

## MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND AND DEAF

### CHAPTER 208

S. B. No. 49

(Fiedler, Holand, Hystad, Longmire, Yunker)  
(From LRC Study)

#### MENTAL HEALTH AUTHORITY

##### AN ACT

To provide for the establishment of a mental health authority in the state health department and prescribing its powers and duties, establishment of a mental health coordinating committee and prescribing its functions, the transfer and continuance of the state psychiatric out-patient clinic, and to repeal chapter 39 of the 1959 Session Laws relating to the children's psychiatric clinic.

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

**§ 1. State Mental Health Authority.)** 1. There is hereby established within the state department of health a division to be known as the state mental health authority, such authority to be under the direction and supervision of a certified psychiatrist who shall be appointed by the state health officer with the approval of the state health council, to perform the following functions in the field of mental health:

- a. Cooperate in providing services to state and local departments and agencies and other groups for programs of prevention of mental illness, mental retardation, and other psychiatric disabilities;
- b. Assist in providing informational and educational services regarding mental health to the public and lay and professional groups;
- c. Assist in providing consultative services to schools, courts, and health and welfare agencies, both public and private;
- d. Assist in providing out-patient diagnostic and treatment services; and
- e. Assist in providing rehabilitation services for patients suffering from mental or emotional disorders, mental retardation, and other psychiatric conditions, particularly those who have received prior treatment in an in-patient facility.

The above services shall be undertaken by the state department of health to the extent funds are available to the department for the performance of these functions.

**§ 2. Psychiatric Clinic.)** The administration of the children's psychiatric out-patient clinic established pursuant to chapter 39 of the 1959 Session Laws shall be transferred from the board of administration to the state mental health authority on July 1, 1961, and continued thereunder. The purpose of the clinic shall be primarily to provide psychiatric care and treatment to minors and persons placed under the control of the state as well as other residents who are referred to such clinic by an agency of the state who cannot avail themselves of psychiatric care through private means. The staff of the clinic may, however, be used by the mental health authority to a limited extent in carrying out other mental health services and programs undertaken by the state mental health authority. The clinic may operate under the supervision of a qualified psychiatrist until the certified psychiatrist heading the mental health authority is appointed, who shall upon appointment become the director of the clinic.

**§ 3. Mental Health Coordinating Committee—Membership—Purpose.)** There shall be maintained a mental health coordinating committee composed of the state health officer as chairman, the superintendent of public instruction or his representative, the executive director of the state welfare board or his representative, and the chairman of the board of administration or his representative, and such other members as may be appointed by the above members of the committee. Meetings of the committee shall be called at the discretion of the state health officer, but in no event shall the committee meet less than once each year. Members of the coordinating committee shall serve without compensation or mileage and travel expenses. It shall be the purpose of the committee to review, evaluate, and coordinate all the functions, programs, and services of all state agencies and departments and political subdivisions in the field of mental health, to prevent duplication of activities, provide for cooperation in common field of activity and the joint use of personnel and facilities. The committee shall investigate and procure, to such extent available, public and private funds to carry on mental health services and programs in this state.

**§ 4. Amendment.)** Section 25-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-02-04. Superintendent to Possess Certain Qualifications—Employees.)** The superintendent of the state hospital shall be a certified psychiatrist. He shall appoint with the approval of

the board of administration an assistant superintendent of administration who shall be under his supervision and who shall be a qualified and experienced hospital administrator. The superintendent shall appoint and employ the professional staff and define their qualifications and duties. The assistant superintendent shall employ such other personnel as may be necessary and shall define their qualifications and duties.

**§ 5. Repeal.)** Chapter 39 of the 1959 Session Laws of North Dakota is hereby repealed.

Approved March 16, 1961.

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## CHAPTER 209

H. B. No. 562  
(Solberg, Wilkie)

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### TUBERCULOSIS SANATORIUM

#### AN ACT

To amend and reenact subsection 5 of section 25-01-01, and sections 25-01-02, 25-04-01, and 25-05-01 of the North Dakota Century Code, relating to location of the state tuberculosis sanatorium, and to repeal subsection 12 of section 25-01-01 and sections 25-04-12 and 25-05-31 of the North Dakota Century Code, relating to name, location, and use of federal funds concerning the state tuberculosis sanatorium, and the furnishing of electric power to Dunseith from San Haven power plant.

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

**§ 1. Amendment.)** Subsection 5 of section 25-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "State school" shall mean the Grafton state school for the feeble-minded and such portion of the state institution at San Haven that is designated for the care of the feeble-minded;

**§ 2. Amendment.)** Section 25-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-01-02. General Supervision Over State Hospital, State School, State Sanatorium, School for the Blind, and School for the Deaf.)** The board shall have general control and management of the state hospital, the state school, the state sanatorium, school for the blind 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 state sanatorium for such purposes the board may deem necessary.

**§ 3. Amendment.)** Section 25-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-04-01. 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.

**§ 4. Amendment.)** Section 25-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-05-01. North Dakota State Tuberculosis Sanatorium — Maintained—Location.)** There shall be maintained at Dunseith, in the county of Rolette, 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. Repeal.)** Subsection 12 of section 25-01-01 and sections 25-04-12 and 25-05-31 of the North Dakota Century Code are hereby repealed.

Approved March 8, 1961.

## CHAPTER 210

H. B. No. 543

(Haugland, Karabensh, Sorlie, Stallman, Trom)  
(From LRC Study)

## VOLUNTARY ADMISSION TO GRAFTON STATE SCHOOL

## AN ACT

To amend and reenact section 25-04-06 of the North Dakota Century Code, relating to voluntary admission to the Grafton state school.

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

§ 1. **Amendment.)** Section 25-04-06 of the North Dakota Century Code is hereby amended and reenacted as follows:

**25-04-06. Patients Admitted to State School Temporarily for Observation.)** The superintendent may admit to the state school, temporarily for the purposes of observation, without commitment, under such rules and regulations as the board of administration may prescribe, any child or adult who is suspected of being feeble-minded or idiotic, to ascertain whether or not such person is actually mentally defective and a proper case for care, treatment, and training in the state school. If in the opinion of the superintendent the person temporarily admitted to the state school is a proper subject for institutional care, treatment, and training at such school, such person may remain as a voluntary patient at such school at the discretion of the superintendent if accommodations are available, and if the parent or guardian of such person applies therefor. The superintendent may discharge any voluntary patient whose hospitalization he determines to be no longer advisable or necessary, or if in his opinion such discharge would contribute to the effective use of the state school in the care and treatment of the mentally retarded. In addition if any parent or guardian makes written application to the superintendent for the release of any voluntary patient at the Grafton state school, such person shall be released, except if in the opinion of the superintendent a voluntary patient should remain at the state school for further care and treatment, the superintendent shall institute proceedings within six months from the date of request for release for the formal commitment of such person as provided in section 25-04-05. The provisions of this section shall not prohibit the release of any person upon a suitable writ from the district court.

Prior to admitting any person as a voluntary patient under the provisions of this section the superintendent shall require that such patient, his parents, legal guardian, or other guaran-

tor agree to pay all expenses incurred by such care and treatment at the Grafton state school and may require a guarantee for such payment. However, upon receiving a certificate from the county judge that the persons legally responsible for the support of such person are unable to pay the cost of care and treatment as provided in section 25-08-23\*, the superintendent may in his discretion admit such person as a voluntary patient.

Approved February 25, 1961.

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## CHAPTER 211

S. B. No. 51

(Foss, Hernett, Lautenschlager, Trenbeath)  
(From LRC Study)

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### STATE HOSPITAL, STATE SCHOOL, TUBERCULOSIS SANATORIUM

#### AN ACT

Providing for a transfer of all funds in the charitable institutions revolving fund and the institutional support funds and providing that all collections from liquor taxes be deposited in the general fund and to relieve the counties of any share of costs of operation and administration of the state hospital, state school, and tuberculosis sanatorium, and further providing for the collection of expenses incurred by the state for care and treatment of patients at such institutions to create and enact chapter 25-09 of the North Dakota Century Code, and to amend and reenact sections 5-03-09, 5-03-11, 25-03-15, 25-03-26, 25-04-04, and 25-05-34 of the North Dakota Century Code and to repeal sections 25-01-14, 25-02-07, 25-02-08, 25-02-10, 25-03-03, 25-03-04, 25-04-09, 25-04-10, 25-05-08, 25-05-09, and 25-05-10, and chapter 25-08 of the North Dakota Century Code, relating to institutional care and treatment and expenses thereof and the disposition of liquor taxes.

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

§ 1.) Chapter 25-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

#### Chapter 25-09

##### Expenses of Care and Treatment of Patients

**25-09-01. Operational and Administrative Expense of Institutional Care and Treatment.)** All of the operational and administrative expense of the state hospital, state school, and tuberculosis sanatorium shall be appropriated from the state treasury.

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\*Note: Chapter 25-08 was repealed by section 9 of chapter 211 of the 1961 Session Laws.

**25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.)** Expenses for care and treatment of each patient at the state hospital, state school, or tuberculosis sanatorium shall be the actual average per patient cost incurred by the state at each such institution. The board of administration shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the board of administration except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital, state school, or tuberculosis sanatorium may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the board of administration in the same manner and with the same effect as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the board of administration a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The board of administration shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

**25-09-03. Expenses Chargeable Against Guardianship Estate of Patient—Restrictions.)** The expenses incurred by the state for the care and treatment of any patient at the state hospital, state school, or tuberculosis sanatorium shall be charged against the guardianship estate of such patient, if he has such an estate, subject to the following restrictions:

1. No part of such estate shall be taken for such purpose if the patient has dependents within the United States dependent upon the estate for support and the taking of all or a portion of such estate would result in undue hardship to such dependents;
2. No real property belonging to such estate shall be sold during the lifetime of the patient except for the maintenance and support of his or her dependents, unless it is shown that the sale of such property will not result in undue hardship to such dependents, and in either such

event, it shall be sold only upon the order of the county court having jurisdiction of the estate, with the consent of the board of administration; and

3. No personal property belonging to such estate shall be sold within five years from the date upon which the patient was sent to the institution unless such property is ordered sold by the county court having jurisdiction of the estate for the reason that such property is likely to deteriorate in value during the time herein specified.

If any real or personal property is sold pursuant to the provisions of this section, the county court shall order the proceeds of the sale to be invested safely for the benefit of the patient or to be used for the support and maintenance of his dependents, or used to pay the costs of care and treatment of the patient.

**25-09-04. Responsible Relatives Shall Pay for Care and Treatment—Definition.)** In the event of the patients' inability to pay for the costs of care and treatment, responsible relatives of such patients at the state hospital, state school, or tuberculosis sanatorium shall pay to the board of administration quarterly, such costs as the board may determine reasonable for the care and treatment of patients at each institution. For purposes of this chapter and title 25 of this code "responsible relatives" shall mean the patient's spouse, father, mother or children.

**25-09-05. Inability to Pay All or Part of Expenses.)** The patient, his responsible relatives, or the executor, administrator, or guardian may make application to the board of administration to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the state hospital, state school, or tuberculosis sanatorium. Such application shall be accompanied by proof of the patient's or his estate's or responsible relatives' or their estates' inability to pay. Upon receipt of such application the board shall direct the county mental health board of the county from which the patient was admitted in the case of a patient at the state hospital or the state school, or the county judge of the county from which the patient was admitted in the case of a patient at the tuberculosis sanatorium, to determine whether the patient or his responsible relatives or their estates are able to pay all, a portion, or none of the expenses incurred by the state for such patient's care and treatment. The board of administration shall approve, reject, or amend the determination made by the county mental health board or the county judge. The determination made by the board of administration may be appealed to the district court of Burleigh County or the district court of the county of residence of the patient or his responsible relatives.

**25-09-06. Application for Review of Ability to Pay.)** Any patient at the state hospital, state school, or tuberculosis sanatorium or any responsible relative or their executors, administrators or guardians, may make application to the board of administration not more often than once each calendar year for a review of the determination made by the board in regard to the ability of such persons or their estates to pay costs of care and treatment. Such application and review shall be treated in the same manner as an original application by such persons for a determination of their inability to pay costs of care and treatment. Upon such review, the board may reaffirm or alter the previous determination and shall have authority to make such redetermination retroactive. In addition the board on its own motion may review the ability of the patient, or his responsible relatives, or their estates, to pay for costs of care and treatment.

**25-09-07. State's Attorneys to Bring Action for Expenses.)** Upon the request of the board of administration to the various state's attorneys, in regard to expenses incurred by the state of North Dakota for the care and treatment of a patient at the state hospital, state school, or tuberculosis sanatorium, the respective state's attorneys shall bring an action against the patient or his estate, or his responsible relatives or their estates, for the payment of the amount due the state.

**25-09-08. Disposition of Funds Collected.)** The amount collected from patients, their estates, or responsible relatives or their estates, by the board of administration under the provisions of this chapter shall be deposited with the state treasurer and credited to the general fund of this state.

**25-09-09. Statutes of Limitations Not Bar to Recovery.)** No statute of limitations or similar statute shall bar the right of recovery for the expense incurred by the state for care and treatment at the state hospital, state school, or tuberculosis sanatorium from the patient or his estate, but this section shall not apply to claims that may be otherwise barred by law prior to July 1, 1961.

**25-09-10. Disposition of Nonresidents — Reciprocal Agreements.)** If a person who has no legal residence in this state or whose residence is unknown is found to be a fit subject for care and treatment in the state hospital, state school, or tuberculosis sanatorium, such person shall be sent to such institution in the same manner, and accompanied by the same documents as in the case of a resident of this state. The board of administration shall immediately inquire as to the residence of such person, and if found to be in another state or country the board may arrange for transportation of such person to the place where he belongs. The board of administration may enter

into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of mentally ill, feeble-minded or tubercular 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.

**§ 2. Amendment.)** Section 5-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*5-03-09. Disposition of Tax Moneys.)** All moneys received representing the excise tax herein provided for shall be deposited into the general fund of this state.

**§ 3. Amendment.)** Section 5-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-03-11. Disposition of Tax.)** All revenue from the tax provided for under section 5-03-10 shall be deposited in the general fund of this state.

**§ 4. Amendment.)** Section 25-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-15. 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 25-03-16, 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 and treatment shall be paid by the county of the patient's residence. Whenever a dispute arises between counties regarding the residency of a patient for purposes of this section, it shall be determined by the board of administration. 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, or the order of the board of administration upon finding of residency, the county shall be liable to the state for the full and actual cost of care of such patient as determined by the

**\*Note:** Section 5-03-09 was also amended by section 4 of chapter 107 of the 1961 Session Laws; however the section reads identically the same in both amendments.

board of administration, commencing at the expiration of thirty days after the date of such notice. Such costs of care and treatment shall be paid by the county in the same manner as costs of care and treatment of other patients 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.

**§ 5. Amendment.)** Section 25-03-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-26. Expenses of Stutsman County Mental Health Board.)** All expenses of the mental health board of Stutsman County involving patients in residence at the state hospital shall be paid by the state hospital under the direction of the state board of administration.

**§ 6. Amendment.)** Section 25-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-04-04. Who May Receive Benefits of State School.)** Subject to the provisions of chapter 25-09 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. Feeble-minded 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.

**§ 7. Amendment.)** Section 25-05-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-05-34. Transfer of Tubercular Persons to the Sanatorium.)** When required for the protection of the public health, the control of tuberculosis, or the protection or treatment of the individual patient, any person committed to or confined in a state or county institution who has active, infectious tuberculosis may be removed from such institution to the state tuberculosis sanatorium or other appropriate institution under the control of the state board of administration. Such transfer may be made in the discretion of the board of administration, if from an institution controlled by such board, or, in the case

of transfer from an institution not so controlled, by agreement of the board of administration and the agency responsible for the control of such other institution. If any person, so transferred, is maintained at the expense of a federal governmental unit or agency, the cost of maintenance in the institution to which he is transferred shall be charged to and collected from such governmental unit or agency.

**§ 8. Transfer of Certain Funds.)** All unencumbered balances on July 1, 1961, in the charitable institutions revolving fund, the institutional support fund, state hospital, the institutional support fund, Grafton state school, and the institutional support fund, tubercular are hereby transferred to the general fund of this state.

**§ 9. Repeal.)** Sections 25-01-14, 25-02-07, 25-02-08, 25-02-10, 25-03-03, 25-03-04, 25-04-09, 25-04-10, 25-05-08, 25-05-09, and 25-05-10, and chapter 25-08 of the North Dakota Century Code are hereby repealed.

Approved March 16, 1961.