

HEALTH AND SAFETY

CHAPTER 203

HOUSE BILL NO. 1088

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

AN ACT to amend and reenact subsection 12 of section 23-01-05 of the North Dakota Century Code, relating to state health officer written orders.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 12 of section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

12. Issue any orders relating to disease control measures deemed necessary to prevent the spread of communicable disease. Disease control measures may include special immunization activities and decontamination measures. Written orders issued under this section shall have the same effect as a physician's standing medical order. The state health officer may apply to the district court in a judicial district where a communicable disease is present for an injunction canceling public events or closing places of business. On application of the state health officer showing the necessity of such cancellation, the court may issue an ex parte preliminary injunction, pending a full hearing.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 204

HOUSE BILL NO. 1274

(Representatives Weisz, Devlin, Oversen)
(Senators Klein, J. Lee, Murphy)

AN ACT to amend and reenact section 23-01-38 of the North Dakota Century Code, relating to electronic drug prior authorization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01-38 of the North Dakota Century Code is amended and reenacted as follows:

23-01-38. Electronic drug prior authorization and transmission - Limitations.

1. ~~Effective~~ Except as otherwise provided under this subsection, effective August 1, 2013 ~~2015~~, a drug prior authorization request must be accessible to a health care provider with the provider's electronic prescribing software system and must be accepted electronically, through a secure electronic transmission, by the payer, by the insurance company, or by the pharmacy benefit manager responsible for implementing or adjudicating or for implementing and adjudicating the authorization or denial of the prior authorization request. For purposes of this section, a facsimile is not an electronic transmission. The requirements in this section do not apply to workforce safety and insurance.
2. Effective August 1, 2013, electronic transmission devices used to communicate a prescription to a pharmacist may not use any means or permit any other person to use any means, including advertising, commercial messaging, and popup advertisements, to influence or attempt to influence through economic incentives the prescribing decision of a prescribing practitioner at the point of care. Such means may not be triggered by or be in specific response to the input, selection, or act of a prescribing practitioner or the prescribing practitioner's staff in prescribing a certain pharmaceutical or directing a patient to a certain pharmacy. Any electronic communication sent to the prescriber, including advertising, commercial messaging, or popup advertisements must be consistent with the product label, supported by scientific evidence, and meet the federal food and drug administration requirements for advertising pharmaceutical products.
3. Electronic prescribing software may show information regarding a payer's formulary if the software is not designed to preclude or make more difficult the act of a prescribing practitioner or patient selecting any particular pharmacy or pharmaceutical.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 205

HOUSE BILL NO. 1443

(Representatives Hawken, Delmore, N. Johnson, J. Nelson)
(Senators Berry, Kilzer)

AN ACT to provide for collaboration in developing diabetes goals and plans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Diabetes goals and plans - Report to legislative management.

1. The department of human services, state department of health, Indian affairs commission, and public employees retirement system shall collaborate to identify goals and benchmarks while also developing individual agency plans to reduce the incidence of diabetes in the state, improve diabetes care, and control complications associated with diabetes.
2. Before June first of each even-numbered year the department of human services, state department of health, Indian affairs commission, and public employees retirement system shall submit a report to the legislative management on the following:
 - a. The financial impact and reach diabetes is having on the agency, the state, and localities. Items included in this assessment must include the number of lives with diabetes impacted or covered by the agency, the number of lives with diabetes and family members impacted by prevention and diabetes control programs implemented by the agency, the financial toll or impact diabetes and diabetes complications places on the agency's programs, and the financial toll or impact diabetes and diabetes complications places on the agency's programs in comparison to other chronic diseases and conditions.
 - b. An assessment of the benefits of implemented programs and activities aimed at controlling diabetes and preventing the disease. This assessment must document the amount and source for any funding directed to the agency from the legislative assembly for programs and activities aimed at reaching those with diabetes.
 - c. A description of the level of coordination existing between the agencies on activities, programmatic activities, and messaging on managing, treating, or preventing diabetes and diabetes complications.
 - d. The development or revision of detailed action plans for battling diabetes with a range of actionable items for consideration by the legislative assembly. The plans must identify proposed action steps to reduce the impact of diabetes, prediabetes, and related diabetes complications. The plan must identify expected outcomes of the action steps proposed in the following biennium while also establishing benchmarks for controlling and preventing relevant forms of diabetes.

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- e. The development of a detailed budget blueprint identifying needs, costs, and resources required to implement the plan identified in subdivision d. This blueprint must include a budget range for all options presented in the plan identified in subdivision d for consideration by the legislative assembly.

Approved April 1, 2013

Filed April 1, 2013

CHAPTER 206

HOUSE BILL NO. 1038

(Legislative Management)
(Human Services Committee)

AN ACT to provide for the establishment of an autism spectrum disorder database and an autism spectrum disorder voucher program pilot project; to provide for the expansion of the autism spectrum disorder medicaid waiver; to provide for a legislative management study; to provide for reports to the legislative management; to provide an appropriation; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Autism spectrum disorder database - Rulemaking - Confidentiality.

1. The state department of health shall establish and administer an autism spectrum disorder database. The database must include a record of all reported cases of autism spectrum disorder in the state and any other information determined relevant and appropriate by the department in order to complete epidemiologic surveys of the autism spectrum disorder, enable research and analysis of the autism spectrum disorder, and provide services to individuals with an autism spectrum disorder.
2. The state department of health shall establish criteria regarding who is qualified to report a case of autism spectrum disorder to the database. In establishing this criteria, the department shall require that the reporter be a doctoral-level professional and be appropriately licensed, credentialed, and experienced in the field of autism spectrum disorder, including intellectual testing and other formal evidenced-based assessments for autism spectrum disorders. The department shall consult with experts in establishing this criteria.
3. The database established under this section must:
 - a. Include the reported individual's diagnoses under the most recent edition of the American psychiatric association's diagnostic and statistical manual of mental disorders; and
 - b. Include a complete physical evaluation of the reported individual, performed by a licensed physician.
4. The health council shall adopt rules to provide for mandatory reporting to the autism spectrum disorder database and to establish reporting requirements, including timeliness requirements.
5. The state department of health shall keep confidential all records of the database which could be used to identify a reported individual; however, the department may provide these records to other state agencies as necessary to effect the purposes of this database without regard to the confidential

nature of the records. If the department provides confidential records of the database to a state agency, the department shall notify the receiving agency of the confidential nature of the records and the receiving agency shall treat these records as confidential.

SECTION 2.

Autism spectrum disorder voucher program pilot project - Legislative management report - Appeal.

1. The department of human services shall establish a voucher program pilot project beginning July 1, 2014, to assist in funding equipment and general educational needs related to autism spectrum disorder for individuals below two hundred percent of the federal poverty level from age three to under age eighteen who have been diagnosed with autism spectrum disorder. The program may include funding for assistive technology; video modeling videos or equipment; language-generating devices; training and educational material for parents; parenting education; sensory equipment; tutors; safety equipment; travel tools; self-care equipment; timers; visual representation systems; respite care; specialized daycare; language comprehension equipment; and registration and related expenses for workshops and training to improve independent living skills, employment opportunities, and other executive or social skills.
2. The department shall adopt rules addressing management of this voucher program pilot project and establishing the eligibility requirements and exclusions for this voucher program pilot project. The program may not provide a voucher for early intensive behavioral intervention, including applied behavioral analysis, intensive early interventional behavioral therapy, intensive behavioral intervention, the Lovaas method, the Denver model, LEAP (learning experiences - an alternative program for preschoolers and parents), TEACCH (treatment and education of autistic and related communication handicapped children), pivotal response training, or discrete trial training.
3. A decision on a voucher application which is issued by the department under this section may be appealed as provided under chapter 28-32.
4. The department of human services shall report to the legislative management regarding the autism spectrum disorder program pilot project.

SECTION 3. DEPARTMENT OF HUMAN SERVICES AUTISM SPECTRUM DISORDER MEDICAID WAIVER. The department of human services, during the biennium beginning July 1, 2013, and ending June 30, 2015, shall seek approval from the federal centers for medicare and medicaid services to expand the department's autism spectrum disorder medicaid waiver to cover seventeen additional individuals from birth through age seven. The expansion to the waiver must become effective on or after January 1, 2014, and must include appropriate behavior intervention and treatment services that may include evidence-based and promising practices, case management services, technology and technology-based support, in-home support, equipment and supplies, home monitoring, respite care, residential supports and services, and behavioral consultation.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - AUTISM SPECTRUM DISORDER SERVICES. The legislative management shall consider studying, during the 2013-14 interim, autism spectrum disorder services, including the most feasible service delivery system for individuals not served in the developmental disability

system who have an autism spectrum disorder. As part of the study, the legislative management may consult with clinicians who have expertise in the evaluation, diagnosis, and treatment of autism spectrum disorder. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 5. APPROPRIATION - STATE DEPARTMENT OF HEALTH - AUTISM SPECTRUM DISORDER DATABASE. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$235,732, or so much of the sum as may be necessary, to the state department of health for the purpose of establishing and administering an autism spectrum disorder database, for the biennium beginning July 1, 2013, and ending June 30, 2015. The state department of health is authorized one full-time equivalent position for this purpose.

SECTION 6. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - STATE AUTISM COORDINATOR. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$132,568, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$132,568, or so much of the sum as may be necessary, to the department of human services for the purpose of hiring a state autism coordinator who would be responsible for implementing a resource and service center to provide information and services for individuals with autism spectrum disorder, developing a statewide outreach plan, conducting regional meetings and a conference, and developing a protocol for use after screenings, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department of human services is authorized one full-time equivalent position for this purpose.

SECTION 7. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - STATEWIDE AUTISM SPECTRUM DISORDER TRAINING PROGRAM. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$80,000, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$80,000, or so much of the sum as may be necessary, to the department of human services for the purpose of implementing a statewide autism spectrum disorder training program. The department of human services shall collaborate with the state department of health and the superintendent of public instruction to implement a training program, including training of medical and behavior health providers, education staff, child care providers, and parents for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 8. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES - AUTISM SPECTRUM DISORDER VOUCHER PROGRAM PILOT PROJECT. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$539,186, or so much of the sum as may be necessary, to the department of human services for the purpose of issuing vouchers as part of the autism spectrum disorder voucher program pilot project, for the second year of the biennium beginning July 1, 2013, and ending June 30, 2015. The department shall allocate up to \$12,500 per year to each individual enrolled in the voucher program for paying the costs of eligible services.

SECTION 9. DEPARTMENT OF HUMAN SERVICES - APPROPRIATION - AUTISM SPECTRUM DISORDER MEDICAID WAIVER. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$449,973, or so much of the sum as may be necessary, and from special funds derived from federal funds and other income, the sum of \$449,973, or so much

of the sum as may be necessary, to the department of human services for the purpose of expanding the department's autism spectrum disorder medicaid waiver program, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 10. EXPIRATION DATE. Section 2 of this Act is effective through June 30, 2015, and after that date is ineffective.

Approved May 3, 2013

Filed May 7, 2013

CHAPTER 207

HOUSE BILL NO. 1036

(Legislative Management)
(Health Services Committee)

AN ACT to amend and reenact sections 23-01.1-01, 23-01.1-02, 23-01.1-04, and 23-01.1-07 of the North Dakota Century Code, relating to the membership and powers of the health care data committee, administrative authority of the health care data committee, and a civil penalty; to repeal section 23-01.1-02.1 and chapter 23-01.1 of the North Dakota Century Code, relating to the publication of comparative physician fee information and the health care data committee; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-01. Health care data committee of state health council - Membership - Appointment by chairman of health council.

The health care data committee is a standing committee of the state health council, consisting of not less than three nor more than five members, appointed by the chairman of the health council from the members of the council. A majority of the members of the health care data committee must be consumer members of the health council.

SECTION 2. AMENDMENT. Section 23-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-02. Powers of health care data committee.

~~To provide information to the public necessary for the enhancement of price competition in the health care market, the~~The health care data committee may:

1. Collect, store, analyze, and provide health care data.
2. ~~Compile the average aggregate charges by diagnosis for the twenty five most common diagnoses, annual operating costs, revenues, capital expenditures, and utilization for each nonfederal acute care hospital in this state, and the average charges by source of payment and level of service in each long term care facility in this state.~~
3. ~~Establish a uniform format for the collection of information on charges to patients.~~
4. ~~Prepare an annual report comparing the cost of hospitalization by diagnosis in each nonfederal acute care hospital and comparing average charges by source of payment and by level of service in each long term care facility in the state.~~

- ~~5-2.~~ Establish procedures that assure public availability of the information required to make informed health ~~care purchasing~~ decisions.
- ~~6-3.~~ Establish arrangements with the state department of health, the department of human services, the insurance commissioner, workforce safety and insurance, ~~and the public employees retirement system, and other agencies~~ to assure patient confidentiality, the sharing of information, and the coordination, analysis, and dissemination of health ~~care~~ data, and to act in a manner which does not duplicate data collection activities of other state agencies.
- ~~7.~~ ~~Prepare and distribute a report comparing physicians' average charges for selected services to include all physicians licensed to practice medicine in this state and determined by the health care data committee to be actively providing direct patient care services in this state.~~

SECTION 3. AMENDMENT. Section 23-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-04. Administrative authority of health ~~care~~ data committee - Administrative support - Authority to acquire data.

The health ~~care~~ data committee may adopt rules consistent with and necessary for the implementation of this chapter. The committee shall establish working arrangements among other state agencies for the assurance of patient confidentiality, the sharing of information, and the coordination, analysis, and dissemination of health ~~care~~ data to the public and to the state agencies ~~in making more cost-effective health care purchasing decisions~~. The committee may require insurers, nonprofit health service corporations, health maintenance organizations, and state agencies to provide data regarding hospital, physician, and other provider ~~charges, information and reimbursement and volume~~ data as required for the performance of the duties of the committee under this chapter.

SECTION 4. AMENDMENT. Section 23-01.1-07 of the North Dakota Century Code is amended and reenacted as follows:

23-01.1-07. Civil penalty.

Any person violating this chapter or violating any rule adopted by the health ~~care~~ data committee is subject to a civil penalty not to exceed five hundred dollars per day of violation. The state department of health with the assistance of the attorney general may prosecute an action in district court to recover any civil penalty under this chapter.

SECTION 5. REPEAL. Section 23-01.1-02.1 of the North Dakota Century Code is repealed.

SECTION 6. REPEAL. Chapter 23-01.1 of the North Dakota Century Code is repealed.

SECTION 7. EFFECTIVE DATE. Section 6 of this Act becomes effective on August 1, 2015.

Approved March 27, 2013
Filed March 27, 2013

CHAPTER 208

SENATE BILL NO. 2226

(Senators J. Lee, Erbele, Warner)
(Representatives Porter, Weisz, S. Kelsh)

AN ACT to amend and reenact section 23-01.2-04 of the North Dakota Century Code, relating to a medical director; and to provide an appropriation for the North Dakota trauma system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-01.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-04. Medical director.

The state health officer ~~may~~shall appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems. The medical director must be a physician licensed in the state and must be contracted and paid by the state department of health.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$332,000, or so much of the sum as may be necessary, to the state department of health for the purpose of a comprehensive state trauma system, for the biennium beginning July 1, 2013, and ending June 30, 2015, as follows:

Contracted emergency medical services and trauma medical director	\$125,000
Advanced trauma life support training	\$40,000
Development of the rural trauma team development course	\$75,000
Trauma designation visits	\$50,000
State trauma registry	\$42,000

Approved April 29, 2013
Filed April 29, 2013

CHAPTER 209

SENATE BILL NO. 2065

(Government and Veterans Affairs Committee)
(At the request of the Information Technology Department)

AN ACT to amend and reenact subdivision a of subsection 5 of section 23-06.5-19 of the North Dakota Century Code, relating to the health care record registry of health care directives; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 5 of section 23-06.5-19 of the North Dakota Century Code is amended and reenacted as follows:

- a. The registry must be accessible by entering the file number and password on the internet website. Registration forms, file numbers, and other information maintained by the information technology department under this section are confidential and the state may not disclose this information to any person other than the subject of the document, or the subject's agent. A health care record may be released to the subject of the document, the subject's agent, or the subject's health care provider. The information technology department may not use information contained in the registry except as provided under this chapter.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 210

HOUSE BILL NO. 1035

(Legislative Management)
(Health Services Committee)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2014~~2013, and July 31, ~~2015~~2015, except when:
 - a. A nursing facility converts nursing facility beds to basic care;
 - b. An entity licenses bed capacity transferred as basic care bed capacity under section 23-16-01.1;
 - c. An entity demonstrates to the state department of health and the department of human services that basic care services are not readily available within a designated area of the state or that existing basic care beds within a fifty-mile [80.47-kilometer] radius have been occupied at ninety percent or more for the previous twelve months. In determining whether basic care services will be readily available if an additional license is issued, preference may be given to an entity that agrees to any participation program established by the department of human services for individuals eligible for services under the medical assistance program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.]; or
 - d. The state department of health and the department of human services grant approval of new basic care beds to an entity. The approved entity shall license the beds within forty-eight months from the date of approval.

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

1. Notwithstanding sections 23-16-06 and 23-16-10, except when a facility reverts basic care beds to nursing facility beds or relicenses nursing facility beds delicensed after July 31, 2011, nursing facility beds may not be added to the state's licensed bed capacity during the period between August 1, ~~2014~~2013, and July 31, ~~2015~~2015. A nursing facility may not delicense nursing facility bed capacity, relicense nursing facility bed capacity, convert licensed nursing bed capacity to basic care bed capacity, revert licensed basic care bed capacity back to nursing facility bed capacity, or otherwise reconfigure

licensed nursing facility bed capacity more than one time in a twelve-month period.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 211

HOUSE BILL NO. 1213

(Representatives Kreun, Devlin, N. Johnson, Glasheim)
(Senators Erbele, Laffen, Sorvaag)

AN ACT to amend and reenact section 23-11-29 of the North Dakota Century Code, relating to the real property tax exemption status of a housing authority; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-11-29 of the North Dakota Century Code is amended and reenacted as follows:

23-11-29. Tax exemptions and payments in lieu of taxes.

The property of an authority used for low-income housing, authority administration, or other property solely owned by the authority and used to conduct the powers granted to the authority in this chapter, including an authority created under Indian laws recognized by the federal government, is declared to be public property used for essential public and governmental purposes and is exempt from all taxes and special assessments of the state or any political subdivision. In lieu of taxes or special assessments, an authority may agree to make payments to the state or any political subdivision for improvements, services, and facilities furnished by the state or political subdivision for the benefits of a housing project. The payments may not exceed the estimated cost of the improvements, services, or facilities to be so furnished. Notwithstanding any other provision of law, the property of an authority used for moderate income housing is exempt from all taxes of the state or any political subdivision except special assessments unless specifically exempted from the special assessment by the political subdivision.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.

Approved April 18, 2013
Filed April 18, 2013

CHAPTER 212

HOUSE BILL NO. 1292

(Representatives Ruby, Weisz, Delmore)
(Senators Klein, Laffen, Sinner)

AN ACT to amend and reenact sections 23-12-09 and 23-12-10.4 of the North Dakota Century Code, relating to smoking in public places and places of employment and the responsibility of proprietors.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-12-09 of the North Dakota Century Code is amended and reenacted as follows:

23-12-09. Smoking in public places and places of employment - Definitions.

In sections 23-12-09 through 23-12-11, unless the context or subject matter otherwise requires:

1. "Bar" means a retail alcoholic beverage establishment licensed under chapter 5-02 that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of those beverages. The term includes a bar located within a hotel, bowling center, restaurant, or other establishment that is not licensed primarily or exclusively to sell alcoholic beverages.
2. "Business" means a sole proprietorship, partnership, association, joint venture, corporation, or other business entity, either for profit or not for profit, including retail establishments where goods or services are sold and professional corporations and other entities where professional services are delivered.
3. "E-cigarette" means any electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term shall include any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e pipe or under any other product, name, or descriptor.
4. "Employee" means an individual who is employed by an employer in consideration for direct or indirect monetary wages or profit, or an individual who volunteers services for an employer.
5. "Employer" means an individual, business, or private club, including a municipal corporation or trust, or the state and its agencies and political subdivisions that employs the services of one or more individuals.
6. "Enclosed area" means all space between a floor and ceiling that has thirty-three percent or more of the surface area of its perimeter bounded by opened or closed walls, windows, or doorways. A wall includes any physical barrier regardless of whether it is opened or closed, temporary or permanent, or

contains openings of any kind, and includes retractable dividers and garage doors.

7. "Entrance" means an exterior door that actuates to the left or right which allows access to a public place.
8. "Health care facility" means any office or institution providing health care services or treatment of diseases, whether physical, mental or emotional, or other medical, physiological or psychological conditions. Some examples of health care facilities include hospitals; clinics; ambulatory surgery centers; outpatient care facilities; weight control clinics; nursing homes; homes for the aging or chronically ill; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any medical professional licensed under title 43, including all specialties and subspecialties in those fields. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, wards within health care facilities, and any mobile or temporary health care facilities.
- ~~8-9.~~ "Health care services" means services provided by any health care facility. Some examples of health care services are medical, surgical, dental, vision, chiropractic, psychological, and pharmaceutical services.
- ~~9-10.~~ "Place of employment" means an area under the control of a public or private employer, including work areas, auditoriums, classrooms, conference rooms, elevators, employee cafeterias, employee lounges, hallways, meeting rooms, private offices, restrooms, temporary offices, vehicles, and stairs. A private residence is not a place of employment unless it is used as a licensed child care, adult day care, or health care facility.
- ~~40-11.~~ "Public place" means an area which the public enters. Some examples of public places are publicly owned buildings, vehicles, or offices; bars; bingo facilities; gambling and gaming facilities as defined in section 12.1-28-01; child care and adult day care facilities subject to licensure by the department of human services, including those operated in private homes; convention facilities; educational facilities, both public and private; facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; financial institutions; health care facilities; hotels and motels, including all rooms that are rented to guests; laundromats; any common areas in apartment buildings, condominiums, mobile home parks, retirement facilities, nursing homes, and other multiple-unit residential facilities; private and semi-private nursing home rooms; museums, libraries, galleries, and aquariums; polling places; professional offices; public transportation facilities, including buses, trains, airplanes and similar aircraft, taxicabs and similar vehicles such as town cars and limousines when used for public transportation, and ticket, boarding, and waiting areas of public transit facilities, including bus and train stations and airports; reception areas; restaurants; retail food production and marketing establishments; retail service establishments; retail stores, including tobacco and hookah establishments; rooms, chambers, places of meeting or public assembly, including school buildings; shopping malls; sports arenas; theaters; and waiting rooms.
- ~~44-12.~~ "Publicly owned building, vehicle, or office" means a place or vehicle owned, leased, or rented by any state or political subdivision, or by any agency supported by appropriation of, or by contracts or grants from, funds derived from the collection of taxes.

- ~~42-13.~~ "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith that are kept, used, maintained, advertised, or held out to the public as a place where food is served. Some examples of restaurants include coffee shops, cafeterias, sandwich stands, private and public school cafeterias, kitchens, and catering facilities in which food is prepared on the premises for serving elsewhere, and a bar area within a restaurant.
- ~~43-14.~~ "Shopping mall" means an enclosed public walkway or hall area that serves to connect retail or professional businesses.
- ~~44-15.~~ "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, in any manner or in any form. Smoking also includes the use of an e-cigarette which creates a vapor, in any manner or any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Act.
- ~~45-16.~~ "Sports arena" means an indoor or outdoor place where members of the public assemble to engage in physical exercise, participate in athletic competition, or witness sports or other events. Some examples of sports arenas include sports pavilions, stadiums, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, and bowling centers.

⁹⁵ **SECTION 2. AMENDMENT.** Section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.4. Responsibility of proprietors.

The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:

1. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
 2. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
 3. ~~Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.~~
 4. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises and ashtrays that are factory-installed in vehicles.
- ~~5-4.~~ By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
- ~~6-5.~~ For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and

⁹⁵ Section 23-12-10.4 was also amended by section 1 of House Bill No. 1253, chapter 213.

shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not constitute a violation of the Act by the owner, operator, manager, or employee.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 213

HOUSE BILL NO. 1253

(Representatives Thoreson, Dosch, Headland,
Kasper, Meier, Owens, Ruby, Schatz, Streyle)
(Senators Armstrong, Bowman)

AN ACT to amend and reenact sections 23-12-10.4 and 23-42-04 of the North Dakota Century Code, relating to securing the necessary signage required to be in compliance with smoking restrictions in public places and places of employment.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

⁹⁶ **SECTION 1. AMENDMENT.** Section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

23-12-10.4. Responsibility of proprietors - Reimbursement of costs of compliance.

1. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act shall:
 1. a. Clearly and conspicuously post no smoking signs or the international no smoking symbol in that place.
 2. b. Clearly and conspicuously post at every entrance to that place a sign stating that smoking is prohibited.
 3. c. Clearly and conspicuously post on every vehicle that constitutes a place of employment under this Act at least one sign, visible from the vehicle's exterior, stating that smoking is prohibited.
 4. d. Remove all ashtrays from any area where smoking is prohibited, except for ashtrays displayed for sale and not for use on the premises.
 5. e. By December 6, 2012, communicate to all existing employees and to all prospective employees upon their application for employment that smoking is prohibited in that place.
 6. f. For places under his or her control, direct a person who is smoking in violation of this Act to extinguish the product being smoked. If the person does not stop smoking, the owner, operator, manager, or employee shall refuse service and shall immediately ask the person to leave the premises. If the person in violation refuses to leave the premises, the owner, operator, manager, or employee shall immediately report the violation to an enforcement agency identified in this Act. The refusal of the person to stop smoking or leave the premises in response to requests made under this section by an owner, operator, manager, or employee shall not

⁹⁶ Section 23-12-10.4 was also amended by section 2 of House Bill No. 1292, chapter 212.

constitute a violation of the Act by the owner, operator, manager, or employee.

2. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this Act may request from the executive committee of the tobacco prevention and control advisory committee the signs necessary to comply with the signage requirements of subsection 1.

SECTION 2. AMENDMENT. Section 23-42-04 of the North Dakota Century Code is amended and reenacted as follows:

23-42-04. Powers and duties of the executive committee.

1. To implement the purpose of this chapter and, in addition to any other authority granted elsewhere in this chapter, to support its efforts and implement the comprehensive plan, the executive committee may employ staff and fix their compensation, accept grants, property, and gifts, enter contracts, make loans, provide grants, borrow money, lease property, provide direction to the state investment board for investment of the tobacco prevention and control fund, and take any action that any private individual, corporation, or limited liability company lawfully may do except as restricted by the provisions of this chapter.
2. Upon the request of the owner, operator, manager, or other person in control of the public place or place of employment where smoking is prohibited under section 23-12-10, the executive committee shall provide the signs necessary to be in compliance with the signage requirements of subsection 2 of section 23-12-10.4.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 214

SENATE BILL NO. 2250

(Senators Sitte, Schaible, Wardner)
(Representatives Becker, Rohr, Streyle)

AN ACT to create and enact a new section to chapter 23-12 of the North Dakota Century Code, relating to participation in the health information organization.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 23-12 of the North Dakota Century Code is created and enacted as follows:

Voluntary participation in the health information organization - Prohibition on withholding care or benefits.

1. As used in this section:
 - a. "Health information organization" means the health information exchange created under chapter 54-59.
 - b. "Individually identifiable health information" has the meaning set forth in title 45, Code of Federal Regulations, section 160.103.
2. An individual may opt-out of participating in the health information organization by providing notice to the organization. If an individual chooses to opt-out of participating in the health information organization, the individual's individually identifiable health information may not be accessed by search by a health insurer, government health plan, or health care provider other than the provider who originally created or ordered the creation of the individually identifiable health information.
3. In opting out of participating in the health information organization under this section, the individual must have the option of:
 - a. Opting out of participating; or
 - b. Conditionally opting out, in which case the accessibility of the individual's individually identifiable health information is limited to access by a health care provider who determines access is required by a medical emergency.
4. An individual's decision to opt-out of participating in the health information organization:
 - a. May be changed at any time by the individual by providing written notice to the health information organization.
 - b. Does not prohibit use or disclosure of individually identifiable health information which is required by law.

5. A health care provider, health insurer, or government health plan may not withhold coverage or care from an individual nor may a health insurer deny an individual a health insurance benefit plan based solely on that individual's choice to participate or to opt-out of the health information organization.

Approved April 3, 2013

Filed April 3, 2013

CHAPTER 215

HOUSE BILL NO. 1259

(Representatives Thoreson, Boehning, Brabandt, Grande,
Heilman, Kasper, B. Koppelman, Owens, Porter, Ruby, Schatz)
(Senator Sorvaag)

AN ACT to amend and reenact subsection 2 of section 23-15-01 of the North Dakota Century Code, relating to fireworks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 23-15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person operating a retail business and who has a retail license as provided in section 23-15-04 may offer for sale and sell at retail that year, to any individual who is at least twelve years of age, only during the ~~period~~periods of June twenty-seventh through July fifth and December twenty-sixth through January first, the following items:
 - a. A star light, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball). However, a person may not offer to sell or offer to distribute a skyrocket, customarily known as a bottle rocket, if the outside diameter of the casing is less than five-eighths inch [15.875 millimeters] and the length of the casing is less than three and one-half inches [88.9 millimeters].
 - b. A helicopter type flyer, total pyrotechnic composition not to exceed twenty grams each in weight.
 - c. A cylindrical fountain, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter may not exceed three-fourths inch [19.05 millimeters].
 - d. A cone fountain, total pyrotechnic composition not to exceed fifty grams each in weight.
 - e. A wheel, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of a driver tube may not be over one-half inch [12.7 millimeters].
 - f. An illuminating torch or a colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight.
 - g. A sparkler or a dipped stick, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate may not exceed five grams.

- h. A comet or shell, of which the mortar is an integral part, except a comet or shell designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight.
- i. A soft shell firecracker not to exceed one and one-half inches [38.1 millimeters] in length and one-fourth inch [6.35 millimeters] in diameter, total pyrotechnic composition not to exceed fifty milligrams each in weight.
- j. A whistle without report, total pyrotechnic composition not to exceed forty grams each in weight.

Approved April 8, 2013
Filed April 8, 2013

CHAPTER 216

HOUSE BILL NO. 1030

(Legislative Management)
(Energy Development and Transmission Committee)

AN ACT to provide that the present use and disposal of coal combustion residues is acceptable in North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1.

Coal combustion residues - Present use and disposal deemed acceptable.

Notwithstanding any other provision of law, the legislative assembly deems the present use and disposal of coal combustion residues to be acceptable and that present regulation allows for the beneficial use of coal combustion residues in concrete, for other construction applications, and for other innovative uses and allows for safe disposal without coal combustion residues being regulated as a hazardous waste. If a federal law or regulation is adopted pertaining to the use and disposal of coal combustion residues, this section does not prohibit the state from seeking state primacy of the federal program.

Approved April 10, 2013
Filed April 10, 2013

CHAPTER 217

SENATE BILL NO. 2030

(Legislative Management)
(Health Services Committee)

AN ACT to create and enact a new section to chapter 23-35 of the North Dakota Century Code, relating to tribal health districts; to amend and reenact section 23-35-01, subsection 2 of section 23-35-03, subsection 1 of section 23-35-04, sections 23-35-06, 23-35-07, 23-35-08, 23-35.1-01, 23-35.1-02, 23-35.1-03, and 23-35.1-04 of the North Dakota Century Code, relating to health districts, regional public health network definitions, joint powers agreement review, annual plan, and receipt and use of moneys; to provide a report to the legislative management; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 23-35-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Board of health" means a district, county, ~~or city,~~ or tribal board of health.
2. "Department" means the state department of health.
3. "Governing body" means, as applicable, a city commission, city council, board of county commissioners, ~~or joint board of county commissioners,~~ or tribal council.
4. "Health district" means an entity formed under section 23-35-04 or 23-35-05.
5. "Joint board of county commissioners" means the boards of county commissioners of two or more counties acting together in joint session.
6. "Local health officer" means the health officer of a public health unit.
7. "Public health department" means a city ~~or~~, county, or tribal health department formed under this chapter.
8. "Public health unit" means the local organization formed under this chapter to provide public health services in a city, county, or designated multicounty or city-county area, or Indian reservation. The term includes a city public health department, county public health department, tribal health department, and a health district.

SECTION 2. A new section to chapter 23-35 of the North Dakota Century Code is created and enacted as follows:

Tribal health units.

An Indian nation that occupies a reservation the external boundaries of which border more than four counties may form a health district or public health department as provided in this chapter. A tribal public health unit and bordering public health units shall collaborate regarding the provision of public health services. If an individual who is not an enrolled member of an Indian tribe of the Indian reservation that forms a tribal public health unit is a party to a civil action in which the tribal public health unit is also a party, that individual may bring the action in or move the action to tribal court or district court.

⁹⁷ **SECTION 3. AMENDMENT.** Subsection 2 of section 23-35-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A city's ~~or~~ county's or tribe's governing body may establish a public health unit by creating and appointing a board of health, which in the case of a city, may be composed of the city's governing body, or in the case of a tribe, may be composed of the tribal council or governing body. A board of health must have at least five members.
 - a. In the case of a board of health created by a joint board of county commissioners, each county in the health district must have at least one representative on the board; each county of over fifteen thousand population must have an additional representative for each fifteen thousand population or major fraction of that number; and in a health district of fewer than five counties, each county must have at least one representative on the district board of health, and the additional representatives selected to constitute the minimum five-member board must be equitably apportioned among the counties on a population basis.
 - b. In the case of a joint city-county health district composed of only one county and having at least one city over fifteen thousand population, each city having a population over fifteen thousand must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, and the remaining population of the county, exclusive of the populations of cities with more than fifteen thousand each, must have a representative on the district board of health for each fifteen thousand population or major fraction of that number, or at least one member if the remaining population is less than fifteen thousand.

SECTION 4. AMENDMENT. Subsection 1 of section 23-35-04 of the North Dakota Century Code is amended and reenacted as follows:

1. Upon the adoption of a resolution, the governing body may form a single county, multicounty, ~~or a city-county,~~ or tribal health district.

SECTION 5. AMENDMENT. Section 23-35-06 of the North Dakota Century Code is amended and reenacted as follows:

23-35-06. Health districts - Dissolution - Withdrawal.

1. ~~Except for a tribal health district,~~ if a health district has been in operation for two years, the district may be dissolved as provided for under this section. If a

⁹⁷ Section 23-35-03 was also amended by section 11 of House Bill No. 1177, chapter 93.

petition is filed with the county auditor of each county of a health district which is signed by qualified electors of that county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of dissolution must be presented to the qualified electors in each county in the district at the next election held in each county in the district. If a majority of the votes cast on the question in a majority of the counties favor dissolution, the health district is dissolved on the second January first following the election. If a majority of the votes cast on the question in a majority of the counties are against dissolution, no other election on this issue may be held for two years.

2. If a health district has been in operation for two years, any county may withdraw from the district as provided under this section. If a petition is filed with the withdrawing county's auditor which is signed by qualified electors of the county equal to ten percent or more of the votes cast in that county at the last general election, an election on the question of withdrawal must be presented to the qualified electors in the county at the next election in the county. If a majority of the votes cast on the question favor withdrawing from the district, the county is withdrawn from the district on the second January first following the election. If a majority of the votes cast on the question are against withdrawal, no other election on this issue may be held for two years.
3. A tribal health district may be dissolved by the tribal council or governing body at any time.

⁹⁸ **SECTION 6. AMENDMENT.** Section 23-35-07 of the North Dakota Century Code is amended and reenacted as follows:

23-35-07. Health district funds.

1. ~~A~~Except for a tribal health district, a district board of health shall prepare a budget for the next fiscal year at the time at which and in the manner in which a county budget is adopted and shall submit this budget to the joint board of county commissioners for approval. The amount budgeted and approved must be prorated in health districts composed of more than one county among the various counties in the health district according to the taxable valuation of the respective counties in the health district. For the purpose of this section, "prorated" means that each member county's contribution must be based on an equalized mill levy throughout the district, except as otherwise permitted under subsection 3 of section 23-35-05. Within ten days after approval by the joint board of county commissioners, the district board of health shall certify the budget to the respective county auditors and the budget must be included in the levies of the counties. The budget may not exceed the amount that can be raised by a levy of five mills on the taxable valuation, subject to public hearing in each county in the health district at least fifteen days before an action taken by the joint board of county commissioners. Action taken by the joint board of county commissioners must be based on the record, including comments received at the public hearing. A levy under this section is not subject to the limitation on the county tax levy for general and special county purposes. The amount derived by a levy under this section must be placed in the health district fund. The health district fund must be deposited with and disbursed by the treasurer of the district board of health. Each county in a health district quarterly shall remit and make settlements with the treasurer.

⁹⁸ Section 23-35-07 was also amended by section 21 of House Bill No. 1015, chapter 15.

Any funds remaining in the fund at the end of any fiscal year may be carried over to the next fiscal year.

2. ~~The~~ Except for a tribal health district, the district board of health, or the president and secretary of the board when authorized or delegated by the board, shall audit all claims against the health district fund. The treasurer shall pay all claims from the health district fund. The district board of health shall approve or ratify all claims at the board's quarterly meetings.

⁹⁹ **SECTION 7. AMENDMENT.** Section 23-35-08 of the North Dakota Century Code is amended and reenacted as follows:

23-35-08. Boards of health - Powers and duties.

Except when in conflict with a local ordinance or a civil service rule within a board of health's jurisdiction, or a tribal code, ordinance, or policy, each board of health:

1. Shall keep records and make reports required by the department.
2. Shall prepare and submit a public health unit budget.
3. Shall audit, allow, and certify for payment expenses incurred by a board of health in carrying into effect this chapter.
4. May accept and receive any contribution offered to aid in the work of the board of health or public health unit.
5. May make rules regarding any nuisance, source of filth, and any cause of sickness which are necessary for public health and safety.
6. May establish by rule a schedule of reasonable fees that may be charged for services rendered. Services may not be withheld due to an inability to pay any fees established under this subsection. If a tribal board of health establishes fees for services rendered, the fees may not exceed the highest corresponding fee of any of the public health units that border the tribal public health unit.
7. May make rules in a health district or county public health department, as the case may be, and in the case of a city public health department may recommend to the city's governing body ordinances for the protection of public health and safety.
8. May adopt confinement, decontamination, and sanitary measures in compliance with chapter 23-07.6 which are necessary when an infectious or contagious disease exists.
9. May make and enforce an order in a local matter if an emergency exists.
10. May inquire into any nuisance, source of filth, or cause of sickness.
11. Except in the case of an emergency, may conduct a search or seize material located on private property to ascertain the condition of the property as the

⁹⁹ Section 23-35-08 was also amended by section 22 of House Bill No. 1015, chapter 15.

condition relates to public health and safety as authorized by an administrative search warrant issued under chapter 29-29.1.

12. May abate or remove any nuisance, source of filth, or cause of sickness when necessary to protect the public health and safety.
13. May supervise any matter relating to preservation of life and health of individuals, including the supervision of any water supply and sewage system.
14. May isolate, kill, or remove any animal affected with a contagious or infectious disease if the animal poses a material risk to human health and safety.
15. Shall appoint a local health officer.
16. May employ any person necessary to effectuate board rules and this chapter.
17. If a public health unit is served by a part-time local health officer, the board of health may appoint an executive director. An executive director is subject to removal for cause by the board of health. The board of health may assign to the executive director the duties of the local health officer, and the executive director shall perform these duties under the direction of the local health officer.
18. May contract with any person to provide the services necessary to carry out the purposes of the board of health.
19. Shall designate the location of a local health officer's office and shall furnish the office with necessary equipment.
20. May provide for personnel the board of health considers necessary.
21. Shall set the salary of the local health officer, the executive director, and any assistant local health officer and shall set the compensation of any other public health unit personnel.
22. Shall pay for necessary travel of the local health officer, the local health officer's assistants, and other personnel in the manner and to the extent determined by the board.

SECTION 8. AMENDMENT. Section 23-35.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-01. Definitions.

For purposes of this chapter, unless the context otherwise requires:

1. The definitions of section 23-35-01 apply; and
2. "Regional public health network" means a group of public health units that have entered a joint powers agreement ~~or an existing lead multidistrict health unit identified in the emergency preparedness and response region which has been reviewed by the state health officer and has been verified as meeting the requirements of this chapter and chapter 54-40.3~~ and have been verified by the state health officer as meeting the requirements of this chapter.

SECTION 9. AMENDMENT. Section 23-35.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-02. Regional public health network - Joint powers agreement - Review by state health officer - Criteria.

Before a group of public health units may be designated as a regional public health network and eligible for state funding, the state health officer shall review the joint powers agreement the districtspublic health units entered and verify that:

1. ~~The geographical region covered by the regional public health network corresponds to one of the emergency preparedness and response regions established by the state department of health.~~ consists of:
 - a. At least two public health units serving a minimum population of fifteen thousand; or
 - b. A minimum of three public health units.
2. The joint powers agreement requires that the participating public health units:
 - a. ~~Share various administrative functions and public health services in accordance with subsection 3.~~ Assess the health of the population;
 - b. Identify workplan activities that meet the needs of the region;
 - c. Comply with requirements adopted by the health council ~~adopts~~ by rule; and
 - e.d. Meet department maintenance of effort funding requirements, which must be calculated based on each unit's dollar or mill levy public health unit contribution in the most recent calendar year ~~2007;~~ and
 - e. Share core public health activities and measure outcomes in accordance with subsection 3.
3. The joint powers agreement requires:
 - a. ~~A regional public health network to share the following public health services:~~
 - (1) ~~Emergency preparedness and response;~~
 - (2) ~~Environmental health services; and~~
 - (3) ~~A regional public health network health officer, although this paragraph does not prohibit a public health unit from appointing a local health officer.~~ Evidence that network activities align with prevailing health status and community needs;
 - b. ~~A regional public health network to select and share at least three administrative functions and at least three public health services, as provided under this subdivision:~~
 - (1) ~~"Administrative functions" are:~~

- (a) Financial accounting, billing, and accounts receivable;
 - (b) Community assessment and planning;
 - (c) Contract compliance;
 - (d) Public health service improvement planning;
 - (e) Human resource management;
 - (f) Technology support;
 - (g) Budgeting;
 - (h) Workforce development;
 - (i) Public information;
 - (j) Grant writing;
 - (k) Inventory management, including vaccines; and
 - (l) Any other functions approved by the state health officer.
- (2) "Public health services" are:
- (a) School health;
 - (b) Nutrition;
 - (c) Family planning;
 - (d) Injury prevention;
 - (e) Violence prevention;
 - (f) Tobacco prevention and cessation;
 - (g) Oral health;
 - (h) Cancer prevention;
 - (i) Maternal and child health;
 - (j) Asthma;
 - (k) Diabetes;
 - (l) Cardiovascular health;
 - (m) Physical activity;
 - (n) Immunizations;
 - (o) Communicable disease programs;

- (p) ~~Mental health;~~
- (q) ~~Chronic disease;~~
- (r) ~~Public health visits; and~~
- (s) ~~Any other services approved by the state health officer.~~

4. ~~The joint powers agreement provides:~~

a. Shared or expanded services, including the core public health activities of:

- (1) Preventing epidemics and spread of disease;
- (2) Protecting against environmental hazards;
- (3) Preventing injuries;
- (4) Promoting health behaviors;
- (5) Responding to disasters; and
- (6) Assuring the quality and accessibility of health services;

c. Assurance of network performance measurement to demonstrate capacity, process, or health outcomes;

d. Criteria for the future participation of public health units that were not parties to the original joint powers agreement;

b-e. An application process by which public health units that were not parties to the original joint powers agreement may become participating districts; and

e-f. A process by which public health units that were not parties to the original joint powers agreement may appeal a decision to deny an application to participate in the agreement to the state health officer.

~~5-4.~~ The joint powers agreement provides for the structure of the governing body of the network.

SECTION 10. AMENDMENT. Section 23-35.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-03. Regional public health network - Annual plan.

A regional public health network shall prepare an annual plan regarding the provision of the ~~required and optional public health services~~core public health activities and shall submit the plan to the state health officer for approval.

SECTION 11. AMENDMENT. Section 23-35.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-35.1-04. Regional public health networks - Receipt and use of moneys.

The board of a regional public health network may receive and expend moneys for the provision of ~~administrative functions, public health services, core public health activities~~ and any other lawful activities.

SECTION 12. STATE DEPARTMENT OF HEALTH REPORTS TO THE LEGISLATIVE MANAGEMENT - TRIBAL PUBLIC HEALTH UNIT PILOT PROJECT.

During the 2013-14 interim, the state department of health shall report semiannually to the legislative management on the status of the tribal public health unit pilot project, including services provided, resources available, expenditures, and the future sustainability of the pilot project.

SECTION 13. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$700,000, or so much of the sum as may be necessary, to the state department of health for the purposes of planning or establishing, or both, a regional public health network, for the biennium beginning July 1, 2013, and ending June 30, 2015. The department may not spend more than \$250,000 for each regional public health network.

Approved April 26, 2013

Filed April 26, 2013

CHAPTER 218

SENATE BILL NO. 2154

(Senators Klein, Laffen, Robinson)
(Representatives Dosch, Weisz, Gruchalla)

AN ACT to amend and reenact subsections 2, 3, and 4 of section 23-37-17 of the North Dakota Century Code, relating to registration fees for above and underground tanks.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁰⁰ **SECTION 1. AMENDMENT.** Subsection 2 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

2. An owner or operator of an existing tank that is discovered at a location that currently and previously has had tanks registered with the fund ~~on or before July 1, 2007~~, shall pay ~~seventy-five dollars~~ an additional twenty-five dollar penalty fee in addition to the registration fee for each aboveground tank and ~~one hundred twenty-five dollars~~ for each underground tank owned or operated by that person for each previous year that the tank was required to be registered for which a fee was not paid. The payment includes the fees and the penalty for the failure to register.

¹⁰¹ **SECTION 2. AMENDMENT.** Subsection 3 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

3. An owner or operator of an existing tank at a location that was not previously and continuously registered with the fund, whether the registration was required by law or not, ~~on or before July 1, 2007~~, must provide the fund with a phase two environmental study conducted by a qualified firm according to American society for testing materials standards. A tank integrity test must also be performed. The environmental study and tank integrity test must be reviewed by the commissioner along with the application for registration with the fund. If the commissioner rejects the application, the applicant is denied eligibility to the fund. However, if the site is remediated and the leaking tank is replaced, the applicant may reapply for registration with the fund. A new installation that is using a used tank must provide tank integrity test results for the used tank. Use of a synthetic liner in an aboveground dike system negates the need for a tank integrity test. The owner or operator of a new tank at a new site or a new tank at an existing site that had a tank registered at the site previously need only pay the required fees for registration with the fund.

¹⁰⁰ Section 23-37-17 was also amended by section 2 of Senate Bill No. 2154, chapter 218, and section 3 of Senate Bill No. 2154, chapter 218.

¹⁰¹ Section 23-37-17 was also amended by section 1 of Senate Bill No. 2154, chapter 218, and section 3 of Senate Bill No. 2154, chapter 218.

¹⁰² **SECTION 3. AMENDMENT.** Subsection 4 of section 23-37-17 of the North Dakota Century Code is amended and reenacted as follows:

4. If accepted for registration with the fund, the owner or operator of the tank shall pay ~~seventy five dollars~~ an additional twenty-five dollar penalty fee in addition to the registration fee for each aboveground tank and ~~one hundred twenty five dollars~~ for an underground tank owned or operated by that person for each ~~underground tank for each~~ previous year that the tank was required to be registered for which a fee was not paid, regardless of ownership in each of those years. The payment includes the fees and the penalty for the failure to register.

Approved March 21, 2013

Filed March 21, 2013

¹⁰² Section 23-37-17 was also amended by section 1 of Senate Bill No. 2154, chapter 218, and section 2 of Senate Bill No. 2154, chapter 218.

CHAPTER 219

HOUSE BILL NO. 1175

(Representatives Porter, Bellew, J. Nelson)
(Senators Carlisle, Dever, O'Connell)

AN ACT to create and enact a new chapter to title 23 of the North Dakota Century Code, relating to an acute cardiovascular emergency medical system.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Definitions.

As used in this chapter:

1. "Department" means the state department of health.
2. "STEMI" means ST-elevation myocardial infarction.

Acute cardiovascular emergency medical system - Duties of state department of health.

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

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

Acute cardiovascular emergency medical system of care advisory committee.

1. The state health officer shall appoint the members of the acute cardiovascular emergency medical system of care advisory committee. The state health officer, or the officer's designee, is an ex officio member of the advisory committee. The state health officer shall appoint to the committee members who represent referring and receiving hospitals, physicians who treat patients, and members who represent emergency medical services operations that provide services in rural and urban areas of the state. Members of the acute cardiovascular emergency medical system of care advisory committee serve at the pleasure of the state health officer.
2. The purpose of the acute cardiovascular emergency medical system of care advisory committee is to advise the department on the establishment of an effective system of acute cardiovascular emergency care throughout the state and to take steps to ensure and facilitate the implementation of the system of acute cardiovascular emergency care. The advisory committee shall:
- a. Encourage sharing of information and data among health care providers on ways to improve the quality of care of acute cardiovascular patients in this state.
- b. Facilitate the communication and analysis of health information and aggregate data among health care professionals providing care for acute cardiovascular events.
- c. Advise the department on how best to require the application of evidence-based treatment guidelines regarding the transitioning of patients to community-based followup care in hospital outpatient, physician office,

- and ambulatory clinic settings for ongoing care after hospital discharge following acute treatments.
- d. Develop and advise the department to adopt a data oversight process and plan for achieving continuous quality improvement in the quality of care provided under the system of acute cardiovascular emergency care. The plan must be based on aggregate data analysis and the identification of potential interventions to improve heart attack care in geographic areas or regions of the state.
 - e. Recommend improvements for acute cardiovascular emergency medical system response.
3. A physician serving as a member of the acute cardiovascular emergency medical system of care advisory committee is immune from professional liability in providing the advisory committee with voluntary medical direction.
 4. Except for a member of the acute cardiovascular emergency medical system of care advisory committee serving on the advisory committee in the member's capacity as a department employee and who is therefore entitled to receive reimbursement of mileage and expenses from the department, a member of the advisory committee serves without compensation or reimbursement of mileage and expenses from the department but may receive compensation and reimbursement from the advisory committee member's employer or sponsoring entity.

Standard of care.

This chapter is not a medical practice guideline and may not be used to restrict the authority of a hospital to provide services for which the hospital has been licensed. This chapter must be interpreted to recognize that all patients should be treated individually based on each patient's needs and circumstances.

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