

MENTALLY ILL, TUBERCULAR, BLIND, AND DEAF

CHAPTER 292

SENATE BILL NO. 2118
(Committee on Human Services and Veterans Affairs)
(At the request of the Department of Human Services)

STATE HOSPITAL AND MENTAL HEALTH

AN ACT to create and enact a new section to chapter 25-02, a new subdivision to subsection 8 of section 25-03.1-02, and a new section to chapter 25-03.1 of the North Dakota Century Code, relating to maintenance of state hospital accreditation, definition of a mental health professional, and court-authorized involuntary treatment with prescribed medication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 25-02 of the North Dakota Century Code is created and enacted as follows:

Maintenance of state hospital accreditation. The department of human services shall seek appropriations and resources sufficient to ensure maintenance of the state hospital's accreditation by the joint commission on accreditation of health care organizations and certification by the health care financing administration or by similar accrediting and certifying organizations and agencies possessing hospital standards recognized by the health care industry and accepted by the department.

SECTION 2. A new subdivision to subsection 8 of section 25-03.1-02 of the North Dakota Century Code is created and enacted as follows:

A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond the master's degree as required by the national academy of mental health counselors or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.

SECTION 3. A new section to chapter 25-03.1 of the North Dakota Century Code is created and enacted as follows:

Court authorized involuntary treatment with prescribed medication.

1. Upon advance notice to the court and the parties, a treating psychiatrist may request authorization from the court to treat a patient with prescribed medication in an involuntary treatment hearing if the treating psychiatrist and another licensed physician or psychiatrist not involved in the current diagnosis or treatment of the patient certify:

- a. That prescribed medication is clinically appropriate and necessary to effectively treat the patient;
- b. That the patient was offered such treatment and refused it or that the patient lacks the capacity to make or communicate a responsible decision about such treatment; and
- c. That the prescribed medication is the least restrictive form of intervention necessary to meet the treatment needs of the patient.
- d. That the benefits of the treatment outweigh the known risks to the patient.

The court shall inquire whether the patient has had a sufficient opportunity to adequately prepare to meet the issue of involuntary treatment with prescribed medication and, at the request of the patient, may continue the involuntary treatment hearing for a period not exceeding seven days or may appoint an independent expert examiner as provided in subsection 4.

2. Evidence of the factors certified under subsection 1 may be presented to the court at an involuntary treatment hearing held pursuant to sections 25-03.1-19 and 25-03.1-22. The court in ruling on the requested authorization for involuntary treatment with prescribed medication shall consider all relevant evidence presented at the hearing, including:
 - a. The danger the patient presents to self or others;
 - b. The patient's current condition;
 - c. The patient's past treatment history;
 - d. The results of previous medication trials;
 - e. The efficacy of current or past treatment modalities concerning the patient;
 - f. The patient's prognosis; and
 - g. The effect of the patient's mental condition on the patient's capacity to consent.

Involuntary treatment with prescribed medication may not be authorized by the court solely for the convenience of facility staff or for the purpose of punishment.

3. If the factors certified under subsection 1 have been demonstrated by clear and convincing evidence, the court may include in its involuntary treatment order a provision authorizing the treating psychiatrist to involuntarily treat the patient with prescribed medication on such terms and conditions as are appropriate. However, no such provision is effective for more than ninety days, unless prior to the expiration of that time period the treating psychiatrist submits a report to the court indicating that the involuntary treatment with prescribed medication remains

appropriate and necessary to effectively treat the patient. Based on such reports, a review of the patient's progress, and the patient's concerns, the court may extend its authorization for involuntary treatment with prescribed medication for additional ninety-day periods if the patient remains under an involuntary treatment order.

4. If a patient has requested an examination by an independent expert examiner under this chapter, and if the treating psychiatrist has requested authorization for involuntary treatment with prescribed medication, only a licensed physician or psychiatrist may independently examine the patient as to the issue of involuntary treatment with prescribed medication.

Approved April 11, 1991
Filed April 12, 1991

CHAPTER 293

SENATE BILL NO. 2372
 (Senators Nething, Marks)
 (Representatives Williams, Kroeber, Trautman)

COMMITMENT PROCEDURES

AN ACT to create and enact two new subsections to section 25-03.1-02 of the North Dakota Century Code, relating to definitions of commitment procedures; and to amend and reenact subsection 14 of section 25-03.1-02 and section 25-03.1-43 of the North Dakota Century Code, relating to definitions used in commitment procedures and the confidentiality of records of patients in a treatment facility.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 14 of section 25-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

14. "Superintendent" means the state hospital superintendent or the superintendent's designee.

SECTION 2. Two new subsections to section 25-03.1-02 of the North Dakota Century Code are created and enacted as follows:

"Qualified service organization" means a person or entity that provides services to a treatment facility such as data processing, bill collecting, dosage preparation, laboratory analysis, or legal, medical, accounting, or other professional services, and which agrees that in dealing with patient records, it is bound by the confidentiality restrictions of this chapter, except as otherwise provided for by law.

"Third party payer" means a person or entity who pays, or agrees to pay, for diagnosis or treatment furnished to a patient on the basis of a contractual relationship with the patient or a member of the patient's family, or on the basis of the patient's eligibility for federal, state, or local governmental benefits, and includes any person or entity providing audit or evaluation activities for the third party payer.

* SECTION 3. AMENDMENT. Section 25-03.1-43 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-43. Confidential records. All information and records obtained in the course of an investigation, evaluation, examination, or treatment under this chapter and the presence or past presence of a patient in a treatment facility must be kept confidential and not as public records, except as the requirements of a hearing under this chapter may necessitate a different procedure. All information and records are available to the court

* NOTE: Section 25-03.1-43 was also amended by section 8 of Senate Bill No. 2245, chapter 592.

and, under regulations established by the department, may be disclosed only to:

1. Physicians and providers of health, mental health, or social and welfare services involved in caring for, treating, or rehabilitating the patient to whom the patient has given written consent to have information disclosed.
2. Individuals to whom the patient has given written consent to have information disclosed.
3. Persons legally representing the patient, upon proper proof of representation and unless the patient specifically withholds consent.
4. Persons authorized by a court order.
5. Persons doing research or maintaining health statistics, if the anonymity of the patient is assured, the patient's consent is given, and the facility recognizes the project as a bona fide research or statistical undertaking.
6. The director of institutions in cases in which prisoners sentenced to the state prison are patients in the state hospital on authorized transfers either by voluntary admissions or by court order.
7. Governmental or law enforcement agencies when necessary to secure the return of a patient who is absent without authorization from the facility where the patient was undergoing evaluation or treatment, or when necessary to report a crime committed on facility premises or against facility staff or patients, or threats to commit such a crime, provided such disclosures are directly related to a patient's commission of a crime or threats to commit such a crime and are limited to the circumstances of the incident, the name and address of the patient involved, and such patient's last known whereabouts.
8. Qualified service organizations and third party payers to the extent necessary to perform their functions.

Approved April 5, 1991

Filed April 8, 1991

CHAPTER 294

HOUSE BILL NO. 1410
 (Representatives D. Olsen, Gorder, Skjerven)
 (Senator Tallackson)

DEVELOPMENTAL CENTER ACCREDITATION AND RESIDENCY

AN ACT to create and enact a new section to chapter 25-04 of the North Dakota Century Code, relating to accreditation of the developmental center at Grafton; and to amend and reenact sections 25-04-01, 25-04-02, 25-04-04, 25-04-05, 25-04-06, 25-04-07, 25-04-08, 25-04-08.1, 25-04-11, and 25-04-11.1 of the North Dakota Century Code, relating to who may receive services from the developmental center at Grafton.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-04-01 of the North Dakota Century Code is amended and reenacted as follows:

25-04-01. Developmental center - Name - Administration and control. A facility for developmentally disabled persons must be maintained at or near the city of Grafton in Walsh County. The facility must also be available for a person who is determined to be a person who may benefit from the facility's services. The facility must be known and designated as the developmental center at Grafton. The department of human services has administrative authority and control of the developmental center at Grafton.

SECTION 2. AMENDMENT. Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02. Purpose of developmental center at Grafton. The developmental center at Grafton must be maintained for the relief, instruction, care, and custody of the developmentally disabled of this state or other persons who may benefit from the services offered at the center. For this purpose the department of human services may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.

SECTION 3. A new section to chapter 25-04 of the North Dakota Century Code is created and enacted as follows:

Accreditation of developmental center. The department of human services shall request appropriations and resources sufficient to ensure maintenance of the developmental center's accreditation by the accreditation council on services for people with developmental disabilities and certification by the health care financing administration or by similar accrediting and certifying organizations and agencies possessing standards applicable to handicapped individuals and disciplines needed to provide quality services to individuals served.

SECTION 4. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04. Who may receive benefits of developmental center. Subject to this chapter and to any rules adopted by the department of human services, the benefits of the developmental center at Grafton may be received by **persons who are residents of this state and who are:**

1. Developmentally disabled persons and other persons who may benefit from services provided at the developmental center who, in the opinion of the superintendent of the developmental center at Grafton, are of suitable age and capacity to receive instruction in the center and whose deficiencies prevent them from receiving proper training and instruction in the public schools; or
2. Developmentally disabled, persons and other persons who may benefit from services provided at the developmental center, who cannot be properly cared for in their homes or other available facilities.

Residents and nonresidents of this state may receive the benefits of the developmental center. Priority, however, must be given to residents of this state with developmentally disabled persons receiving first priority.

* SECTION 5. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - Temporary admission - Care and treatment of persons under twenty-one years of age without charge.

1. The superintendent may admit a **developmentally disabled person who is a resident of this state** to the developmental center at Grafton or other state facility under the superintendent's jurisdiction or the jurisdiction of the department of human services when all of the following conditions have been met:
 - a. Application for admission has been made on behalf of the **developmentally disabled** person by a parent or guardian or the person or agency having legal custody, or by the **developmentally disabled** person seeking admission, in accordance with procedures established by the department of human services.
 - b. A comprehensive evaluation of the person seeking admission has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the developmental center at Grafton or other state facility.
 - c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of human services.

* NOTE: Section 25-04-05 was also amended by section 1 of Senate Bill No. 2121, chapter 295.

2. The superintendent may admit to the developmental center at Grafton or any other state facility under the superintendent's jurisdiction or the jurisdiction of the department of human services, temporarily for the purposes of observation, without commitment, under rules as the department of human services may adopt, any person who is suspected of being developmentally disabled able to benefit from the services offered at the center, to ascertain whether or not such that person is actually developmentally disabled and a proper case for care, treatment, and training in the state facility. If in the opinion of the superintendent the person temporarily admitted to the developmental center at Grafton is a proper subject for institutional care, treatment, and training at such center or facility, such that person may remain as a voluntary resident at such center at the discretion of the superintendent if all other conditions for admission required by this section are met.
3. Care and treatment at the developmental center at Grafton must be provided without charge to anyone under twenty-one years of age who is qualified for admission pursuant to this chapter. Residents not more than twenty-one years of age admitted to the developmental center at Grafton are entitled to transportation as provided by rules of the superintendent of public instruction. The rules have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident must be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the individualized education program at a rate not to exceed that paid state officials. Persons over twenty-one years of age who are qualified for admission pursuant to this chapter are responsible for expenses charged for care and treatment at the developmental center at Grafton in the manner provided by this chapter.

SECTION 6. AMENDMENT. Section 25-04-06 of the North Dakota Century Code is amended and reenacted as follows:

25-04-06. Juvenile court commitment of dependent, neglected, or delinquent mentally deficient - Commitment for observation - Appeal. In any proceeding instituted in juvenile court, the court may make an order committing the child to the developmental center at Grafton whenever it appears to the satisfaction of the court that the child involved in the proceeding is:

1. Dependent and developmentally disabled a candidate for services at the developmental center;
2. Neglected and developmentally disabled a candidate for services at the developmental center; or
3. Delinquent and developmentally disabled a candidate for services at the developmental center.

If the court is in doubt as to whether the child is developmentally disabled a candidate for services offered at the developmental center, the court may make an order committing the child to the developmental center at Grafton for observation only by the authorities of such institution. If it is

ascertained as a result of such observation that the child is ~~developmentally disabled~~ a candidate for services offered at the developmental center, a report to such effect must be made by the authorities of the developmental center at Grafton to the court. The court thereupon shall make an order fixing a time for a hearing upon the report showing the child to be ~~developmentally disabled~~ in need of these services. Notice of such the hearing must be given to the parents, custodian, or guardian of such child in the manner prescribed by law for the giving of notice in other proceedings in juvenile court. Upon such hearing, the court shall make such order as it may deem proper. Any parent, custodian, guardian, or other person charged with the control of such child may take an appeal from the order made by the court in the manner now prescribed by law for the taking of appeals from decisions of the juvenile court. The procedure provided in this section is not exclusive but is in addition to other procedures provided in this chapter for the commitment of ~~developmentally disabled~~ children to the developmental center at Grafton.

* SECTION 7. AMENDMENT. Section 25-04-07 of the North Dakota Century Code is amended and reenacted as follows:

25-04-07. ~~Developmentally disabled~~ Disabled defendants.

1. When in any cause, other than a proceeding before the juvenile court, it appears that a defendant may be ~~developmentally disabled~~ to such an extent that the defendant is unable to confer effectively with counsel or to participate adequately in the defendant's defense, this issue must be adjudicated in accordance with the procedures provided for in chapter 12.1-04. When any person has been adjudicated unfit to stand trial by reason of being ~~developmentally disabled~~ as provided by this chapter, the court shall initiate a process for the determination of mental incompetency, or for a joint determination of incompetency and defective delinquency as provided hereinafter. If incompetency is established, the court shall appoint an appropriate guardian of the person.
2. If the defendant's condition and behavior is such that it appears to the court that the defendant may be not only incompetent, but may also constitute a continuing peril to the life, person, or property of others, the court may order the defendant's admission and temporary detention for a period not to exceed thirty days in a state institution or facility suitable to receive such persons. Prior to the expiration of the order a report must be transmitted to the court in accordance with this directive, which report must include recommendations concerning the nature and extent of the defendant's ~~developmental~~ disability, the extent to which the individual is able to manage himself and his affairs with ordinary prudence, and the extent and character of any propensity toward aggravated antisocial behavior such as might substantiate a finding of defective delinquency.
3. The court may thereupon conduct a hearing on the joint question of incompetency and defective delinquency, with due notice to all interested parties in the manner provided for in chapter 30.1-28. The court may hear the matter or may order a jury trial. A jury trial must be had if demanded by the defendant or someone on the defendant's behalf.

* NOTE: Section 25-04-07 was repealed by section 5 of Senate Bill No. 2430, chapter 121.

4. If the defendant is found competent, the defendant must be discharged. If the defendant is found to be incompetent, but not a defective delinquent, the court shall appoint an appropriate guardian of the person. If the defendant is found to be a defective delinquent, the court shall appoint an appropriate guardian and may, in addition, issue an order placing the defendant in the developmental center at Grafton or other appropriate state facility.
5. Any parent, custodian, guardian, or other person charged with the control of such defendant may take an appeal from the order made by the court in the manner provided by law. The procedure provided in this section is not exclusive but is in addition to any other procedure for the commitment of ~~developmentally~~ disabled persons to the developmental center or other state facility.

SECTION 8. AMENDMENT. Section 25-04-08 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08. Discharge of resident from institution. A ~~developmentally disabled~~ person who has been admitted as a resident must be permanently discharged within thirty days under any one of the following conditions:

1. The superintendent, on the basis of a comprehensive evaluation, finds that the care, treatment, training, rehabilitation, and supervision offered by the state are no longer required.
2. The parent or guardian who voluntarily committed his child or ward as a resident and who retains legal custody makes a written request for discharge.
3. The ~~developmentally disabled~~ person is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state; provided, however, that if such admission be by contractual arrangement made by the department of human services, the ~~developmentally disabled~~ person must be placed on nonresident release status, but not discharged.
4. A court of competent jurisdiction orders the discharge of the ~~developmentally disabled~~ person.

Any person who is to be discharged under subsection 2 or 4 shall first receive a comprehensive evaluation unless such evaluation is not completed within thirty days of the request for discharge.

* SECTION 9. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification prior to discharge. Prior to discharge the superintendent shall consult with the parent or guardian of the person ~~of the developmentally disabled person to be discharged~~, or with the court which ordered the commitment, and shall notify the director of the county social service board of the county wherein it is proposed that such person will assume residence and shall also notify the executive director of the department of human services.

* NOTE: Section 25-04-08.1 was also amended by section 10 of Senate Bill No. 2068, chapter 54.

SECTION 10. AMENDMENT. Section 25-04-11 of the North Dakota Century Code is amended and reenacted as follows:

25-04-11. Disposition of ~~developmentally disabled~~ person who is not a legal resident. If a person who has no legal residence in this state is subject to admission to the developmental center at Grafton or other appropriate state facility, by order of a court of competent jurisdiction, such person must be sent, at the expense of the county, to the developmental center at Grafton in the same manner as a resident of this state who is found to be ~~developmentally disabled in need of services offered at the developmental center~~, and the superintendent of the developmental center at Grafton shall then arrange for the transportation of such person to the place where the person belongs. The department of human services shall ascertain the place where such person belongs when the same conveniently can be done.

SECTION 11. AMENDMENT. Section 25-04-11.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-11.1. Disposition of nonresidents - Exceptions - Reciprocal agreements. If a person who has no legal residence in this state or whose residence is unknown is found to be a person requiring care and treatment in the developmental center at Grafton, the person must be sent to the developmental center in the same manner, and accompanied by the same documents, as in the case of a resident of this state. The supervising department shall immediately inquire as to the residence of the person or the person's responsible relatives, and, if the residence is found to be in another state or country, the supervising department shall arrange for transportation of the person to the place of legal residence or legal settlement unless the person can be accommodated at the developmental center without depriving a North Dakota resident of care and treatment at the developmental center and adequate costs of care are paid for within a reasonable time, or unless a reciprocal agreement has been entered into with another state regarding the care and commitment of the nonresident. The supervising department may enter into reciprocal agreements with other states regarding the mutual exchange, return, and transportation of ~~developmentally disabled~~ persons who are within one state but have legal residence or legal settlement in another state. The agreements may not contain any provision conflicting with any law of this state.

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 295

SENATE BILL NO. 2121
(Committee on Human Services and Veterans Affairs)
(At the request of the Department of Human Services)

DEVELOPMENTAL CENTER PATIENT FREE EDUCATION

AN ACT to amend and reenact sections 25-04-05, 25-04-14, and 25-04-16 of the North Dakota Century Code, relating to the provision of free educational services to developmental center patients who are twenty-one years of age or younger and to provide for the waiver of fees and expenses upon application by a parent of a patient or former patient under age eighteen.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - Temporary admission - care and treatment of Educational or related services without charge for persons under twenty-one years of age without charge and under.

1. The superintendent may admit a developmentally disabled person who is a resident of this state to the developmental center at Grafton ~~or other state facility under the superintendent's jurisdiction or the jurisdiction of the department of human services~~ when all of the following conditions have been met:
 - a. Application for admission has been made on behalf of the developmentally disabled person by a parent or guardian or the person or agency having legal custody, or by the developmentally disabled person, in accordance with procedures established by the department of human services.
 - b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the developmental center at Grafton ~~or other state facility~~.
 - c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of human services.
2. The superintendent may admit to the developmental center at Grafton ~~or any other state facility under the superintendent's jurisdiction or the jurisdiction of the department of human services~~, temporarily for the purposes of observation, without commitment,

* NOTE: Section 25-04-05 was also amended by section 5 of House Bill No. 1410, chapter 294.

under rules as the department of human services may adopt, any person who is suspected of being developmentally disabled, to ascertain whether or not such person is actually developmentally disabled and a proper case for care, treatment, and training in the state facility. If in the opinion of the superintendent the person temporarily admitted to the developmental center at Grafton is a proper subject for institutional care, treatment, and training at such the center or facility, such person may remain as a voluntary resident at such center at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Care and treatment at the developmental center at Grafton must be provided without charge to anyone under twenty-one years of age who is qualified for admission pursuant to this chapter. Residents not more than twenty-one years of age admitted to the developmental center at Grafton are entitled to transportation as provided by rules of the superintendent of public instruction. The rules have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident must be reimbursed by the state special education fund for not more than the number of round trips home per year provided for in the individualized education program at a rate not to exceed that paid state officials. Persons over twenty-one years of age who are qualified for admission pursuant to this chapter are responsible for expenses charged for care and treatment at the developmental center at Grafton in the manner provided by this chapter. Notwithstanding any other provision of this chapter, no handicapped patient, twenty-one years of age or under, or the estate or the parent of such patient, may be charged for educational or related services provided at the developmental center at Grafton. Except as provided in subsection 4, the department of human services has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workers' compensation, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services other than medical and medically related services must be paid by the developmental center at Grafton, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.
4. Parents of a handicapped patient, twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a

realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of nonhandicapped children. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:

- a. A decrease in available lifetime coverage or any other benefit under an insurance policy.
- b. An increase in premiums or the discontinuation of a policy.
- c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the developmental center pays or waives the out-of-pocket expense.

SECTION 2. AMENDMENT. Section 25-04-14 of the North Dakota Century Code is amended and reenacted as follows:

25-04-14. Expenses chargeable against patient or patient's estate - Filing claims. Expenses for care and treatment of each patient ~~over twenty one years of age~~ at the developmental center at Grafton must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's ability to pay which must include an estimate of potential future receipts including amounts from estates. The supervising department shall recover from the patient or from a discharged patient expenses chargeable for care and treatment. If any patient is receiving social security benefits or is a veteran or a dependent of a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the patient and may be recovered monthly by the supervising department except that any amount required by the payor of the benefits to be paid directly to the patient must, upon approval of the department of human services, be credited to the patient's personal account from any money thus received.

SECTION 3. AMENDMENT. Section 25-04-16 of the North Dakota Century Code is amended and reenacted as follows:

25-04-16. Waiver of payment - Use of income tax data - Confidentiality - Definition.

1. The patient, former patient, parent of a patient or former patient under age eighteen, personal representative, or guardian may make application to the supervising department to pay less than the costs or none of the costs incurred by the state for the patient's care and treatment at the developmental center at Grafton. Such An application from a patient, former patient, personal representative, or guardian must be accompanied by proof of the patient's or the estate of the patient's inability to pay. An application from a parent of a patient or former patient must be accompanied by proof that the parent has applied for or cooperated fully in an application for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workers' compensation, or medical care and disability programs for provision of services to the patient, and has assured the contribution of those services, compensation, and

contract and program benefits to meet the cost of care provided to the patient by the developmental center at Grafton. A waiver must be granted upon receipt of an application from such a parent, which is complete and supported by the required proofs and is effective for so long as the parent continues to apply for or cooperate fully in applications for services, compensation, and contract and program benefits, and continues to assure the contribution of those services, compensation, and benefits to meet the costs of care. A waiver, once granted, with respect to a patient under age eighteen, extinguishes any debt that would otherwise be owed by the patient, the patient's parents, or the patient's estate with respect to care and treatment furnished during times the waiver is effective.

2. Upon receipt of such application, the supervising department shall direct the county social service board of the county from which the patient was admitted to determine whether the ~~patient; former patient; or the patient's estate is able to pay all; a portion; or none of the expenses incurred by the state for such patient's care and treatment~~ application is complete and supported by the required proofs. The supervising department shall approve, reject, or amend the determination made by the county social service board. The determination made by the supervising department may be appealed to the district court of the county of residence of the patient.
3. Any patient, former patient, parent of a patient or former patient, guardian, or personal representative who seeks relief from the payment of the cost of care and treatment by filing an application for relief of payment shall do so with the understanding that the supervising department may, in its discretion, and to its satisfaction, verify any statement made in such application for relief of payment by a request for information from financial institutions, including commercial banks, and from other sources likely to possess verifying information. Notwithstanding the provisions of section 57-38-57, this verification may include a review of such applicant's state income tax return or any other document or report submitted to or held by any office or department of the state of North Dakota or any of its political subdivisions.
- ~~2-~~ 4. When any official or employee of the developmental center who, pursuant to subsection 1, obtains income tax information or other tax information from the state tax commissioner the confidentiality of which is protected by law, such official or employee may not divulge such information except to the extent necessary for the administration of this chapter or when otherwise directed by judicial order or when otherwise provided by law.
- ~~3-~~ 5. As used in this chapter, "supervising department" means the department of human services.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 296

SENATE BILL NO. 2392
(Stenehjem)

SCHOOL FOR THE DEAF SUPERINTENDENT

AN ACT to amend and reenact section 25-06-03 of the North Dakota Century Code, relating to the superintendent of the school for the blind.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-06-03 of the North Dakota Century Code is amended and reenacted as follows:

25-06-03. Superintendent to possess certain qualifications. The superintendent of the school for the blind, ~~who shall also act as superintendent of the school for the deaf,~~ must possess those qualifications, educational and otherwise, as in the opinion of the superintendent of public instruction may qualify that person to instruct and minister to the needs of blind ~~and deaf~~ persons.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 297

SENATE BILL NO. 2110
(Committee on Education)
(At the request of the Superintendent of Public Instruction)

SCHOOL FOR THE DEAF MISSION

AN ACT to amend and reenact sections 25-07-02, 25-07-04, and 25-07-06 of the North Dakota Century Code, relating to the special duties of the superintendent at the school for the deaf.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-07-02 of the North Dakota Century Code is amended and reenacted as follows:

25-07-02. Superintendent - Special duties. The superintendent of the school for the deaf ~~shall~~ may also act as superintendent of the school for the blind.

SECTION 2. AMENDMENT. Section 25-07-04 of the North Dakota Century Code is amended and reenacted as follows:

25-07-04. Qualifications for admission to school for deaf - Residents of state entitled to free education. To be admitted as a pupil in the school for the deaf, an applicant's hearing must be impaired to such extent that the applicant cannot make suitable progress in the public schools of the state. The superintendent, with the approval of the superintendent of public instruction, may determine the age required for admission. The superintendent shall furnish application blanks upon request, and no person may be admitted to the institution until the application giving that information that the superintendent of public instruction requires has been returned to and approved by the superintendent. An applicant admitted to the school must be furnished transportation by the school as provided in the student's individualized education program at the most economical rate possible, and yet meet the student's needs. Each applicant who is a resident of this state and who, because of hearing impairment, is unable to receive an education in the public schools, is entitled to receive an education in the school for the deaf at the expense of the state. The North Dakota school for the deaf serves deaf or hearing impaired children from birth through age twenty-one. The North Dakota school for the deaf shall furnish application blanks upon request and no child will be admitted until application is completed and approved. Students enrolled must be furnished transportation by the school for the deaf as indicated in the student's individual education plan. All deaf or hearing impaired children who are residents of the state are entitled to receive special education and related services based on a completed individual education program, which considers the academic, independent living skills, vocational, recreational, and leisure needs of each child.

SECTION 3. AMENDMENT. Section 25-07-06 of the North Dakota Century Code is amended and reenacted as follows:

25-07-06. Instruction at school for deaf. The superintendent of the school for the deaf shall provide an educational program that is designed to give deaf children a usable and understandable language by which they are able to give and to receive ideas; to converse with other deaf persons; to understand the printed page; and to express themselves understandably by correspondence. Every effort to teach speech and speech reading must be made. Every boy and girl must also be provided with instruction in prevocational or vocational subjects special education and related services designed to meet the unique needs of deaf or hearing impaired students according to individual education programs as required by federal and state laws and regulations.

Approved March 11, 1991
Filed March 11, 1991

CHAPTER 298

SENATE BILL NO. 2522
(Senators Goetz, Satrom)
(Representatives Rydell, Wardner)

GALACTOSEMIA TESTING

AN ACT to create and enact a new section to chapter 25-17 of the North Dakota Century Code, relating to the adoption of rules by the department of health and consolidated laboratories with respect to recovering the costs of galactosemia testing; and to amend and reenact sections 25-17-01, 25-17-02, 25-17-03, and 25-17-04 of the North Dakota Century Code, relating to testing of newborn babies for galactosemia.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-17-01 of the North Dakota Century Code is amended and reenacted as follows:

25-17-01. Phenylketonuria and galactosemia education programs and tests. The state department of health and consolidated laboratories shall:

1. Develop and carry out an intensive educational program among physicians, staffs of hospitals, public health nurses, and the citizens of this state concerning the ~~disease~~ diseases phenylketonuria and galactosemia, and other metabolic diseases causing mental retardation for which appropriate methods of detection, prevention, or treatment are available. This educational program must include information about the nature of the diseases and examinations for the early detection of such diseases in order that proper measures may be taken to prevent mental retardation.
2. Provide on a statewide basis screening, diagnostic, and treatment control tests for which approved laboratory procedures are available for phenylketonuria, galactosemia, and other metabolic diseases causing mental retardation.

SECTION 2. AMENDMENT. Section 25-17-02 of the North Dakota Century Code is amended and reenacted as follows:

25-17-02. Establishment of testing regulations — ~~Approval of laboratories and personnel.~~ The state department of health and consolidated laboratories shall establish standards and methods of testing to be employed and for the determination of the ~~above-referred~~ above-referred diseases; ~~in addition to phenylketonuria;~~ referred to in section 25-17-01 for which statewide testing programs are ~~to be~~ established.

SECTION 3. AMENDMENT. Section 25-17-03 of the North Dakota Century Code is amended and reenacted as follows:

25-17-03. Treatment for positive diagnosis - Registry of cases. The state department of health and consolidated laboratories shall:

1. Follow up all cases with positive tests for phenylketonuria, galactosemia, and other metabolic diseases with the attending physician in order to determine the exact diagnosis.
2. Make arrangements for the necessary treatment for diagnosed cases where treatment is indicated and the family is unable to pay the cost of such treatment.
3. Maintain a registry of cases of phenylketonuria, galactosemia, and other metabolic diseases for the purpose of followup services to prevent mental retardation.

SECTION 4. AMENDMENT. Section 25-17-04 of the North Dakota Century Code is amended and reenacted as follows:

25-17-04. Physician to initiate test and report positive diagnosis. The physician attending a newborn child shall cause ~~such that~~ child to be subjected to a testing for phenylketonuria test, as well as other tests for errors of metabolism, galactosemia, and other metabolic diseases, in the manner prescribed by the state department of health and consolidated laboratories. A physician attending a case of phenylketonuria, galactosemia, or other metabolic disease which may cause mental retardation shall report ~~such the~~ case to the state department of health and consolidated laboratories. ~~The provisions of this~~ This section ~~do~~ does not apply if the parents of ~~such~~ a child object thereto on the grounds that ~~such test testing for metabolic diseases~~ conflicts with their religious tenets and practices.

SECTION 5. A new section to chapter 25-17 of the North Dakota Century Code is created and enacted as follows:

Testing charges. The department of health and consolidated laboratories shall adopt rules that establish reasonable fees and may impose those fees to cover the costs of administering tests under this chapter. All fees collected must be deposited in the department of health and consolidated laboratories operating account.

Approved April 3, 1991
Filed April 4, 1991