

**SENATE BILL NO. 2317**

Introduced by

Senators Poolman, J. Lee, Wanzek

Representatives Devlin, Pollert, Satrom

1 A BILL for an Act to create and enact a new subsection to section 23-16-01.1, a new section to  
2 chapter 23-16, and a new section to chapter 50-24.4 of the North Dakota Century Code, relating  
3 to long-term care bed capacity, licensure of pediatric subacute care facilities as nursing facilities  
4 and reimbursement of pediatric subacute care facilities; and to amend and reenact ~~sections-~~  
5 ~~23-09.3-02, 23-09.3-10, 25-18-15, 50-06-06.4, and 50-06-38,~~section 50-24.4-27 and  
6 subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating  
7 to licensure of pediatric subacute care facilities as nursing facilities.

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

9 ~~SECTION 1. AMENDMENT. Section 23-09.3-02 of the North Dakota Century Code is~~  
10 ~~amended and reenacted as follows:~~

11 ~~23-09.3-02. Residential areas -- Nongeriatric persons.~~

12 ~~— A nursing home facility, intermediate care facility, basic care facility, or any combination of a~~  
13 ~~nursing home facility, intermediate care facility, or basic care facility may establish residential~~  
14 ~~areas specifically for inhabitation by nongeriatric persons subject to any reasonable rules~~  
15 ~~adopted by the department.~~

16 ~~SECTION 2. AMENDMENT. Section 23-09.3-10 of the North Dakota Century Code is~~  
17 ~~amended and reenacted as follows:~~

18 ~~23-09.3-10. Rules on services to nongeriatric persons.~~

19 ~~— The department health council shall adopt rules under chapter 23-16 for patient and resident~~  
20 ~~care and quality care review which are not in conflict with any federal laws, and as are~~  
21 ~~necessary to ensure the appropriate medical, social, developmental, and psychological services~~  
22 ~~to nongeriatric persons residing in a nursing home facility, intermediate care facility, basic care~~  
23 ~~facility, or any combination of a nursing home facility, intermediate care facility, or basic care~~  
24 ~~facility. For purposes of patient and resident care for a nursing facility and an intermediate care~~

~~facility, nongeriatric means an individual under twenty-one years of age; however, the rules may allow for aging in place for individuals over the age of twenty-one.~~

**SECTION 1.** A new subsection to section 23-16-01.1 of the North Dakota Century Code is created and enacted as follows:

Notwithstanding the prohibition on adding nursing facility beds under subsection 1, an additional twenty-two nursing facility beds are authorized for use as pediatric subacute care facility beds. Beds authorized under this subsection may not be sold, converted, or transferred.

**SECTION 2.** A new section to chapter 23-16 of the North Dakota Century Code is created and enacted as follows:

**Nursing facility - ~~Subacute~~Pediatric subacute care facility.**

1. The ~~department~~health council shall adopt rules to license nursing facilities under this chapter.
2. The department shall license a pediatric subacute care facility as a type of nursing facility. A facility may choose whether to seek licensure as an intermediate care facility under chapter 25-16 or as a pediatric subacute care facility.
3. The rules applicable to a pediatric subacute care facility must allow for aging in place for an individual over the age of twenty-one and for a pediatric subacute care facility to be located in a facility or structure that offers other appropriate levels of services.
4. Rules under this section must provide for consistent implementation of specialized training, treatment, health services, and related care which are developmentally appropriate for the population.

~~**SECTION 3. AMENDMENT.** Section 25-18-15 of the North Dakota Century Code is amended and reenacted as follows:~~

~~**25-18-15. Payment for services to medically fragile children.**~~

~~The department may consider the unique level of care, the additional cost required to provide services to medically fragile clients under twenty-one years of age, and the actual and reasonable cost of providing services to individuals with developmental disabilities when intellectual, and acute medical conditions if reimbursing an intermediate care facility or pediatric subacute care facility for services to the individuals with intellectual disabilities.~~

1 ~~— **SECTION 5. AMENDMENT.** Section 50-06-06.4 of the North Dakota Century Code is~~  
2 ~~amended and reenacted as follows:~~

3 ~~— **50-06-06.4. Comprehensive community residential program.**~~

4 ~~— It is the intent of the legislative assembly that the department of human services implement~~  
5 ~~a comprehensive community residential program for children with developmental disabilities,~~  
6 ~~intellectual, and acute medical conditions, including the use of pediatric subacute care facilities,~~  
7 ~~intermediate care facilities, and other such foster home and group home resources as deemed~~  
8 ~~appropriate.~~

9 ~~— **SECTION 6. AMENDMENT.** Section 50-06-38 of the North Dakota Century Code is~~  
10 ~~amended and reenacted as follows:~~

11 ~~— **50-06-38. Review and limitation.**~~

12 ~~— Intermediate care facility and pediatric subacute care facility providers shall submit all~~  
13 ~~facility construction or remodeling proposals to the department of human services prior to before~~  
14 ~~enactment of a contract for the completion of the project. The department of human services~~  
15 ~~shall review all intermediate care facility and pediatric subacute care facility construction or~~  
16 ~~remodeling proposals and may limit allowable construction and remodeling costs to ensure the~~  
17 ~~costs are reasonable and appropriate.~~

18 **SECTION 3. AMENDMENT.** Section 50-24.4-27 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **50-24.4-27. Medicare certification.**

21 ~~All~~ **Except for pediatric subacute care facilities, all** nursing facilities certified under the  
22 medical assistance program shall participate in Medicare part A and part B with respect to at  
23 least thirty percent of the beds in the facility unless, after submitting an application, Medicare  
24 certification is denied by the federal health care financing administration. The facility shall file on  
25 behalf of each patient or assist each patient in the filing of requests for any third-party benefits  
26 to which the patient may be entitled. Charges for Medicare-covered services provided to  
27 residents who are simultaneously eligible for medical assistance and medicare must be billed to  
28 Medicare part A or part B before billing medical assistance. Medical assistance may be billed  
29 only for charges not reimbursed by Medicare.

30 **SECTION 4.** A new section to chapter 50-24.4 of the North Dakota Century Code is created  
31 and enacted as follows:

1 **Pediatric subacute care facilities.**

2 If reimbursing a pediatric subacute care facility licensed under chapter 23-16, the  
3 department shall consider the unique level of care and the additional cost required to provide  
4 services to medically fragile clients.

5 **SECTION 5. AMENDMENT.** Subdivision a of subsection 24 of section 57-39.2-04 of the  
6 North Dakota Century Code is amended and reenacted as follows:

- 7 a. "Eligible facility" means any hospital, skilled nursing facility, nursing facility,  
8 intermediate care facility, or basic care facility licensed by the state department of  
9 health, or any assisted living facility licensed by the department of human  
10 services; and