

Sixty-eighth  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1028

Introduced by

Legislative Management  
(Health Care Committee)

1 A BILL for an Act to create and enact a new chapter to title 43 of the North Dakota Century  
2 Code, relating to the regulation of community health workers; to amend and reenact section  
3 23-17.3-01 and subdivision h of subsection 1 of section 23-17.3-05 of the North Dakota Century  
4 Code, relating to the regulation of home health agencies; to provide for a community health  
5 worker task force; ~~to provide a statement of legislative intent; to provide for a report to the~~  
6 ~~legislative assembly; and~~ to provide an appropriation; and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 23-17.3-01 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **23-17.3-01. Definitions.**

11 In this chapter, unless the context and subject matter otherwise require:

12 1. "Allowed practitioner" means a physician assistant or advanced practice registered  
13 nurse.

14 2. "Clinical record" means a written account which covers the services the agency  
15 provides directly and those provided through arrangements with another agency which  
16 account contains pertinent past and current medical, nursing, social, and other  
17 therapeutic information, including the plan of treatment.

18 ~~2.3.~~ "Department" means the department of health and human services.

19 ~~3.4.~~ "Home health agency" means a public or private agency, organization, facility, or  
20 subdivision thereof which is engaged in providing home health services to individuals  
21 and families where they are presently residing for the purpose of preventing disease  
22 and promoting, maintaining, or restoring health or minimizing the effects of illness or  
23 disability.

- 1 | ~~4.5.~~ "Home health aide" means an individual who renders personal related service under  
2 | the supervision of a registered professional nurse.
- 3 | ~~5.6.~~ "Home health services" means a broad range of health and social services furnished  
4 | to individuals and families by a home health agency or by others under arrangements  
5 | with the agency, in the places where the recipients are presently residing. Services  
6 | must include the services of a currently licensed registered professional nurse and at  
7 | least one other therapeutic service and may include additional support services. These  
8 | services may only be provided with the approval of a licensed physician or an allowed  
9 | practitioner.
- 10 | ~~6.7.~~ "Licensed practical nurse" means one who has met all legal requirements for licensure  
11 | and holds a current license to practice in North Dakota pursuant to chapter 43-12.1.
- 12 | ~~7.8.~~ "Nursing services" means those services pertaining to the preventive, curative, and  
13 | restorative aspects of nursing care that are performed by or under the supervision of a  
14 | registered professional nurse.
- 15 | ~~8.9.~~ "Person" means an individual, firm, partnership, association, corporation, limited  
16 | liability company, or any other entity, whether organized for profit or not.
- 17 | ~~9.10.~~ "Physician" means any person currently licensed pursuant to chapter 43-17.
- 18 | ~~10.11.~~ "Registered professional nurse" means a registered nurse as defined under chapter  
19 | 43-12.1.
- 20 | ~~11.12.~~ "Skilled nursing" means professional nursing services rendered by nurses licensed  
21 | under chapter 43-12.1.
- 22 | ~~12.13.~~ "Supportive services" includes the use of medical appliances; medical supplies, other  
23 | than drugs and biologicals prescribed by a physician; the collection of blood and other  
24 | samples for laboratory analysis; and nutritional guidance, homemaker, or companion  
25 | services.
- 26 | ~~13.14.~~ "Therapeutic services" means services which include:  
27 | a. Skilled nursing care.  
28 | b. Medical social services.  
29 | c. Home health aide services.  
30 | d. Physical, occupational, or speech therapy.  
31 | e. Respiratory therapy.

1     **SECTION 2. AMENDMENT.** Subdivision h of subsection 1 of section 23-17.3-05 of the  
2 North Dakota Century Code is amended and reenacted as follows:

- 3           h. The agency shall maintain clinical records on all patients to serve as  
4           documentation of the medical, nursing, and therapeutic care rendered to the  
5           patient and for communication between the physician or allowed practitioner and  
6           the agency.

7     **SECTION 3.** A new chapter to title 43 of the North Dakota Century Code is created and  
8 enacted as follows:

9     **Definitions.**

10    As used in this chapter:

- 11    1. "Community health representative" means an individual trained through the Indian  
12    health service to provide community-based and medically guided health care, which  
13    may include traditional native concepts.  
14    2. "Community health worker" means an individual certified under this chapter to provide  
15    preventative services.  
16    ~~2.3.~~ "Department" means the department of health and human services.  
17    4. "Preventative services" means services to prevent a disease, disability, or other health  
18    condition or the progression of a disease, disability, or other health condition which are  
19    provided to an individual:  
20    a. With a chronic condition;  
21    b. At risk for a chronic condition who is unable to self-manage the chronic condition;  
22    or  
23    c. With a documented barrier that affects the individual's health.

24    **Title - Prohibition**

25    An individual may not use the title "community health worker" unless that individual is  
26 certified as a community health worker under this chapter.

27    **Certification.**

- 28    1. The department shall establish ~~certification standards for an applicant seeking~~  
29    ~~certification as a community health worker~~ and implement a method for certifying  
30    community health workers, including:  
31    a. Community health representatives; and

1 b. Other qualified individuals.

2 2. In implementing this section, the department may:

3 a. Adopt rules;

4 b. Charge a fee for certification and recertification;

5 c. Contract with a third party; and

6 d. Require an applicant to meet education and experience requirements.

7 **SECTION 4. COMMUNITY HEALTH WORKER TASK FORCE --REPORT TO**

8 **LEGISLATIVE MANAGEMENT.**

9 1. During the 2023-24 interim, the department of health and human services shall  
10 establish and provide staffing and administrative services to a community health  
11 worker task force.

12 2. The membership of the community health worker task force ~~appointed by the~~  
13 ~~department of health and human services must include representatives of the~~is  
14 comprised of:

15 ~~a. Department of health and human services, including the division of health equity~~  
16 ~~and division of aging services~~One representative of the medical services division  
17 of the department of health and human services, appointed by the department of  
18 health and human services;

19 ~~b. Department of career and technical education~~One representative of the public  
20 health division of the department of health and human services, appointed by the  
21 department of health and human services;

22 ~~c. State board of higher education~~One representative of the tribal nations in the  
23 state, appointed by the Indian affairs commissioner in consultation with the health  
24 director of each tribal nation placed in North Dakota;

25 ~~d. Insurance department~~One representative of the North Dakota state university  
26 school of public health appointed by the college of health professions;

27 ~~e. University of North Dakota school of medicine and health sciences center for~~  
28 ~~rural health~~One representative of the university of North Dakota school of  
29 medicine and health sciences center for rural health, appointed by the dean of  
30 the school of medicine and health sciences;

- 1           f. ~~University of North Dakota and North Dakota state university schools of public~~  
2           ~~health~~One representative of the hospitals in this state, appointed by the North  
3           Dakota hospital association;
- 4           g. ~~Private health insurers operating in the state~~One representative of the federally  
5           qualified health centers, appointed by the community healthcare association of  
6           the Dakotas; and
- 7           h. ~~Health care sector, including qualified service providers, community health~~  
8           ~~workers, and community health representatives;~~
- 9           ~~i. Tribal nations in the state;~~
- 10          ~~j. A statewide association representing hospitals in this state;~~
- 11          ~~k. Federally qualified health care centers;~~
- 12          ~~l. North Dakota assistive; and~~
- 13          ~~m. North Dakota emergency medical services association~~One representative of the  
14          emergency medical services profession, appointed by the North Dakota  
15          emergency medical services association.
- 16          3. During the 2023-24 interim, the community health worker task force, in collaboration  
17          with the department of health and human services, shall:
- 18           a. Develop a data-driven plan for community health worker scope of work,  
19           education and training, certification and regulation, medical assistance  
20           reimbursement, including reimbursement to a federally qualified health center,  
21           and a North Dakota community health worker collaborative.
- 22           b. ~~Develop a plan for a North Dakota community health worker collaborative.~~
- 23          ~~c.~~ Provide to the department of health and human services a proposal for a  
24          Medicaid state plan amendment or waiver to include community health workers.
- 25          ~~d.~~c. Provide the department of health and human services proposed administrative  
26          rules for the community health worker scope of work, education and training,  
27          certification and regulation, medical assistance reimbursement, and a North  
28          Dakota community health worker collaborative.
- 29          ~~e.~~d. Collaborate with existing clinical, public health, home, and community based  
30          service systems.

1     **SECTION 5. DEPARTMENT OF HEALTH AND HUMAN SERVICES - COMMUNITY**

2     **HEALTH WORKERS - MEDICAID STATE PLAN AMENDMENT.** During the 2023-25 biennium,  
3     the department of health and human services shall seek a Medicaid state plan amendment to  
4     authorize the reimbursement of certified community health workers. Upon amendment of the  
5     Medicaid state plan, the commissioner of the department of health and human services shall  
6     certify this fact to the legislative management.

7     **SECTION 6. APPROPRIATION - DEPARTMENT OF HEALTH AND HUMAN SERVICES -**

8     **COMMUNITY HEALTH WORKER TASK FORCE.** There is appropriated out of any moneys in  
9     the general fund in the state treasury, not otherwise appropriated, the sum of ~~\$50,000~~\$75,000,  
10    or so much of the sum as may be necessary, to the department of health and human services  
11    for the purpose of contracting with a third party to assist the community health worker task force  
12    with data collection, meeting facilitation, and report development for the ~~biennium~~period  
13    beginning ~~July 1, 2023~~,with the effective date of this section and ending June 30, 2025.

14    **SECTION 7. EMERGENCY.** Sections 4 and 6 of this Act are declared to be an emergency  
15    measure.