasury such additional amounts as may be necessary to properly construct and equip the tuberculosis sanatorium under authority provided in section 15-5209 of the 1953 Supplement to the North Dakota Revised Code of 1943.

**§ 9. Care Of Tubercular Patients; Emergency.)** The state board of administration is hereby authorized to contract with public or private agencies for the care of tubercular patients if at any time the facilities of the state of North Dakota become insufficient to care for them.

**§ 10. Effective Dates.)** Sections 1 through 5 of this Act shall not take effect until July 1, 1961; sections 6, 7, 8, and 9 shall take effect as of July 1, 1957.

Approved March 20, 1957.