PUBLIC WELFARE

CHAPTER 352

HOUSE BILL NO. 1247

(Representatives Weisz, Devlin, Kreidt, Rohr, M. Ruby)
(Senators Anderson, Lee)

AN ACT to amend and reenact subsection 3 of section 4.1-26-20, sections 5-01-08 and 6-03-76, subsection 8 of section 6-08.1-03, sections 6-08.5-02 and 6-08.5-03, subsection 2 of section 6-09.15-01, section 10-04-08.5, subsection 16 of section 11-16-01, subdivision n of subsection 5 of section 11-19.1-01, subsection 2 of section 11-19.1-07, subsection 2 of section 11-19.1-16, subsection 2 of section 11-23-01, subdivision e of subsection 1 of section 12-44.1-28, subdivision b of subsection 1 of section 12-44.1-29, subsection 5 of section 12-47-36, section 12-52-02, subsection 2 of section 12-60-24, subsection 5 of section 12-60-26, subsection 26 of section 12.1-01-04, subsection 4 of section 12.1-20-24, subsection 16 of section 12.1-32-15, subsection 4 of section 12.1-41-17, section 13-05-02.2, subsection 8 of section 14-02.1-02, sections 14-02.1-02.1 and 14-02.1-02.2, subsection 4 of section 14-02.1-03.4, sections 14-02.1-07, 14-02.1-07.1, 14-02.1-09, 14-07.1-01, and 14-07.1-17, subdivision f of subsection 2 of section 14-07.1-20, section 14-09-08.21, subsection 1 of section 14-09-09.7, subsection 4 of section 14-09-09.10, sections 14-09-09.31, 14-09-12, and 14-10-05, subsection 2 of section 14-12.2-02, subsection 1 of section 14-12.2-22, sections 14-12.2-47.3 and 14-12.2-47.4, subsection 4 of section 14-12.2-47.5, subdivision b of subsection 3 of section 14-12.2-47.8, section 14-13-03, subsection 6 of section 14-15-01, subsection 4 of section 14-15.1-01, sections 14-19-01 and 14-19-05, subdivision d of subsection 1 of section 14-19-06, section 14-19-08, subsection 3 of section 14-19-12, paragraph 1 of subdivision d of subsection 1 of section 14-20-10, subdivision a of subsection 2 of section 14-20-12, subsection 3 of section 14-20-14, sections 14-20-15, 14-20-16, 14-20-18, and 14-20-19, subsection 1 of section 14-20-22, sections 14-20-23, 14-20-24, 14-20-57, and 15-05-16, subsection 2 of section 15-52-03, section 15.1-02-19, subsection 3 of section 15.1-24-01, sections 15.1-32-03, 15.1-32-05, and 15.1-32-19, subsection 2 of section 15.1-34-01, section 15.1-34-04, subsection 1 of section 15.1-37-02, sections 18-01-03.1 and 18-01-03.2, subsection 1 of section 19-01-01, section 19-01-07, subsection 6 of section 19-02.1-01, section 19-02.1-07, subsection 5 of section 19-02.1-10, section 19-02.1-10.1, subsection 2 of section 19-02.1-16, subsection 3 of section 19-03.1-17, subsection 3 of section 19-03.1-45, subdivision e of subsection 3 of section 19-03.5-03, subdivision e of subsection 2 of section 19-03.5-07, sections 19-05.1-05, 19-06.1-05, and 19-17-05, subsection 3 of section 19-21-01, subsection 16 of section 19-24.1-01, subdivision a of subsection 1 of section 19-24.1-14, subdivision a of subsection 1 of section 19-24.1-15, subsection 3 of section 19-24.1-24, subdivision e of subsection 2 of section 19-24.1-33, sections 19-24.1-36 and 20.1-01-26.1, subsection 4 of section 20.1-03-04, sections 23-01-01, 23-01-01.1, and 23-01-03, subsection 1 of section 23-01-03.1, subsection 1 of section 23-01-03.3, sections 23-01-04, 23-01-05, 23-01-05.1, 23-01-05.2, 23-01-05.3, 23-01-05.4, 23-01-06, 23-01-08, 23-01-10, 23-01-11,

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of section 50-32-01, section 50-32-02.1, subsection 7 of section 50-33-01, subsection 1 of section 50-35-01, subsection 3 of section 52-01-03, subsection 5 of section 53-12.1-12, subsection 1 of section 54-06-04, subsection 3 of section 54-12-08, section 54-23.3-10, subsection 1 of section 54-23.3-12, subsection 3 of section 54-38-01, paragraph 2 of subdivision b of subsection 1 of section 54-44.1-12, sections 54-44.3-30, 54-44.3-31, and 54-44.3-32, subsection 3 of section 54-44.8-03, sections 54-44.8-06 and 54-46-13, subsection 1 of section 54-59-25, subdivision i of subsection 2 of section 54-59-26, subdivision g of subsection 1 of section 54-59-33, subdivision a of subsection 1 of section 54-60-19, section 57-38-01.16, subsection 1 of section 57-38.3-02, subsection 3 of section 57-38.3-04, subsection 24 of section 57-39.2-04, subdivision f of subsection 4 of section 57-40.6-10, section 57-63-03, subdivision n of subsection 2 of section 59-09-02, section 61-38-03, paragraph 3 of subdivision a of subsection 16 of section 65-01-02, and section 65-05.1-06.3 of the North Dakota Century Code, relating to merging of the state department of health and the department of human services; to provide a statement of legislative intent; to provide for a legislative management report; to provide a penalty; to provide a continuing appropriation; to provide for application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 4.1-26-20 of the North Dakota Century Code is amended and reenacted as follows:

3. Before a dairy farmer may be licensed by the board, as required by this chapter, the dairy farmer shall provide proof of inspection by the agriculture commissioner or the ~~state~~ department of health and human services, as provided for in accordance with section 23-01-16.

[213] **SECTION 2. AMENDMENT.** Section 5-01-08 of the North Dakota Century Code is amended and reenacted as follows:

5-01-08. Individuals under twenty-one years of age prohibited from using alcoholic beverages or entering licensed premises - Penalty.

1. Except as permitted in this section and section 5-02-06, an individual under twenty-one years of age may not manufacture or attempt to manufacture, purchase or attempt to purchase, consume or have recently consumed other than during a religious service, be under the influence of, be in possession of, or furnish money to any individual for the purchase of an alcoholic beverage.

2. An individual under twenty-one years of age may not enter any licensed premises where alcoholic beverages are being sold or displayed, except:

   a. A restaurant if accompanied by a parent or legal guardian;

   b. In accordance with section 5-02-06;

   c. If the individual is an independent contractor or the independent contractor's employee engaged in contract work and is not engaged in selling, dispensing, delivering, or consuming alcoholic beverages;

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[213] Section 5-01-08 was also amended by section 1 of House Bill No. 1124, chapter 69, section 1 of House Bill No. 1223, chapter 70, and section 1 of Senate Bill No. 2264, chapter 176.

d. If the individual is a law enforcement officer or other public official who enters the premises in the performance of official duty; or

e. If the individual enters the premises for training, education, or research purposes under the supervision of an individual twenty-one or more years of age with prior notification of the local licensing authority.

3. A violation of this section is a class B misdemeanor. For a violation of subsection 1 or 2, the court also shall sentence a violator to an evidence-based alcohol and drug education program operated under rules adopted by the department of health and human services under section 50-06-44.

4. The court, under this section, may refer the individual to an outpatient addiction facility licensed by the department of health and human services for evaluation and appropriate counseling or treatment.

5. The offense of consumption occurs in the county of consumption or the county where the offender is arrested.

6. An individual under twenty-one years of age is immune from criminal prosecution under this section if that individual contacted law enforcement or emergency medical services and reported that another individual under twenty-one years of age was in need of medical assistance due to alcohol consumption, provided assistance to the individual in need of medical assistance until assistance arrived and remained on the scene, or was the individual in need of medical assistance and cooperated with medical assistance and law enforcement personnel on the scene. The maximum number of individuals that may be immune for any one occurrence is five individuals.

SECTION 3. AMENDMENT. Section 6-03-76 of the North Dakota Century Code is amended and reenacted as follows:

6-03-76. Records search reimbursement.

Any financial institution authorized to do business in this state must be reimbursed as follows for all records searches done at the request of any state agency or any branch of the state government except the department of health and human services. Further, any federal agency or any branch of the federal government must also make such reimbursement if authorized to do so:

1. For search and processing time at the rate of thirty dollars per hour per person, computed on the basis of seven dollars and fifty cents per quarter hour, limited to the total amount of personnel time spent in locating, retrieving, reproducing, packaging, and preparing for shipment documents or information requested.

2. For making copies of duplicates of required or requested documents at the rate of fifteen cents per page.

3. For making copies of photographs, films, and other materials at the actual cost incurred by the financial institution.

The financial institution must be reimbursed for all actual mailing or transportation expenses incurred in conveying the requested or required materials to the requesting

agency. The reimbursement provisions of this section shall not apply to standard confirmations.

SECTION 4. AMENDMENT. Subsection 8 of section 6-08.1-03 of the North Dakota Century Code is amended and reenacted as follows:

8. For purposes of reporting suspected financial exploitation of an eligible adult under chapter 6-08.5 to a law enforcement agency or the department of health and human services. This subsection may not be construed to impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to the department of health and human services or law enforcement agency.

SECTION 5. AMENDMENT. Section 6-08.5-02 of the North Dakota Century Code is amended and reenacted as follows:

6-08.5-02. Eligible adult financial exploitation prevention - Duration of refusal or hold - Notification and reporting - Immunity.

1. If a financial service provider has a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted, the financial service provider may refuse a financial transaction or hold a financial transaction on an account:

   a. Belonging to the eligible adult;

   b. On which the eligible adult is a beneficiary, including a trust, guardianship, or conservatorship account; or

   c. Belonging to a person suspected of perpetrating financial exploitation.

2. A financial service provider may refuse a financial transaction or hold a financial transaction under this section if the department of health and human services or a law enforcement agency provides information to the financial service provider demonstrating it is reasonable to believe financial exploitation occurred, was attempted, or is being attempted.

3. Subsection 2 does not require a financial service provider to refuse a financial transaction or hold a financial transaction if provided with information by the department of health and human services or a law enforcement agency alleging financial exploitation occurred, was attempted, or is being attempted. Except as ordered by a court, a financial service provider may determine whether to refuse a financial transaction or hold a financial transaction based on the information available to the financial service provider.

4. A financial service provider refusing a financial transaction or holding a financial transaction based on a good faith belief to suspect financial exploitation occurred, was attempted, or is being attempted shall:

   a. Except with regard to an account administered by a bank or trust company in a fiduciary capacity, make a reasonable effort to notify, orally or in writing, one or more parties authorized to transact business on the account; and

b. Report the incident to the department of health and human services, if the incident involves financial exploitation of a vulnerable adult as defined in section 50-25.2-01.

5. Notice under this section is not required to be provided to a party authorized to conduct business on the account if the party is the suspected perpetrator of financial exploitation.

6. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability:

   a. For refusing or not refusing a financial transaction, or for holding or not holding a financial transaction under this section; or

   b. For actions taken in furtherance of the determination made under subdivision a, if the determination is based upon a good faith belief financial exploitation occurred, was attempted, or is being attempted.

SECTION 6. AMENDMENT. Section 6-08.5-03 of the North Dakota Century Code is amended and reenacted as follows:

6-08.5-03. Reporting to a law enforcement agency or the department of health and human services - Immunity.

1. If a financial service provider, or an employee, officer, or director of a financial service provider has a good faith belief to suspect financial exploitation of an eligible adult occurred, was attempted, or is being attempted, the financial service provider, or an employee, officer, or director of a financial service provider may report the information to a law enforcement agency or the department of health and human services.

2. This section does not impose a duty on a financial institution to investigate a suspected financial exploitation of an eligible adult or to make a report to a law enforcement agency or the department of health and human services.

3. A financial service provider, or an employee, officer, or director of a financial service provider, is immune from all criminal, civil, and administrative liability for reporting or not reporting under this section if the determination is made based on a good faith belief that financial exploitation occurred, was attempted, or is being attempted.

SECTION 7. AMENDMENT. Subsection 2 of section 6-09.15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Child care provider" means a child care home, group, or center licensed by the department of health and human services.

SECTION 8. AMENDMENT. Section 10-04-08.5 of the North Dakota Century Code is amended and reenacted as follows:

10-04-08.5. Financial exploitation - Vulnerable adult.

1. As used in this section:

   a. "Eligible adult" means an adult who is at least sixty-five years old or a vulnerable adult as defined in section 50-25.2-01.

b. "Financial exploitation" means:

(1) The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of an eligible adult; or

(2) Any act or omission taken by a person, including through the use of a power of attorney, guardianship, or conservatorship of an eligible adult, to:

(a) Obtain control, through deception, intimidation, or undue influence, over the eligible adult's money, assets, or property, to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or property; or

(b) Convert money, assets, or property of the eligible adult to deprive the eligible adult of the ownership, use, benefit, or possession of the eligible adult's money, assets, or property.

c. "Qualified individual" means any agent, investment adviser representative, or person who serves in a supervisory, compliance, or legal capacity for a broker-dealer or investment adviser.

2. If a qualified individual reasonably believes financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, the qualified individual shall notify the department of health and human services and the commissioner.

3. If a qualified individual reasonably believes financial exploitation of an eligible adult may have occurred, may have been attempted, or is being attempted, a qualified individual may notify a third party reasonably associated with the eligible adult or any other person permitted under state or federal law or rule, rules of a self-regulating organization, or customer agreement. Disclosure may not be made to a designated third party who is suspected of financial exploitation or other abuse of the eligible adult.

4. A qualified individual who in good faith and exercising reasonable care discloses information under this section is immune from administrative or civil liability that might otherwise result from disclosure or for any failure to notify the customer of the disclosure.

5. a. A broker-dealer or investment adviser may delay a transaction or disbursement of funds or securities from an account of an eligible adult or an account on which an eligible adult is a beneficiary if:

(1) The broker-dealer or investment adviser reasonably believes the requested transaction or disbursement may result in financial exploitation of an eligible adult after initiating an internal review of the requested transaction or disbursement and the suspected financial exploitation; and

(2) The broker-dealer or investment adviser:

(a) Provides written notification of the delay and the reason for the delay to all parties authorized to transact business on the account, unless a party is reasonably believed to have engaged in

suspected or attempted financial exploitation of the eligible adult, within two days after the requested transaction or disbursement;

(b) Notifies the department of health and human services and the commissioner within two days after the requested transaction or disbursement; and

(c) Continues its internal review of the suspected or attempted financial exploitation of the eligible adult as necessary.

b. Any delay of a transaction or disbursement authorized by this section expires upon the earlier of:

(1) A determination by the broker-dealer or investment adviser that the transaction or disbursement will not result in financial exploitation of the eligible adult; or

(2) Fifteen business days after the date on which the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds or securities, unless the department of health and human services or the commissioner requests the broker-dealer or investment adviser extend the delay, in which case the delay expires within twenty-five business days after the date the broker-dealer or investment adviser first delayed the transaction or disbursement of the funds or securities unless the delay is terminated by either of the agencies or an order of a court of competent jurisdiction.

c. A court of competent jurisdiction or the commissioner may enter an order extending the delay of the transaction or disbursement of funds or securities or may order other protective relief based on the broker-dealer, investment adviser, or other interested party's petition that initiated the delay under this section.

6. A broker-dealer or investment adviser who in good faith and exercising reasonable care complies with this section is immune from any administrative or civil liability that may otherwise arise from a delay in the transaction or disbursement in accordance with this section.

7. A broker-dealer or investment adviser shall provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to the department of health and human services and to law enforcement, either as part of a referral to the department or to law enforcement, or upon request of the department or law enforcement pursuant to an investigation. The records may include historical records and records relating to the most recent transaction that may comprise financial exploitation of an eligible adult. Any record provided to the department of health and human services or law enforcement under this section is an exempt record under chapter 44-04. This section does not limit or otherwise impede the authority of the commissioner to access or examine the books and records of a broker-dealer or investment adviser as otherwise provided by law.

[214] **SECTION 9. AMENDMENT.** Subsection 16 of section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

16. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, and 50-01 upon consultation with the human service zone director or the executive director of the department of health and human services.

SECTION 10. AMENDMENT. Subdivision n of subsection 5 of section 11-19.1-01 of the North Dakota Century Code is amended and reenacted as follows:

n. Victim is in the custody of the department of health and human services, county social services, the department of corrections and rehabilitation or other correctional facility, or law enforcement;

SECTION 11. AMENDMENT. Subsection 2 of section 11-19.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Any person who discovers the deceased human body or acquires the first knowledge of the death of any minor who has received or is eligible to receive a birth record, when the minor died suddenly when in apparent good health, shall notify immediately law enforcement or the office of coroner of the known facts concerning the time, place, manner, and circumstances of the death. The death of a minor must be reported to the department of health and human services as provided under chapter 50-25.1. The coroner shall take custody of the body and immediately consult with a law enforcement agency. The law enforcement agency shall investigate the death and notify the state's attorney of the findings. The coroner shall notify the state forensic examiner of each such death, and shall provide the state forensic examiner the information concerning the death as the state forensic examiner requires. The coroner or the assistant or deputy coroner shall notify the parent or guardian of a child under the age of one year of the right to the performance of an autopsy, at state expense, as provided by this chapter.

SECTION 12. AMENDMENT. Subsection 2 of section 11-19.1-16 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~state~~ department of health and human services shall audit, and if found correct, certify for payment by the state treasurer duly itemized and verified claims of the coroner, the coroner's medical deputy, and pathologist for the necessary expenses incurred or paid in the performance of an autopsy of a child whose cause of death was suspected to have been the sudden infant death syndrome.

[215] **SECTION 13. AMENDMENT.** Subsection 2 of section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The departmental budget submitted by the human service zone may not exceed an amount determined by the department of health and human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs

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[214] Section 11-16-01 was also amended by section 1 of House Bill No. 1035, chapter 245, and section 1 of Senate Bill No. 2086, chapter 353.

[215] Section 11-23-01 was also amended by section 3 of Senate Bill No. 2086, chapter 353.

based on a formula established by the department of health and human services.

b. The county share of the human service zone's indirect costs must be funded entirely from the county's general fund.

c. The department of health and human services shall develop a process to review a request from a human service zone for any proposed increase in staff. As part of its review process, the department of health and human services shall review pertinent factors, which may include caseload information. If the department of health and human services approves a request for a proposed increase in staff, the human service zone budget may be increased by the amount determined necessary by the department of health and human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.

SECTION 14. AMENDMENT. Subdivision e of subsection 1 of section 12-44.1-28 of the North Dakota Century Code is amended and reenacted as follows:

e. The department of health and human services, a public hospital or treatment facility, or a licensed private hospital or treatment facility.

SECTION 15. AMENDMENT. Subdivision b of subsection 1 of section 12-44.1-29 of the North Dakota Century Code is amended and reenacted as follows:

b. A correctional facility staff member who has successfully completed a medication assistant I training and competency evaluation program approved by the ~~state~~ department of health and human services under chapter 23-44. The requirements for a medication assistant I training and competency evaluation program must be met, except for the requirement a correctional facility staff member must be a nurse aide or certified nurse aide on the department registry prior to entry into the medication assistant I training and competency evaluation program or following successful completion of the program.

[216] **SECTION 16. AMENDMENT.** Subsection 5 of section 12-47-36 of the North Dakota Century Code is amended and reenacted as follows:

5. Medical, psychological, or treatment records may be disclosed without prior application to the court to a public hospital or treatment facility, the department of health and human services, a community behavioral health program, a vocational rehabilitation program, a transitional living facility, or a licensed private medical or treatment facility, when necessary for the evaluation, treatment, or care of a person who is or who has been in the custody of, or is or who has been under the supervision and management of, the adult services division of the department of corrections and rehabilitation.

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[216] Section 12-47-36 was also amended by section 1 of Senate Bill No. 2108, chapter 94.

SECTION 17. AMENDMENT. Section 12-52-02 of the North Dakota Century Code is amended and reenacted as follows:

12-52-02. Aftercare granted on recommendation of superintendent.

No aftercare program may be provided for any person committed to the North Dakota youth correctional center or placed under the guardianship, control, and custody of the superintendent, unless the superintendent recommends the program to the director of the division of juvenile services and some suitable person will receive the person to be placed in the aftercare program under conditions approved by the superintendent. Nothing in this chapter prevents the placing of any person into the person's own home or into a licensed foster home under any program administered by the department of health and human services.

[217] **SECTION 18. AMENDMENT.** Subsection 2 of section 12-60-24 of the North Dakota Century Code is amended and reenacted as follows:

2. The bureau of criminal investigation shall provide to each agency, official, or entity listed in this subsection who has requested a statewide and nationwide criminal history record check, the response of the federal bureau of investigation and any statewide criminal history record information that may lawfully be made available under this chapter:

   a. The governing body of a city or a county, by ordinance or resolution, for a final applicant for a specified occupation with the city or county.

   b. The agriculture commissioner for each applicant for a license to grow or process hemp under section 4.1-18.1-02.

   c. The education standards and practices board for initial, re-entry, and reciprocal teacher licenses under sections 15.1-13-14 and 15.1-13-20 and school guidance and counseling services under section 15.1-13-23.

   d. The North Dakota board of medicine for licenses or disciplinary investigations under section 43-17-07.1, except that criminal history record checks need not be made unless required by the board.

   e. The private investigative and security board for licenses or registrations under section 43-30-06.

   f. The department of health and human services for foster care licenses, approvals, and identified relatives under chapter 50-11, appointments of legal guardians under chapter 50-11.3, and petitions for adoptions under chapter 50-12, except that the criminal history record investigation must be conducted in accordance with those chapters. A criminal history record investigation completed under chapter 50-11, 50-11.3, or 50-12 may be used to satisfy the requirements of a criminal history record investigation under either of the other two chapters.

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[217] Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98 section 1 of House Bill No. 1253, chapter 164, section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2131, chapter 378, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

g. The department of health and human services for criminal history record checks authorized under section 50-06-01.9.

h. The chief information officer of the information technology department for certain individuals under section 54-59-20.

i. A public peace officer training school that has been approved by the peace officer standards and training board for enrollees in the school. The school may only disclose the criminal history record information as authorized by law. The school shall pay the costs for securing the fingerprints, any criminal history record information made available under this chapter, and for the nationwide criminal history record check. This subdivision does not apply to the highway patrol law enforcement training center and enrollees who have a limited license under section 12-63-09.

j. The North Dakota public employees retirement board for individuals first employed by the public employees retirement board after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

k. The executive director of the retirement and investment office for individuals first employed by the retirement and investment office after July 31, 2005, who have unescorted physical access to the office or any security-sensitive area of the office as designated by the executive director.

l. The Bank of North Dakota for a final applicant for a specified occupation with the Bank as designated by the president.

m. Job service North Dakota for all employees, final applicants for employment with job service, and contractors with access to federal tax information.

n. The ~~state~~ department of health and human services for a final applicant for or an employee in a specified occupation with the department as designated by the state health officer; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.

o. The state board of nursing for applicants, licensees, registrants, or disciplinary investigations under chapter 43-12.1, except that criminal history record checks need not be made unless required by the board.

p. The state board of pharmacy for applicants or disciplinary investigations under chapter 43-15 and registrations, or revocation or suspension of registrations, under chapter 19-03.1, except that criminal history record checks need not be made unless required by the board.

q. The state real estate commission for applicants, licensees, or investigations under chapter 43-23, except that criminal history record checks need not be made unless required by the commission.

r. The North Dakota board of social work examiners for applicants for initial licensure or licensees under chapter 43-41, except that criminal history

record checks for licensees need not be made unless required by the board.

s. All agencies, departments, bureaus, boards, commissions, or institutions of the state, including the North Dakota university system, for all employees or final applicants for employment as a security guard or to otherwise provide security.

t. The office of management and budget for each individual who has access to personal information as designated by the director.

u. The department of corrections and rehabilitation for all agents and employees and a final applicant for employment designated by the director and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the department who exercises direct authority over juveniles, inmates, probationers, or parolees.

v. A city, county, or combination of cities or counties that operates a correctional facility subject to chapter 12-44.1, for each agent and employee and a final applicant for employment of the correctional facility who has direct contact with or exercises direct authority over any juvenile or inmate of the correctional facility, and for each agent, employee, or a final applicant for employment of a privately operated entity providing contract correctional services for the correctional facility who exercises direct authority over juveniles, inmates, probationers, or parolees.

w. The North Dakota university system for a final applicant for or employee in a specified position in the university system or a university system institution or for each student applying for or admitted to a specified program of study, as designated by the chancellor.

x. (1) The board of a school district, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(2) The board of a multidistrict special education unit, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(3) The board of an area career and technology center, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(4) The board of a regional education association, for employees designated by the board, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and

(5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for employees designated by the nonpublic or state school, provided the nonpublic or state school is responsible for paying the costs associated with obtaining a criminal history record check.

y. (1) The board of a school district, for a final applicant seeking employment with the district or otherwise providing services to the district, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(2) The board of a multidistrict special education unit, for a final applicant seeking employment with the unit or otherwise providing services to the unit, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(3) The board of an area career and technology center, for a final applicant seeking employment with the center or otherwise providing services to the center, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check;

(4) The board of a regional education association, for a final applicant seeking employment with the association or otherwise providing services to the association if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check; and

(5) The superintendent of public instruction in the case of a nonpublic school or a state school with a superintendent appointed by or reporting to the superintendent of public instruction, for a final applicant seeking employment with the school or otherwise providing services to the school, if that individual has unsupervised contact with students, provided the board is responsible for paying the costs associated with obtaining a criminal history record check.

(6) For purposes of this subdivision, "unsupervised contact" with students means being in proximity to one or more students, on school grounds or at school functions, outside the presence of an individual who has been subject to a criminal history record check.

z. The racing commission for applicants for licenses under chapter 53-06.2, except that criminal history record checks need not be made unless required by the commission.

aa. A district court for a petition to change a name under chapter 32-28.

bb. The state board of pharmacy for a wholesale drug distributor seeking licensure under chapter 43-15.3.

cc. The board of dental examiners for investigations of applicants or dentists under section 43-28-11.2, except that criminal history record checks need not be made unless required by the board.

dd. The department of financial institutions for each applicant for a specified occupation with the department as specified by the commissioner and principal owners and managing officers of applicants for a license from the department of financial institutions.

ee. The office of tax commissioner for all employees, final applicants for employment with the tax commissioner, and contractors with access to federal tax information.

ff. The state board of examiners for nursing home administrators for applicants for licensure or licensees under chapter 43-34, except that criminal history record checks for licensees need not be made unless required by the board.

gg. The marriage and family therapy licensure board for applicants, licensees, or investigations under chapter 43-53, except that criminal history record checks need not be made unless required by the board.

hh. The state board of chiropractic examiners for applicants, licensees, certificates, or investigations under chapter 43-06, except that criminal history record checks need not be made unless required by the board.

ii. Workforce safety and insurance for a final applicant for a specified occupation with workforce safety and insurance as designated by the director, or for contractors who may have access to confidential information as designated by the director.

jj. The board of counselor examiners for applicants for licensure or licensees under chapter 43-47, except that criminal history record checks for licensees need not be made unless required by the board.

kk. The state board of respiratory care for applicants, licensees, or investigations under chapter 43-42, except that criminal history record checks need not be made unless required by the board.

ll. The North Dakota real estate appraiser qualifications and ethics board for applicants for permits or registration or permittees, registrants, owners, or controlling persons under chapters 43-23.3 and 43-23.5, except that criminal history record checks for permittees, registrants, owners, or controlling persons need not be made unless required by the board.

mm. The insurance department for criminal history record checks authorized under chapters 26.1-26 and 26.1-26.8.

nn. The office of the adjutant general for employees and volunteers working with the recruiting and retention, sexual assault, and youth programs.

oo. The parks and recreation department for volunteers and final applicants for employment, as determined by the director of the parks and recreation department.

pp. The North Dakota medical imaging and radiation therapy board of examiners for licensure and licensees under chapter 43-62, except that criminal history record checks for licensees need not be made unless required by the board.

qq. The game and fish department for volunteers and final applicants for employment, as determined by the director of the game and fish department.

rr. The North Dakota board of massage for applicants, licensees, or investigations under chapter 43-25.

ss. The North Dakota board of physical therapy for physical therapist and physical therapist assistant applicants and for licensees under investigation, except that criminal history record checks need not be made unless required by the board.

tt. The department of commerce for volunteers and employees providing services through eligible organizations, as determined by the commissioner of commerce.

uu. The state court administrator for a guardian ad litem who provides direct services to youth.

vv. The department of environmental quality for a final applicant for or an employee specified in occupation with the department; an individual being investigated by the department; or, when requested by the department, an applicant for registration, certification, or licensure by the department.

ww. The housing finance agency for criminal history record checks authorized under section 54-17-07.13.

xx. The office of state treasurer for each individual who has access to federal tax information.

SECTION 19. AMENDMENT. Subsection 5 of section 12-60-26 of the North Dakota Century Code is amended and reenacted as follows:

5. When the division of vital records of the ~~state~~ department of health <u>and human services</u> receives a notice from a law enforcement authority that a child is reported as lost, missing, or runaway, the division of vital records shall:

   a. Flag the records of the individual; and

   b. Notify the bureau and a local law enforcement authority if a request for records is received from any source.

SECTION 20. AMENDMENT. Subsection 26 of section 12.1-01-04 of the North Dakota Century Code is amended and reenacted as follows:

26. "Risk assessment" means an initial phase with a secondary process approved by the department of <u>health and</u> human services for the evaluation of the likelihood a person that committed an offense will commit another similar offense. The initial phase is an assessment tool that is administered by a trained probation and parole officer. A predetermined score on the initial phase initiates the secondary process that includes a clinical interview, psychological testing, and verification through collateral information or psychophysiological testing, or both. The department of <u>health and</u> human services shall perform the secondary process of the risk assessment.

SECTION 21. AMENDMENT. Subsection 4 of section 12.1-20-24 of the North Dakota Century Code is amended and reenacted as follows:

4. The ~~state~~ department of health and human services or the state's attorney having jurisdiction may bring an action to enjoin a pattern of violations of this section.

[218] **SECTION 22. AMENDMENT.** Subsection 16 of section 12.1-32-15 of the North Dakota Century Code is amended and reenacted as follows:

16. If a juvenile is adjudicated delinquent and required or ordered to register as a sexual offender or as an offender against a child under this section, the juvenile shall comply with the registration requirements in this section. Notwithstanding any other provision of law, a law enforcement agency shall register a juvenile offender in the same manner as adult offenders and may release any relevant and necessary information on file to other law enforcement agencies, the department of health and human services, or the public if disclosure is necessary to protect public health or safety. The law enforcement agency shall release any relevant and necessary information on file to the superintendent or principal of the school the juvenile attends. The school administration shall notify others in similar positions if the juvenile transfers to another learning institution in or outside the state.

SECTION 23. AMENDMENT. Subsection 4 of section 12.1-41-17 of the North Dakota Century Code is amended and reenacted as follows:

4. For purposes of this section, "a benefit or service available through the state" does not include a benefit or service of a program administered by the department of health and human services using federal or special funds, if the victim or minor does not meet program eligibility requirements including an eligibility requirement that is based on immigration status.

SECTION 24. AMENDMENT. Section 13-05-02.2 of the North Dakota Century Code is amended and reenacted as follows:

13-05-02.2. Child support collection agencies.

1. Notwithstanding sections 13-05-02 and 13-05-02.3, a collection agency attempting in any manner to collect child support as defined in section 14-09-09.10 must be licensed under this chapter if either the child support debtor or creditor reside within this state, if the child support debt arises under an order issued by a court of this state, or if a record of the child support debt is being maintained on the statewide automated data processing system under section 50-09-02.1.

2. A collection agency licensed under this section may not:

   a. Impose a fee or charge for any child support collected primarily through the efforts of a governmental agency;

   b. Impose a fee or charge for collection of a current child support payment; or

   c. Designate a current child support payment as past-due support or other amount owed.

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[218] Section 12.1-32-15 was also amended by section 2 of House Bill No. 1035, chapter 245.

3. If the child support debt arises under an order issued by a court of this state, or if a record of the child support debt is being maintained on the statewide automated data processing system under section 50-09-02.1, all child support payments collected by a collection agency must be paid to the department of health and human services within five business days for disbursement under section 14-09-25. Child support payments disbursed under section 14-09-25 may not be redirected to a collection agency unless specifically permitted by rules adopted by the department of health and human services.

4. A collection agency failing to pay child support payments to the department of health and human services as required in this section is liable to the obligor for three times the amount improperly withheld by the collection agency or five hundred dollars, whichever is greater, in addition to any other remedy or damages permitted by law. The department of health and human services is not required to give credit for payments withheld by a collection agency in violation of this section.

5. Any person contracting for services with a collection agency for the collection of child support may cancel the contract without a fee or charge upon thirty days' written notice.

SECTION 25. AMENDMENT. Subsection 8 of section 14-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "Hospital" means an institution licensed by the ~~state~~ department of health and human services under chapter 23-16 and any hospital operated by the United States or this state.

SECTION 26. AMENDMENT. Section 14-02.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02.1. Printed information - Referral service.

1. The ~~state~~ department of health and human services shall publish in English, and in every other language that the department determines is the primary language of a significant number of state residents, the following easily comprehensible printed materials:

   a. Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies. The materials must include a comprehensive list of the agencies available, a description of the services they offer and a description of the manner, including telephone numbers, in which they might be contacted, or, at the option of the department, printed materials, including a toll-free, twenty-four-hour-a-day telephone number that may be called to obtain, orally, such a list and description of agencies in the locality of the caller and of the services they offer. The materials must state that it is unlawful for any individual to coerce a woman to undergo an abortion and that if a minor is denied financial support by the minor's parent, guardian, or custodian due to the minor's refusal to have an abortion performed, the minor is deemed to be emancipated for the purposes of eligibility for public assistance benefits, except that those benefits may not be used to obtain an abortion. The materials also must state that any physician who performs an abortion upon a woman without her informed consent may be liable to her for damages in a civil action and

that the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal care. The materials must include the following statement: There are many public and private agencies willing and able to help you to carry your child to term and to assist you and your child after your child is born, whether you choose to keep your child or to place your child for adoption. The state of North Dakota strongly urges you to contact one or more of these agencies before making a final decision about abortion. The law requires that your physician or your physician's agent give you the opportunity to call agencies like these before you undergo an abortion.

b. Materials, published in a booklet format, designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including any relevant information on the possibility of the survival of the unborn child and color photographs of the development of an unborn child at two-week gestational increments. The descriptions must include information about brain and heart function, the presence of external members and internal organs during the applicable states of development, and any relevant information on the possibility of the unborn child's survival. The materials must be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The materials required under this subsection must be reviewed, updated, and reprinted as needed.

c. Materials that include information on the support obligations of the father of a child who is born alive, including the father's legal duty to support his child, which may include child support payments and health insurance, and the fact that paternity may be established by the father's signature on an acknowledgment of paternity or by court action. The printed material must also state that more information concerning paternity establishment and child support services and enforcement may be obtained by calling state public assistance agencies or human service zones.

d. Materials that contain objective information describing the various surgical and drug-induced methods of abortion as well as the immediate and long-term medical risks commonly associated with each abortion method, including the risks of infection, hemorrhage, cervical or uterine perforation or rupture, danger to subsequent pregnancies, the possible increased risk of breast cancer, the possible adverse psychological effects associated with an abortion, and the medical risks associated with carrying a child to term.

e. Materials including information it may be possible to reverse the effects of an abortion-inducing drug but time is of the essence. The materials must include information directing the patient where to obtain further information and assistance in locating a medical professional who can aid in the reversal of abortion-inducing drugs, such as mifepristone and misoprostol.

2. The materials required under subsection 1 must be available at no cost from the ~~state~~ department of health and human services upon request and in appropriate number to any person, facility, or hospital, and, except for copyrighted material, must be available on the department's internet website.

The department may make the copyrighted material available on its internet website if the department pays the copyright royalties.

SECTION 27. AMENDMENT. Section 14-02.1-02.2 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-02.2. Abortion report form.

The ~~state~~ department of health and human services shall prepare an abortion compliance report form and an abortion data report form to be used by the physician for each abortion performed, as required by section 14-02.1-07. The abortion compliance report form must include a checklist designed to confirm compliance with all provisions of this chapter, chapter 14-02.3, chapter 14-02.6, and section 23-16-14. The abortion data report form must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.

SECTION 28. AMENDMENT. Subsection 4 of section 14-02.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

4. The ~~state~~ department of health and human services shall make the signs required by this section available for download in a printable format on its internet website.

SECTION 29. AMENDMENT. Section 14-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07. Records required - Reporting of practice of abortion.

1. Records:

   a. All abortion facilities and hospitals in which abortions are performed shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses' worksheets, social service records, and progress notes, and shall further keep a copy of all written certifications provided for in this chapter as well as a copy of the constructive notice forms, consent forms, court orders, abortion data reports, adverse event reports, abortion compliance reports, and complication reports. All abortion facilities shall keep the following records:

      (1) The number of women who availed themselves of the opportunity to receive and view an ultrasound image of their unborn children pursuant to section 14-02.1-04, and the number who did not; and of each of those numbers, the number who, to the best of the reporting abortion facility's information and belief, went on to obtain the abortion.

      (2) Postfertilization age:

         (a) If a determination of probable postfertilization age was not made, the basis of the determination that a medical emergency existed.

         (b) If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the basis of the determination that a medical emergency existed.

b. The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein must remain confidential and may be used by the ~~state~~ department of health and human services only for gathering statistical data and ensuring compliance with the provisions of this chapter.

c. Records must be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.

2. Reporting:

a. An individual abortion compliance report and an individual abortion data report for each abortion performed upon a woman must be completed by her attending physician. The abortion data report must be confidential and may not contain the name of the woman. The abortion data report must include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.

b. All abortion compliance reports must be signed by the attending physician within twenty-four hours and submitted to the ~~state~~ department of health and human services within ten business days from the date of the abortion. All abortion data and complication reports must be signed by the attending physician and submitted to the ~~state~~ department of health and human services within thirty days from the date of the abortion. If a physician provides an abortion-inducing drug to another for the purpose of inducing an abortion and the physician knows that the individual experiences during or after the use an adverse event, the physician shall provide a written report of the adverse event within thirty days of the event to the ~~state~~ department of health and human services and the federal food and drug administration via the medwatch reporting system. For purposes of this section, "adverse event" is defined based upon the federal food and drug administration criteria given in the medwatch reporting system. If a determination of probable postfertilization age was not made, the abortion compliance report must state the basis of the determination that a medical emergency existed. If the probable postfertilization age was determined to be twenty or more weeks and an abortion was performed, the abortion compliance report must state the basis of the determination that a medical emergency existed.

c. A copy of the abortion report, any complication report, and any adverse event report must be made a part of the medical record of the patient at the facility or hospital in which the abortion was performed. In cases when post-abortion complications are discovered, diagnosed, or treated by physicians not associated with the facility or hospital where the abortion was performed, the ~~state~~ department of health and human services shall forward a copy of the report to that facility or hospital to be made a part of the patient's permanent record.

d. The ~~state~~ department of health and human services is responsible for collecting all abortion compliance reports, abortion data reports, complication reports, and adverse event reports and collating and evaluating all data gathered from these reports and shall annually publish a statistical report based on data from abortions performed in the previous calendar year. All abortion compliance reports received by the ~~state~~

department of health and human services are public records. Except for disclosure to a law enforcement officer or state agency, the department may not disclose an abortion compliance report without first removing any individually identifiable health information and any other demographic information, including race, marital status, number of previous live births, and education regarding the woman upon whom the abortion was performed.

e. The ~~state~~ department of health and human services shall report to the attorney general any apparent violation of this chapter.

SECTION 30. AMENDMENT. Section 14-02.1-07.1 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-07.1. Forms.

The ~~state~~ department of health and human services shall make available to physicians, hospitals, and all abortion facilities the forms required by this chapter.

SECTION 31. AMENDMENT. Section 14-02.1-09 of the North Dakota Century Code is amended and reenacted as follows:

14-02.1-09. Humane disposal of nonviable unborn child.

The physician performing the abortion, if performed outside of a hospital, must see to it that the unborn child is disposed of in a humane fashion under regulations established by the ~~state~~ department of health and human services. A licensed hospital in which an abortion is performed must dispose of a dead unborn child in a humane fashion in compliance with regulations promulgated by the ~~state~~ department of health and human services.

SECTION 32. AMENDMENT. Section 14-07.1-01 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-01. Definitions.

1. "Department" means the ~~state~~ department of health and human services.

2. "Domestic violence" includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.

3. "Domestic violence sexual assault organization" means a private, nonprofit organization whose primary purpose is to provide emergency housing, twenty-four-hour crisis lines, advocacy, supportive peer counseling, community education, and referral services for victims of domestic violence and sexual assault.

4. "Family or household member" means a spouse, family member, former spouse, parent, child, persons related by blood or marriage, persons who are in a dating relationship, persons who are presently residing together or who have resided together in the past, persons who have a child in common regardless of whether they are or have been married or have lived together at any time, and, for the purpose of the issuance of a domestic violence

protection order, any other person with a sufficient relationship to the abusing person as determined by the court under section 14-07.1-02.

5. ~~"Health officer" means the state health officer of the department.~~

~~6.~~ "Law enforcement officer" means a public servant authorized by law or by a government agency to enforce the law and to conduct or engage in investigations of violations of law.

~~7.~~6. "Predominant aggressor" means an individual who is the most significant, not necessarily the first, aggressor.

~~8.~~7. "Willfully" means willfully as defined in section 12.1-02-02.

SECTION 33. AMENDMENT. Section 14-07.1-17 of the North Dakota Century Code is amended and reenacted as follows:

14-07.1-17. Duties of ~~health officer~~the department.

The ~~health officer~~department shall:

1. Respond to all applicants within sixty days after the deadline for receipt of applications, whether or not the applicant is eligible for funds.

2. Ensure that no more than ten percent of the moneys allocated to the domestic violence prevention fund in any biennium is expended for departmental administration of the grant program.

3. Distribute grants to eligible applicants in accordance with the purposes of sections 14-07.1-15 through 14-07.1-18.

SECTION 34. AMENDMENT. Subdivision f of subsection 2 of section 14-07.1-20 of the North Dakota Century Code is amended and reenacted as follows:

f. Employees of the ~~state~~ department of health and human services and county social services;

SECTION 35. AMENDMENT. Section 14-09-08.21 of the North Dakota Century Code is amended and reenacted as follows:

14-09-08.21. Termination of parental rights - Duty of support.

A termination of parental rights does not terminate the duty of either parent to support the child before the child's adoption unless that duty is specially terminated by order of the court after notice of a proposed termination or relinquishment is given to the department of health and human services in the manner appropriate for the service of process in a civil action in this state. A termination of a child support obligation under this section does not relieve a parent of the duty to pay any unpaid child support.

SECTION 36. AMENDMENT. Subsection 1 of section 14-09-09.7 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services shall establish child support guidelines to assist courts in determining the amount a parent should be expected to contribute toward the support of the child under this section. The guidelines must:

a. Include consideration of gross income. For purposes of the guidelines, gross income does not include an employee benefit over which the employee does not have significant influence or control over the nature or amount unless:

(1) That benefit may be liquidated; and

(2) Liquidation of that benefit does not result in the employee incurring an income tax penalty.

b. Authorize an expense deduction for determining net income.

c. Designate other available resources to be considered.

d. Specify the circumstances that should be considered in reducing support contributions on the basis of hardship.

e. Include consideration of extended periods of time a minor child spends with the child's obligor parent.

f. Authorize a rebuttal of the presumption provided in subsection 4 based on the proportionate net income of the obligor and the obligee when the net income of the obligee is at least three times higher than the net income of the obligor.

g. Include consideration of an obligated party's responsibility for health insurance coverage or other medical support under section 14-09-08.10.

SECTION 37. AMENDMENT. Subsection 4 of section 14-09-09.10 of the North Dakota Century Code is amended and reenacted as follows:

4. "Child support agency" means the department of <u>health and</u> human services in execution of its duties pursuant to the state plan submitted under chapter 50-09 in conformance with title IV-D of the Social Security Act [Pub. L. 93-647; 88 Stat. 2351; 42 U.S.C. 651 et seq.].

SECTION 38. AMENDMENT. Section 14-09-09.31 of the North Dakota Century Code is amended and reenacted as follows:

14-09-09.31. Child support exempt from process.

A child support obligation owed to an obligee who is a judgment debtor may not be subject to execution, garnishment, attachment, or other process except to satisfy that child support obligation. This section does not prohibit the child support agency from authorizing the state disbursement unit to apply a payment of past-due support owed to an obligee to a child support obligation owed by the same obligee or to another debt being enforced by the North Dakota department of <u>health and</u> human services that arises out of a public assistance program.

SECTION 39. AMENDMENT. Section 14-09-12 of the North Dakota Century Code is amended and reenacted as follows:

14-09-12. Support - Liability of parent's estate.

If a parent chargeable with the support of a child dies leaving it chargeable upon the human service zone and leaving an estate sufficient for its support, the

department of health and human services, in the name of the human service zone, may claim provision for its support from the parent's estate by civil action, and for this purpose may have the same remedies as any creditor against that estate and against the heirs, devisees, and next of kin of the parent.

SECTION 40. AMENDMENT. Section 14-10-05 of the North Dakota Century Code is amended and reenacted as follows:

14-10-05. Assignment of children prohibited - Penalty.

No person, other than the parents, may assume the permanent care and custody of a child, unless authorized so to do by an order or decree of a court having jurisdiction, except that a parent, upon giving written notice to the department of health and human services and human service zone, may place that person's own child in the home of the child's grandparent, uncle, or aunt for adoption or guardianship by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. No parent may assign or otherwise transfer the parent's rights or duties with respect to the care and custody of the parent's child. Any such transfer or assignment, written or otherwise, is void. This section does not affect the right of the parent to consent in writing to the legal adoption of the parent's child, but such written consent does not operate to transfer any right in the child in the absence of a decree by a court having jurisdiction. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 41. AMENDMENT. Subsection 2 of section 14-12.2-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The department of health and human services is the support enforcement agency of this state.

SECTION 42. AMENDMENT. Subsection 1 of section 14-12.2-22 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of health and human services is the state information agency under this chapter.

SECTION 43. AMENDMENT. Section 14-12.2-47.3 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.3. (703) Relationship of department of health and human services to United States central authority.

The department of health and human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

SECTION 44. AMENDMENT. Section 14-12.2-47.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-47.4. (704) Initiation by department of health and human services of support proceeding under convention.

1. In a support proceeding under the convention, the department of health and human services of this state shall:

a. Transmit and receive applications; and

b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

2. The following support proceedings are available to an obligee under the convention:

a. Recognition or recognition and enforcement of a foreign support order;

b. Enforcement of a support order issued or recognized in this state;

c. Establishment of a support order if there is no existing order, including, where necessary, determination of parentage of a child;

d. Establishment of a support order if recognition of a foreign support order is refused under subdivision b, d, or i of subsection 2 of section 14-12.2-47.8;

e. Modification of a support order of a tribunal of this state; and

f. Modification of a support order of a tribunal of another state or foreign country.

3. The following support proceedings are available under the convention to an obligor against whom there is an existing support order:

a. Recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

b. Modification of a support order of a tribunal of this state; and

c. Modification of a support order of a tribunal of another state or foreign country.

SECTION 45. AMENDMENT. Subsection 4 of section 14-12.2-47.5 of the North Dakota Century Code is amended and reenacted as follows:

4. An individual filing a direct request is not entitled to assistance from the department of <u>health and</u> human services.

SECTION 46. AMENDMENT. Subdivision b of subsection 3 of section 14-12.2-47.8 of the North Dakota Century Code is amended and reenacted as follows:

b. The department of <u>health and</u> human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.

SECTION 47. AMENDMENT. Section 14-13-03 of the North Dakota Century Code is amended and reenacted as follows:

14-13-03. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Appropriate authority in the receiving state" as used in paragraph 1 of article V of the compact with reference to this state means the executive director of the department of health and human services.

2. "Appropriate public authorities" as used in article III of the compact with reference to this state means the department of health and human services, and the department shall receive and act with reference to notices required by article III.

[219] **SECTION 48. AMENDMENT.** Subsection 6 of section 14-15-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Department" means the department of health and human services.

SECTION 49. AMENDMENT. Subsection 4 of section 14-15.1-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 50. AMENDMENT. Section 14-19-01 of the North Dakota Century Code is amended and reenacted as follows:

14-19-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Birthing hospital" means a hospital licensed under chapter 23-16 which provides obstetrical services.

2. "Department" means the department of health and human services.

3. "Donor" means a woman whose body produced an egg for the purposes of assisted conception but does not include a woman whose body produces an egg used for the purpose of conceiving a child for that woman.

4. "Gestational carrier" means a woman who enters into an agreement to have an embryo implanted in her and bear the resulting child for intended parents, when the embryo is conceived by using the egg and sperm of the intended parents.

5. "Married woman" includes a woman who attempted to marry by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid.

6. "Mother" means a woman who gives birth to a child or, if pregnancy resulted from assisted conception, the woman who is the donor but not the woman who is the gestational carrier.

7. "Party" means the man with whom the relationship of father and child is sought or established, the child's mother, and, for purposes of proceedings to relieve a party of the relationship of father and child, the child.

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[219] Section 14-15-01 was also amended by section 1 of Senate Bill No. 2340, chapter 118.

8. "Relationship of father and child" means the legal relationship existing between a father and the father's natural or adoptive child incident to which the law confers or imposes rights, privileges, duties, and obligations.

9. "Voluntary paternity establishment service entity" means the ~~state~~ department of health and human services and any child support agency, as that term is defined in section 14-09-09.10.

SECTION 51. AMENDMENT. Section 14-19-05 of the North Dakota Century Code is amended and reenacted as follows:

14-19-05. Filing of acknowledgment.

An acknowledgment of paternity made under chapter 14-20 must be filed with the ~~state~~ department ~~of health~~ on a form approved by the department, which must include the social security number of the parents and any other information required by the secretary of the United States department of health and human services. ~~Upon request of the department, the state department of health shall furnish a certified copy of an acknowledgment of paternity to the department.~~

SECTION 52. AMENDMENT. Subdivision d of subsection 1 of section 14-19-06 of the North Dakota Century Code is amended and reenacted as follows:

d. Forward completed acknowledgments to ~~the state~~ department ~~of health~~.

SECTION 53. AMENDMENT. Section 14-19-08 of the North Dakota Century Code is amended and reenacted as follows:

14-19-08. Powers and duties of the department.

The department shall:

1. Provide each birthing hospital and voluntary paternity establishment service entity in the state:

   a. Written materials about paternity establishment.

   b. Forms necessary to voluntarily acknowledge paternity.

   c. A written description of the rights and responsibilities of acknowledging paternity.

2. Provide training, guidance, and written instructions regarding voluntary acknowledgment of paternity reasonably necessary to assist a birthing hospital or voluntary paternity establishment service entity in its duties under this chapter.

3. ~~In cooperation with the state department of health, secure~~Secure information on each voluntary paternity establishment service entity's and each birthing hospital's paternity acknowledgment program at least annually.

4. In cases involving applications for child support services made to a child support agency which require paternity establishment, determine if a voluntary paternity acknowledgment has been filed with the ~~state~~ department ~~of health~~.

5. Assure that the same procedures governing birthing hospitals apply to voluntary paternity establishment service entities, including use of the same

notice provisions, the same materials, the same evaluation methods, and the same training for personnel.

SECTION 54. AMENDMENT. Subsection 3 of section 14-19-12 of the North Dakota Century Code is amended and reenacted as follows:

3. A voluntary paternity establishment service entity shall forward completed acknowledgments to the ~~state~~ department ~~of health~~.

SECTION 55. AMENDMENT. Paragraph 1 of subdivision d of subsection 1 of section 14-20-10 of the North Dakota Century Code is amended and reenacted as follows:

(1) The assertion is in a record filed with the ~~state~~ department of health and human services;

SECTION 56. AMENDMENT. Subdivision a of subsection 2 of section 14-20-12 of the North Dakota Century Code is amended and reenacted as follows:

a. States that another man is a presumed father, unless a denial of paternity signed or otherwise authenticated by the presumed father is filed with the ~~state~~ department of health and human services;

SECTION 57. AMENDMENT. Subsection 3 of section 14-20-14 of the North Dakota Century Code is amended and reenacted as follows:

3. Subject to subsection 1, an acknowledgment of paternity or denial of paternity takes effect on the birth of the child or the filing of the document with the ~~state~~ department of health and human services, whichever occurs later.

SECTION 58. AMENDMENT. Section 14-20-15 of the North Dakota Century Code is amended and reenacted as follows:

14-20-15. (305) Effect of acknowledgment or denial of paternity.

1. Except as otherwise provided in sections 14-20-17 and 14-20-18, a valid acknowledgment of paternity filed with the ~~state~~ department of health and human services is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all of the rights and duties of a parent and must be recognized as a basis for a support order in any proceeding to establish, enforce, or modify a support order.

2. Except as otherwise provided in sections 14-20-17 and 14-20-18, a valid denial of paternity by a presumed father filed with the ~~state~~ department of health and human services in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all rights and duties of a parent.

SECTION 59. AMENDMENT. Section 14-20-16 of the North Dakota Century Code is amended and reenacted as follows:

14-20-16. (306) No filing fee.

The ~~state~~ department of health and human services may not charge for filing an acknowledgment of paternity or denial of paternity.

SECTION 60. AMENDMENT. Section 14-20-18 of the North Dakota Century Code is amended and reenacted as follows:

14-20-18. (308) Challenge after expiration of period for rescission.

1. After the period for rescission under section 14-20-17 has expired, a signatory of an acknowledgment of paternity or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

   a. On the basis of fraud, duress, or material mistake of fact; and

   b. Within two years after the acknowledgment or denial is filed with the ~~state~~ department of health and human services.

2. A party challenging an acknowledgment of paternity or denial of paternity has the burden of proof.

SECTION 61. AMENDMENT. Section 14-20-19 of the North Dakota Century Code is amended and reenacted as follows:

14-20-19. (309) Procedure for rescission or challenge.

1. Every signatory to an acknowledgment of paternity and any related denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

2. For the purpose of rescission of, or challenge to, an acknowledgment of paternity or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the ~~state~~ department of health and human services.

3. Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

4. A proceeding to rescind or to challenge an acknowledgment of paternity or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under sections 14-20-36 through 14-20-58.

5. At the conclusion of a proceeding to rescind or challenge an acknowledgment of paternity or denial of paternity, the court shall order the ~~state~~ department of health and human services to amend the birth record of the child, if appropriate.

SECTION 62. AMENDMENT. Subsection 1 of section 14-20-22 of the North Dakota Century Code is amended and reenacted as follows:

1. To facilitate compliance with sections 14-20-11 through 14-20-24, the ~~state~~ department of health and human services shall prescribe forms for the acknowledgment of paternity and the denial of paternity.

SECTION 63. AMENDMENT. Section 14-20-23 of the North Dakota Century Code is amended and reenacted as follows:

14-20-23. (313) Release of information.

The ~~state~~ department of health and human services may release information relating to the acknowledgment of paternity or denial of paternity to a signatory of the acknowledgment or denial and to courts and appropriate state or federal agencies of this or another state.

SECTION 64. AMENDMENT. Section 14-20-24 of the North Dakota Century Code is amended and reenacted as follows:

14-20-24. (314) Adoption of rules.

The ~~state~~ department of health and human services may adopt rules to implement sections 14-20-11 through 14-20-23.

SECTION 65. AMENDMENT. Section 14-20-57 of the North Dakota Century Code is amended and reenacted as follows:

14-20-57. (636) Order adjudicating parentage.

1. The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

2. An order adjudicating parentage must identify the child by name and date of birth.

3. The order must include the social security numbers of the child and the individuals determined to be the child's parents.

4. The order may contain any other provision in the best interest of the child, including payment of support, payment of expenses of the mother's pregnancy and confinement, custody of the child, visitation with the child, and furnishing of bond or other security for payment of support. A support order must be for a monthly payment in an amount consistent with the guidelines established under section 14-09-09.7 and must be subject to section 14-09-08.1. All remedies for the enforcement of support, custody, and visitation orders apply. The court has continuing jurisdiction to modify an order for future support and, subject to section 14-09-09.6, custody of and visitation with the child.

5. Except as otherwise provided in subsection 6, the court may assess filing fees, reasonable attorney's fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under sections 14-20-36 through 14-20-58. The court may award attorney's fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

6. The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

7. On request of a party and for good cause shown, the court may order that the name of the child be changed.

8. If the order of the court is at variance with the child's birth certificate, the court shall order the ~~state~~ department of health and human services to issue an amended birth registration.

9. An order adjudicating parentage must be filed with the ~~state~~ department of health and human services.

SECTION 66. AMENDMENT. Section 15-05-16 of the North Dakota Century Code is amended and reenacted as follows:

15-05-16. Reports - State geologist - ~~State department~~Department of health and human services - Department of environmental quality.

The state geologist, ~~state~~ department of health and human services, or department of environmental quality, on the request of the board of university and school lands, shall visit any land leased under section 15-05-09 and shall make a report of the visit to the board. The state geologist, ~~state~~ department of health and human services, or department of environmental quality may not receive a fee for making the examination and report but must be paid necessary expenses incurred in connection with the examination.

SECTION 67. AMENDMENT. Subsection 2 of section 15-52-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The council consists of sixteen members:

   a. (1) Two members of the senate, one of whom must be from the majority party and one of whom must be from the minority party, selected by the chairman of the legislative management; ~~and~~

      (2) Two members of the house of representatives, one of whom must be from the majority party and one of whom must be from the minority party, to be selected by the chairman of the legislative management; and

      (3) Two members of the department of health and human services, of which one member is appointed by the state health officer;

   b. One member selected by each of the following:

      (1) ~~The department of human services;~~

      ~~(2)~~ The state board of higher education;

      ~~(3) The state department of health;~~

      ~~(4)~~(2)The North Dakota medical association;

      ~~(5)~~(3)The North Dakota hospital association;

      ~~(6)~~(4)The veterans administration hospital in Fargo;

      ~~(7)~~(5)The North Dakota center for nursing; and

      ~~(8)~~(6)The university of North Dakota center for rural health; and

   c. Four members selected by the dean of the university of North Dakota school of medicine and health sciences, one from each of the four campuses of the school of medicine and health sciences with headquarters in Bismarck, Fargo, Grand Forks, and Minot.

SECTION 68. AMENDMENT. Section 15.1-02-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-02-19. Health insurance programs - Joint enrollment program.

The superintendent of public instruction and the department of health and human services jointly shall develop a system under which families of children enrolling in the public school system are provided with information regarding state and federally funded health insurance programs and encouraged to apply for such coverage if determined to be eligible.

SECTION 69. AMENDMENT. Subsection 3 of section 15.1-24-01 of the North Dakota Century Code is amended and reenacted as follows:

3. The superintendent shall develop a plan for the coordination of services with other agencies, including the department of health and human services, ~~the state department of health,~~ the department of transportation, and law enforcement agencies.

SECTION 70. AMENDMENT. Section 15.1-32-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-03. Interagency cooperative agreements - Development and implementation.

The superintendent of public instruction shall develop and implement interagency agreements with the department of corrections and rehabilitation, the department of health and human services, ~~the state department of health,~~ and other public and private entities to maximize the state resources available for fulfilling the educationally related service requirements of Public Law No. 94-142 [89 Stat. 773] and section 504 of the Rehabilitation Act of 1973, as amended.

SECTION 71. AMENDMENT. Section 15.1-32-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-05. Special education - Cooperation among agencies.

The superintendent of public instruction~~, the state department of health,~~ and the department of health and human services shall cooperate in planning and coordinating early intervention programs for individuals under the age of three.

SECTION 72. AMENDMENT. Section 15.1-32-19 of the North Dakota Century Code is amended and reenacted as follows:

15.1-32-19. Boarding care costs - Reimbursement of school district.

The superintendent of public instruction shall reimburse a student's school district of residence an amount equal to eighty percent of the room and board costs paid by the district for a student with disabilities who is placed in a facility that is located either within or outside of the student's school district of residence in order to receive special education services. The student's school district of residence is liable for any room and board costs in excess of those reimbursed as provided in this section. The placement of a student with disabilities in a public or private facility will be made by a school district. The placement of a student with disabilities in congregate care will be made in a facility designated by the department of health and human services.

SECTION 73. AMENDMENT. Subsection 2 of section 15.1-34-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 74. AMENDMENT. Section 15.1-34-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-34-04. Boarding home fire inspection - Report.

The ~~state department of health, the~~ state fire marshal~~,~~ or a designee of the state fire marshal shall inspect any home for which a registration certificate is sought if requested to do so by the department. The department may inspect any home for which a registration certificate is sought. The entity conducting the inspection under this section shall prepare an inspection report and present the report to the department.

[220] **SECTION 75. AMENDMENT.** Subsection 1 of section 15.1-37-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The North Dakota early childhood education council consists of:

   a. A chairman appointed by the governor;

   b. The superintendent of public instruction, or the superintendent's designee;

   c. The state health officer, or the officer's designee;

   d. The director of the department of health and human services, or the director's designee;

   e. The North Dakota head start - state collaboration administrator, or the administrator's designee;

   f. The commissioner of higher education, or the commissioner's designee;

   g. The commissioner of commerce, or the commissioner's designee;

   h. The chairman of the senate education committee, or the chairman's designee;

   i. The chairman of the house of representatives education committee, or the chairman's designee; and

   j. The following gubernatorial appointees:

      (1) The superintendent of a school district having at least one thousand students in average daily membership;

      (2) The superintendent of a school district having fewer than one thousand students in average daily membership;

      (3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;

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[220] Section 15.1-37-02 was repealed by section 11 of House Bill No. 1416, chapter 358.

(4) An individual representing a non-religious-based provider of early childhood education;

(5) An individual representing a religious-based provider of early childhood education;

(6) An individual representing a center-based licensed child care provider;

(7) An individual representing a home-based licensed child care provider;

(8) An individual representing a reservation-based head start program;

(9) An elected member of a school board;

(10) The parent of a child not yet enrolled in elementary school;

(11) The parent of a child with disabilities not yet enrolled in elementary school; and

(12) An individual representing children with disabilities.

SECTION 76. AMENDMENT. Section 18-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

18-01-03.1. Inspections - Department of health and human services - Education.

1. The state fire marshal and the state fire marshal's deputies may perform fire safety inspections of those facilities required to be inspected under administrative rules of the department of health and human services. The state fire marshal shall charge a fee not to exceed fifty dollars for conducting these fire safety inspections in an amount determined by administrative rules adopted by the state fire marshal. Inspection fees received by the state fire marshal must be deposited into the attorney general's operating fund.

2. The state fire marshal shall provide the department of health and human services and designees of the fire marshal education regarding the fire safety requirements of licensed early childhood program premises, including smoke detector and carbon monoxide alarm requirements.

SECTION 77. AMENDMENT. Section 18-01-03.2 of the North Dakota Century Code is amended and reenacted as follows:

18-01-03.2. Delegation of authority.

The state fire marshal may delegate to the ~~state~~ department of health and human services or any political subdivision the authority to conduct investigations, surveys, or inspections, and the authority to enforce compliance where violations are discovered, which become the responsibility of the ~~state~~ department of health and human services or political subdivision and otherwise would be the responsibility of the state fire marshal. Any delegation to the ~~state~~ department of health and human services is limited to authority over basic care facilities. Any political subdivision that meets the state fire marshal's minimum standard requirements may be delegated authority under this section. A political subdivision may refuse the delegation.

SECTION 78. AMENDMENT. Subsection 1 of section 19-01-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 79. AMENDMENT. Section 19-01-07 of the North Dakota Century Code is amended and reenacted as follows:

19-01-07. Contract services.

Funds may be accepted by the department from cities, counties, states, federal agencies, and private organizations for contract services of analytical and inspection work. Such funds must be remitted by the department to the state treasurer and deposited in the operating fund of the ~~state~~ department ~~of health~~.

SECTION 80. AMENDMENT. Subsection 6 of section 19-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

6. "Department" means the ~~state~~ department of health and human services.

SECTION 81. AMENDMENT. Section 19-02.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-07. Minor violations.

Nothing in this chapter may be construed as requiring the ~~state~~ department ~~of health~~ or the state board of pharmacy to report minor violations of this chapter for the institution of proceedings under this chapter whenever the ~~state~~ department ~~of health~~ or the state board of pharmacy believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

SECTION 82. AMENDMENT. Subsection 5 of section 19-02.1-10 of the North Dakota Century Code is amended and reenacted as follows:

5. If in package form, unless it bears a label containing:

   a. The name and place of business of the manufacturer, packer, or distributor;

   b. An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and

   c. In the case of beverages that are manufactured, distributed, and sold under a franchise or trademark name indicated thereon, whereby the person, firm, corporation, or limited liability company owning the franchise or trademark has control over the distribution, such beverages may be exempt from this subsection, if a certified statement is filed with the ~~state~~ department ~~of health~~, stating the name and address of the manufacturer or distributor, and a statement signed by the manufacturer or distributor that they assume all responsibility and liability for the product named, which is being sold, or offered for sale, under such name within the area of the state designated, which certificate must be in the following form:

NORTH DAKOTA ~~STATE~~ DEPARTMENT OF HEALTH AND HUMAN SERVICES

BISMARCK, NORTH DAKOTA

BEVERAGE LABELING EXEMPTIONS CERTIFICATE

I, _____, the undersigned, an agent of and having

authority to sign, do hereby certify that the following information is correct:

Name and address of company requesting exemption

_____

Name _____

Street Address _____

City or Town _____

State _____

Name of Product _____

Brand Name _____

In order to be exempt from subdivisions a and b of subsection 5 of section 19-02.1-10 of the North Dakota Century Code, relating to misbranding of food, which requires the name and address of the real manufacturer or other persons responsible for placing the product upon the market, I, the undersigned, do bind the company listed above by agreeing to assume all responsibility for the product named in this certificate which is being sold, or offered for sale under such name and brand name within the area consisting of _____ in the State of North Dakota.

Note: The area must be designated by counties or other legal subdivisions of the city, county, or state.

Firm _____

Signed _____

Title _____

Address _____

Note: If signed by a person other than an officer of the company, authorization for signature must accompany this form. This certificate must be acknowledged.

Provided, that under subdivision b reasonable variations must be permitted, and exemptions as to small packages must be established, by regulations prescribed by the department.

SECTION 83. AMENDMENT. Section 19-02.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

19-02.1-10.1. Eggs - Labeling and temperature rules.

The ~~state~~ department ~~of health~~ may adopt appropriate rules under chapter 28-32 to establish standards for proper labeling and temperature during the retail storage and sale of shell eggs. As used in this section, "eggs" means eggs in the shell which are the product of a domesticated chicken.

SECTION 84. AMENDMENT. Subsection 2 of section 19-02.1-16 of the North Dakota Century Code is amended and reenacted as follows:

2. An application provided for in subdivision b of subsection 1 becomes effective on the one hundred eightieth day after the filing thereof, except that if the department finds, after due notice to the applicant and giving the applicant an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, the ~~state~~ department ~~of health~~ shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

SECTION 85. AMENDMENT. Subsection 3 of section 19-03.1-17 of the North Dakota Century Code is amended and reenacted as follows:

3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The board need not require separate registration under this chapter for practitioners engaging in research with non-narcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the ~~state~~ department ~~of health~~ evidence of that federal registration.

SECTION 86. AMENDMENT. Subsection 3 of section 19-03.1-45 of the North Dakota Century Code is amended and reenacted as follows:

3. If the licensed addiction counselor recommends treatment, the court shall require the person to participate in an addiction program licensed by the department ~~of human services~~ as a condition of the probation. The court shall commit the person to treatment through a licensed addiction program until determined suitable for discharge by the court. The term of treatment may not exceed eighteen months and may include an aftercare plan. During the commitment and while subject to probation, the department shall supervise the person.

SECTION 87. AMENDMENT. Subdivision e of subsection 3 of section 19-03.5-03 of the North Dakota Century Code is amended and reenacted as follows:

e. The department ~~of human services~~ for purposes regarding the utilization of controlled substances by a Medicaid recipient or establishment and enforcement of child support and medical support;

SECTION 88. AMENDMENT. Subdivision e of subsection 2 of section 19-03.5-07 of the North Dakota Century Code is amended and reenacted as follows:

e. A designee of the department ~~of human services~~;

SECTION 89. AMENDMENT. Section 19-05.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-05.1-05. Inspection of food.

Upon the request made by a bona fide charitable or nonprofit organization receiving perishable food under this chapter, a representative from the county health

district where the organization is located or the ~~state~~ department ~~of health~~ shall provide inspection of the food received to determine whether the food may be used for human consumption. This chapter does not restrict the authority of any appropriate agency to inspect, regulate, or ban the use of perishable food.

SECTION 90. AMENDMENT. Section 19-06.1-05 of the North Dakota Century Code is amended and reenacted as follows:

19-06.1-05. Enforcement authority.

The ~~state~~ department ~~of health~~ shall enforce the provisions of this chapter.

SECTION 91. AMENDMENT. Section 19-17-05 of the North Dakota Century Code is amended and reenacted as follows:

19-17-05. Penalty.

Any person who violates any of the provisions of this chapter or the orders, rules, or regulations promulgated by the ~~state~~ department ~~of health~~ under authority thereof, is, unless a specific penalty has been provided, guilty of a class B misdemeanor.

SECTION 92. AMENDMENT. Subsection 3 of section 19-21-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the ~~state~~ department of health and human services.

[221] **SECTION 93. AMENDMENT.** Subsection 16 of section 19-24.1-01 of the North Dakota Century Code is amended and reenacted as follows:

16. "Department" means the ~~state~~ department of health and human services.

[222] **SECTION 94. AMENDMENT.** Subdivision a of subsection 1 of section 19-24.1-14 of the North Dakota Century Code is amended and reenacted as follows:

a. A nonrefundable application fee, not to exceed five thousand dollars, made payable to the "North Dakota ~~State~~ Department of Health and Human Services, Medical Marijuana Program".

[223] **SECTION 95. AMENDMENT.** Subdivision a of subsection 1 of section 19-24.1-15 of the North Dakota Century Code is amended and reenacted as follows:

a. A certification fee, made payable to the "North Dakota ~~State~~ Department of Health and Human Services, Medical Marijuana Program", in the amount of ninety thousand dollars for a dispensary and one hundred ten thousand dollars for a manufacturing facility.

SECTION 96. AMENDMENT. Subsection 3 of section 19-24.1-24 of the North Dakota Century Code is amended and reenacted as follows:

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[221] Section 19-24.1-01 was also amended by section 9 of House Bill No. 1213, chapter 172.

[222] Section 19-24.1-14 was also amended by section 15 of House Bill No. 1213, chapter 172.

[223] Section 19-24.1-15 was also amended by section 16 of House Bill No. 1213, chapter 172.

3. The ~~health council~~department shall adopt rules to allow a manufacturing facility to possess no more than an additional fifty plants for the exclusive purpose of department-authorized research and development related to production and processing. These plants are not counted in a manufacturing facility possession amount and are not subject to an additional fee.

SECTION 97. AMENDMENT. Subdivision e of subsection 2 of section 19-24.1-33 of the North Dakota Century Code is amended and reenacted as follows:

e. On the grounds of a child care facility or licensed home day care, unless authorized under rules adopted by the department ~~of human services~~.

SECTION 98. AMENDMENT. Section 19-24.1-36 of the North Dakota Century Code is amended and reenacted as follows:

19-24.1-36. ~~Health council -~~ Rules.

1. The ~~health council~~department shall adopt rules as necessary for the implementation and administration of this chapter, including transportation and storage of marijuana and usable marijuana, advertising, packaging and labeling, standards for testing facilities, inventory management, and accurate recordkeeping.

2. The ~~health council~~department may adopt rules regarding the operation and governance of additional categories of registered medical marijuana establishments.

3. The ~~health council~~department shall adopt rules to establish requirements for reporting incidents of individuals not authorized to possess marijuana or usable marijuana under this chapter and who are found in possession of marijuana or usable marijuana. The rules must identify professionals required to report, the information the reporter is required to report, and actions the reporter shall take to secure the marijuana or usable marijuana.

4. The ~~health council~~department shall adopt rules to establish requirements for law enforcement officials and health care professionals to report to the department incidents involving overdose or adverse reaction related to the use of usable marijuana.

SECTION 99. AMENDMENT. Section 20.1-01-26.1 of the North Dakota Century Code is amended and reenacted as follows:

20.1-01-26.1. Hunting, trapping, or fishing prohibited while privileges are suspended - Penalty.

No person may directly or indirectly hunt, trap, or fish or assist in any way in hunting, trapping, or fishing while the person's privileges have been suspended by a court or by the department of health and human services under section 50-09-08.6. Any person violating this section is guilty of a class A misdemeanor.

SECTION 100. AMENDMENT. Subsection 4 of section 20.1-03-04 of the North Dakota Century Code is amended and reenacted as follows:

4. Life skills and transition center patients, North Dakota youth correctional center students, school for the deaf students, North Dakota vision services - school for the blind students, state hospital patients, clients of regional human service centers under direct therapeutic care, and residents of facilities

licensed by the ~~state~~ department of health and ~~the department of~~ human services may fish without a resident fishing license. Patients of these institutions must be identified. The department shall issue authority to each institution.

SECTION 101. AMENDMENT. Section 23-01-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01-01. ~~State department of health~~Health division - Officers.

The ~~state~~ department of health and human services' health division consists of a health council, a state health officer, ~~section chiefs, directors of divisions,~~ and other designated employees of the department.

SECTION 102. AMENDMENT. Section 23-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-01.1. ~~State department~~Department of health and human services to replace state department of health and consolidated laboratories.

~~Wherever the terms~~The legislative council shall replace, where appropriate, "North Dakota state department of health", "department of health", "health department", "state department of health and consolidated laboratories", "North Dakota state laboratories department", "state laboratories department", "state laboratories department director", ~~or~~ "state laboratories director", "state department of health", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in this code, ~~the term "state department of health" must be substituted therefor~~and in the North Dakota Administrative Code, with "department of health and human services" or an appropriate derivative of that phrase. The legislative council may replace references to the "state department of health" or any derivatives of that term with "department of health and human services" in any measure enacted by the sixty-seventh legislative assembly.

SECTION 103. AMENDMENT. Section 23-01-03 of the North Dakota Century Code is amended and reenacted as follows:

23-01-03. Powers and duties of the health council.

The health council shall:

1. Fix, subject to the provisions of section 23-01-02, the time and place of the meetings of the council.

2. Make ~~rules and~~ regulations for the government of the council and its officers and meetings.

3. Establish standards~~, rules,~~ and regulations, which are found necessary for the maintenance of public health, including sanitation and disease control.

4. Provide for the development, establishment, and enforcement of basic standards for hospitals and related medical institutions which render medical and nursing care, and for the construction and maintenance of such institutions, such standards to cover matters pertaining to sanitation, building construction, fire protection measures, nursing procedures, and preservation of medical records. No ~~rule~~regulation may be adopted with respect to building construction of existing medical hospitals or related medical institutions unless

the ~~rule~~regulation relates to safety factors or the hospital or related medical institution changes the scope of service in such a way that a different license is required from the department pursuant to rules adopted under chapter 23-16.

5. Hold hearings on all matters brought before it by applicants and licensees of medical hospitals with reference to the denial, suspension, or revocation of licenses and make appropriate determination as specified herein.

The council may direct the state health officer to do or cause to be done any or all of the things which may be required in the proper performance of the various duties placed upon the ~~state~~ department of health and human services.

SECTION 104. AMENDMENT. Subsection 1 of section 23-01-03.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~health council~~department of health and human services shall adopt rules relating to the storage, maintenance, and disposal of blood spots or other newborn screening specimens.

SECTION 105. AMENDMENT. Subsection 1 of section 23-01-03.3 of the North Dakota Century Code is amended and reenacted as follows:

1. The state health council, in cooperation with the North Dakota long term care association, shall administer the long-term care nursing scholarship and loan repayment grant program. The purpose of the program is to provide matching funds to nursing facilities for the facilities to use in recruiting and retaining nurses by providing scholarships to nursing facility staff and other individuals to obtain a nursing education and by assisting in the repayment of student loans for licensed nurses employed in a nursing facility. The ~~state~~department of health ~~council~~and human services shall adopt rules necessary to administer the program, including rules establishing criteria regarding eligibility for and distribution of program grants.

SECTION 106. AMENDMENT. Section 23-01-04 of the North Dakota Century Code is amended and reenacted as follows:

23-01-04. Effect of rules and regulations.

All rules and regulations ~~promulgated~~adopted by the ~~health council~~department of health and human services under the powers granted by any provisions of this title are binding upon all county and municipal health officers, and upon all county, municipal, and private medical hospitals and upon related institutions, and have the force and effect of law.

[224] **SECTION 107. AMENDMENT.** Section 23-01-05 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05. Health officer - Qualifications, salary, term, duties - Advisory committee.

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[224] Section 23-01-05 was also amended by section 1 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1410, chapter 92, section 1 of House Bill No. 1418, chapter 190, and section 1 of Senate Bill No. 2181, chapter 192.

The governor shall appoint ~~the state health officer who must have had substantive private or public administrative experience and demonstrated experience in the management of people~~the state health officer who at the time of appointment must be a physician with substantive private or public administrative experience and public health experience. The state health officer is entitled to receive a salary commensurate with that ~~person's~~individual's training and experience. The governor shall set the salary of the state health officer within the limits of legislative appropriations to the department. The state health officer is entitled to receive all necessary traveling expenses incurred in the performance of official business. The state health officer may not engage in any other occupation or business that may conflict with the statutory duties of the state health officer and holds office for a term of four years ~~beginning January 1, 1993. The state health officer is the administrative officer of the state department of health. If the governor does not appoint as state health officer a physician licensed in this state~~. If the office of the state health officer is filled temporarily, the governor shall appoint at least three licensed physicians recommended by the state medical association to serve as an advisory committee to the state health officer. Each member of the advisory committee is entitled to receive reimbursement of expenses in performing official duties in amounts provided by law for other state officers. The term of the advisory committee coincides with the term of the state health officer. A committee member serves at the pleasure of the governor. The duties of the state health officer are as follows:

1. Enforce all ~~rules and~~ regulations as promulgated by the health council and all rules adopted by the department of health and human services.

2. Hold public health unit boards of health responsible for enforcement of state rules, serve in an advisory capacity to public health unit boards of health, and provide for coordination of health activities.

3. Establish and enforce minimum standards of performance of the work of the local department of health.

4. Study health problems and plan for their solution as may be necessary.

5. Collect, tabulate, and publish vital statistics for each important political or health administrative unit of the state and for the state as a whole.

6. Promote the development of local health services and recommend the allocation of health funds to local jurisdictions subject to the approval of the health council.

7. Collect and distribute health education material.

8. Maintain a central public health laboratory and where necessary, branch laboratories for the standard function of diagnostic, sanitary and chemical examinations, and production and procurement of therapeutic and biological preparations for the prevention of disease and their distribution for public health purposes.

9. Establish a service for medical hospitals and related institutions to include licensing of such institutions according to the standards promulgated by the health council and consultation service to communities planning the construction of new hospitals and related institutions.

10. ~~Comply with the state merit system policies of personnel administration.~~

~~11.~~ Establish a program to provide information to the surviving family of a child whose cause of death is suspected to have been the sudden infant death syndrome.

~~12.~~11. 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.

~~13.~~12. Make bacteriological examination of bodily secretions and excretions and of waters and foods.

~~14.~~13. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.

~~15.~~14. Make all required analyses and preparations, and furnish the results thereof, as expeditiously and promptly as possible.

~~16.~~15. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.

~~17.~~16. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.

~~18.~~17. Establish by rule a schedule of reasonable fees that may be charged for laboratory analysis. No charge may be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.

~~19.~~18. a. Establish a review process for instances in which the department is requested to conduct an epidemiological assessment of a commercial building. The epidemiological assessment must include:

(1) A statement of whether there are known environmental causes;

(2) If there are known environmental causes identified, a recommendation of how they can be remediated or mitigated; and

(3) If there are no known environmental causes identified, a statement that no known causes exist.

b. Costs for remediation, mitigation, and consultant services are the responsibility of the building owner. Proof of remediation of any identified

environmental concern related to the epidemiological assessment is the burden of the building owner.

SECTION 108. AMENDMENT. Section 23-01-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.1. Organ or tissue transplant assistance administration - Standing appropriation.

The ~~state health officer~~executive director of the department of health and human services shall select a private nonprofit patient-oriented organization incorporated in this state for the purpose of administering financial assistance to organ or tissue transplant patients who are residents of this state. The ~~state health officer~~department of health and human services shall adopt rules governing administration of this section. The organization selected shall administer and provide grants from available funds to alleviate demonstrated financial needs of transplant patients for any costs associated with transplant operations, under guidelines based on current social service eligibility requirements. There is hereby created as a special fund in the state treasury an organ transplant support fund, the principal and income of which is hereby appropriated to the organization selected under this section. The organization administering the fund may solicit contributions from private or governmental sources and such contributions may be deposited in the fund.

[225] **SECTION 109. AMENDMENT.** Section 23-01-05.2 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.2. Administration of epinephrine - Liability.

1. The ~~state health officer~~department of health and human services shall adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction.

2. An individual authorized to administer epinephrine by the state health officer may obtain premeasured doses of epinephrine and the necessary paraphernalia for epinephrine administration from any licensed physician or pharmacist.

3. An individual authorized to administer epinephrine by the state health officer, and the employer of such an individual, is not civilly or criminally liable for any act or omission of that individual when acting in good faith while rendering emergency treatment to an individual who has a severe adverse reaction, except when the conduct amounts to gross negligence.

SECTION 110. AMENDMENT. Section 23-01-05.3 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.3. Immunization data.

1. The ~~state~~ department of health and human services may establish an immunization information system and may require the childhood immunizations specified in subsection 1 of section 23-07-17.1 and other information be reported to the department. The ~~state~~ department of health and human services may only require the reporting of childhood immunizations and other data upon completion of the immunization information reporting

[225] Section 23-01-05.2 was also amended by section 1 of Senate Bill No. 2248, chapter 193.

system. A health care provider who administers a childhood immunization shall report the patient's identifying information, the immunization that is administered, and other required information to the department. The report must be submitted using electronic media, and must contain the data content and use the format and codes specified by the department.

2. If a health care provider fails to submit an immunization report required under this section within four weeks of vaccination:

   a. That health care provider may not order or receive any vaccine from the North Dakota immunization program until that provider submits all reports required under this section.

   b. The ~~state~~ department of health and human services shall make a report to that health care provider's occupational licensing entity outlining that provider's failure to comply with the reporting requirements under this section.

3. Notwithstanding any other provision of law, a health care provider, elementary or secondary school, early childhood facility, public or private postsecondary educational institution, city or county board of health, district health unit, and the state health officer may exchange immunization data in any manner with one another. Immunization data that may be exchanged under this section is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization.

SECTION 111. AMENDMENT. Section 23-01-05.4 of the North Dakota Century Code is amended and reenacted as follows:

23-01-05.4. Department to employ state forensic examiner - Qualifications - Duties.

The ~~state~~ department of health and human services may employ and establish the qualifications and compensation of the state forensic examiner. The state forensic examiner must be a physician who is board-certified or board-eligible in forensic pathology, who is licensed to practice in this state, and who is in good standing in the profession. The state forensic examiner shall:

1. Exercise all authority conferred upon the coroner under chapter 11-19.1 and any other law;

2. Consult with local coroners on the performance of their duties as coroners;

3. Conduct investigations into the cause of death of and perform autopsies on any deceased human body whenever requested to do so by the acting local county coroner or the local state's attorney;

4. Provide training and educational materials to local county coroners, law enforcement, and any other person the state forensic examiner deems necessary;

5. Maintain complete records of the cause, manner, and mode of death necessary for accurate health statistics and for public health purposes; and

6. Perform other duties assigned by the state health officer.

SECTION 112. AMENDMENT. Section 23-01-06 of the North Dakota Century Code is amended and reenacted as follows:

23-01-06. Biennial report - Contents.

The ~~state health officer~~department of health and human services shall submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, the report must cover the following subjects:

1. The activities of the ~~various divisions~~health division, the work accomplished during the two years covered by the report, and an analysis of the program ~~of each~~ of the ~~divisions~~health division.

2. The expenditures of the ~~state department of~~ health division.

3. The expenditures in each county board of health or the district board of health.

4. Any reports relating to the hospital program as required by the health council.

SECTION 113. AMENDMENT. Section 23-01-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01-08. Directors of divisions - Deputy - Appointment, salary, duties.

The ~~state health officer~~executive director of the department of health and human services or designee shall appoint directors of the various divisions of the department and shall determine the salary, within the limits of legislative appropriations to the department and in conformity with the state merit system, to be received by such persons. The duties of such director must be those prescribed by the ~~state health officer~~executive director of the department of health and human services or designee. The ~~state health officer~~executive director of the department of health and human services or designee may appoint a deputy state health officer. A deputy state health officer who does not hold a health-related degree may not individually issue an order regarding public health unless the order is cosigned by a physician who is employed by the department or cosigned by the state epidemiologist. The deputy state health officer serves at the pleasure of the ~~state health officer~~executive director of the department of health and human services.

SECTION 114. AMENDMENT. Section 23-01-10 of the North Dakota Century Code is amended and reenacted as follows:

23-01-10. Office space.

The state shall provide suitable office space in Bismarck for housing and maintaining the ~~state~~ department of health and human services. Special fireproof vaults must be provided for the storage of birth and death certificates.

SECTION 115. AMENDMENT. Section 23-01-11 of the North Dakota Century Code is amended and reenacted as follows:

23-01-11. Acceptance of funds and right to qualify for benefits under federal laws authorized.

The ~~state~~ department of health and human services may:

1. Accept funds from cities, counties, the federal government, private organizations, and individuals for infancy and maternal hygiene, for other public health work and for the purpose of conducting a survey of existing medical hospitals and related institutions, planning of needed hospital construction and for construction and maintenance of such medical hospitals and related institutions. When approved by the governor of this state, the ~~state~~ department of health and human services may match the same from any unexpended portion of its appropriation in accordance with specifications agreed to or required by congressional act. All infancy and maternal hygiene and public health work must be done under the supervision of the ~~state~~ department of health and human services.

2. Adopt rules necessary to enable the state to be in compliance with any federal laws in order to qualify for any federal funds related to medical facilities or agencies licensed by the ~~state~~ department of health and human services.

SECTION 116. AMENDMENT. Section 23-01-14 of the North Dakota Century Code is amended and reenacted as follows:

23-01-14. ~~State department~~Department of health and human services authorized to transfer future accumulated fees.

As a continuing policy, the ~~state~~ department of health and human services may automatically from time to time transfer unclaimed fees on deposit with the Bank of North Dakota or other authorized depository to the state general fund when the unclaimed status has existed for a period of at least three years.

SECTION 117. AMENDMENT. Section 23-01-15 of the North Dakota Century Code is amended and reenacted as follows:

23-01-15. Research studies confidential - Penalty.

1. All information, records of interviews, written reports, statements, notes, memoranda, or other data procured by the ~~state~~ department of health and human services, in connection with studies conducted by the ~~state~~ department of health and human services, or carried on by the department jointly with other persons, agencies, or organizations, or procured by such other persons, agencies, or organizations, for the purpose of reducing the morbidity or mortality from any cause or condition of health is confidential and must be used solely for the purposes of medical or scientific research.

2. Such information, records, reports, statements, notes, memoranda, or other data is not admissible as evidence in any action of any kind in any court or before any other tribunal, board, agency, or person. Such information, records, reports, statements, notes, memoranda, or other data may not be exhibited nor their contents disclosed in any way, in whole or in part, by any officer or representative of the ~~state~~ department of health and human services, nor by any other person, except as may be necessary for the purpose of furthering the research project to which they relate. No person participating in such research project may disclose, in any manner, the information so obtained except in strict conformity with such research project. No officer or employee of said department may interview any patient named in any such report, nor a relative of any such patient, unless the consent of the attending physician and surgeon is first obtained.

3. The furnishing of such information to the ~~state~~ department of health and human services or its authorized representative, or to any other cooperating agency in such research project, does not subject any person, hospital, sanitarium, rest home, nursing home, or other person or agency furnishing such information, to any action for damages or other relief.

SECTION 118. AMENDMENT. Section 23-01-16 of the North Dakota Century Code is amended and reenacted as follows:

23-01-16. Dairy products - Joint standards.

The ~~state~~ department of health and human services and the dairy department of the department of agriculture shall jointly adopt a set of uniform standards in relation to all matters falling within their joint jurisdiction regarding dairy products. The ~~state~~ department of health and human services, district health units, municipal health departments or units, and the dairy department shall each be permitted to accept any inspection report of the other department or unit regarding the inspection of dairy products and the producers and processors of such products, when such report is based substantially upon standards conforming with the milk ordinance and code recommended by the United States public health service.

SECTION 119. AMENDMENT. Section 23-01-22 of the North Dakota Century Code is amended and reenacted as follows:

23-01-22. Department to employ waste management facility inspectors.

The ~~state~~ department of health and human services shall employ and establish the qualifications, duties, and compensation of at least one full-time inspector for each commercial, nonpublicly owned waste management disposal or incineration facility that accepts more than twenty-five thousand tons [22679.5 kilograms] per year of hazardous waste, industrial waste, nuclear waste, or ash resulting from the incineration of municipal solid waste. This section does not apply to any energy conversion facility or coal mining operation that disposes of its solid waste onsite. The department may require inspectors for those facilities that accept less than twenty-five thousand tons [22679.5 kilograms] per year. The facility inspector shall conduct regular inspections of the operating procedure and conditions of the facility and report the findings to the department on a regular basis. If an inspector discovers a condition at a facility that is likely to cause imminent harm to the health and safety of the public or environment, the inspector shall notify the department. The department shall proceed as provided by sections 23-29-10 and 23-29-11.

The department shall assess the owner or operator of a waste management facility that accepts hazardous waste, industrial waste, nuclear waste, or ash resulting from the incineration of municipal solid waste an annual fee to pay the salaries, wages, and operating expenses associated with employing an inspector for the facility. The owner or operator of the facility shall submit the fee to the department by July first of each year. Any fees collected must be deposited in the department's operating fund in the state treasury and any expenditures from the fund are subject to appropriation by the legislative assembly. If a facility begins operation after July first of any year, the owner or operator of the facility shall pay to the department a prorated fee for the fiscal year before the facility may begin accepting waste. Moneys in the waste management facility account may be spent by the department within the limits of legislative appropriation.

SECTION 120. AMENDMENT. Section 23-01-24 of the North Dakota Century Code is amended and reenacted as follows:

23-01-24. Health care cost and quality review program - Penalty.

The department of health and human services shall conduct a continuous program to review and improve the quality of health care in the state. The department may contract with a qualified person or organization to develop and implement the program. The department shall use the program to compile relevant information about the quality of health care in this state which will allow the department to evaluate the cost, quality, and outcomes of health care. The department shall establish and consult a provider advisory committee composed of health care providers regarding the data that is a cost-effective process for collecting and evaluating the information. The ~~state health officer~~department may assess against a provider a penalty of one hundred dollars per day for each day the provider willfully refuses to provide the department with information requested for use with the program, but the penalty may not exceed one thousand dollars for each request. A provider against whom a fee is assessed may appeal that assessment to the ~~state health council~~department. If the provider fails to pay the penalty, the ~~health council~~department may, in the county where the provider's principal place of business is located, initiate a civil action against the provider to collect the penalty. As used in this section, "provider" means a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or professional practice. The department shall ensure that patient privacy is protected throughout the compilation and use of the information. The department shall evaluate data management capabilities in the state and shall organize its capabilities to provide information about the cost of care on an individual provider basis as well as a collective basis.

SECTION 121. AMENDMENT. Section 23-01-25 of the North Dakota Century Code is amended and reenacted as follows:

23-01-25. Commercial feed, insecticide, fungicide, rodenticide, fertilizer, and soil conditioner laws - Laboratory function.

Notwithstanding any other provision of law, any laboratory test or analysis required under chapter 4.1-34, 4.1-40, or 4.1-41 must be performed by the ~~state~~ department of health and human services for the agriculture commissioner at no charge.

SECTION 122. AMENDMENT. Section 23-01-26 of the North Dakota Century Code is amended and reenacted as follows:

23-01-26. ~~State department of health~~Department - Indirect cost recoveries.

Notwithstanding section 54-44.1-15, the ~~state~~ department of health and human services may deposit indirect cost recoveries in its operating account.

SECTION 123. AMENDMENT. Section 23-01-27 of the North Dakota Century Code is amended and reenacted as follows:

23-01-27. Donated dental services program.

The ~~state~~ department of health and human services shall contract with the North Dakota dental association, or other appropriate and qualified organizations, to develop and administer a donated dental services program through which volunteer dentists provide comprehensive dental care for needy, disabled, aged, or medically compromised individuals. The volunteers will treat individuals through the program and, with the exception of certain dental laboratory costs, will fully donate their services and supplies. The contract must specify the responsibilities of the administering organization and include:

1. Establishment of a network of volunteer dentists, including dental specialists, volunteer dental laboratories, and other appropriate volunteer professionals to donate dental services to eligible individuals;

2. Establishment of a system to refer eligible individuals to appropriate volunteers;

3. Development and implementation of a public awareness campaign to educate eligible individuals about the availability of the program;

4. Provision of appropriate administrative and technical support to the program; and

5. Submission of an annual report to the ~~state~~ department of health and human services that:

   a. Accounts for all program funds;

   b. Reports the number of individuals served by the program and the number of dentists and dental laboratories participating as providers in the program;

   c. Includes any other information required by the ~~state~~ department of health and human services; and

   d. Performs, as required by the ~~state~~ department of health and human services, any other duty relating to the program.

SECTION 124. AMENDMENT. Section 23-01-28 of the North Dakota Century Code is amended and reenacted as follows:

23-01-28. Combined purchasing with local public health units - Continuing appropriation.

The ~~state~~ department of health and human services may make combined or joint purchases with or on behalf of local public health units for items or services. Payments received by the ~~state~~ department of health and human services from local public health units pursuant to a combined or joint purchase must be deposited in the operating fund and are appropriated as a standing and continuing appropriation to the ~~state~~ department of health and human services for the purpose of this section.

SECTION 125. AMENDMENT. Section 23-01-29 of the North Dakota Century Code is amended and reenacted as follows:

23-01-29. Bone marrow donor education.

The ~~state~~ department of health and human services shall provide information and educational materials to the public regarding bone marrow donation through the national marrow donor program. The department shall seek assistance from the national marrow donor program to establish a system to distribute materials, ensure that the materials are updated periodically, and address the education and recruitment of minority populations.

SECTION 126. AMENDMENT. Section 23-01-32 of the North Dakota Century Code is amended and reenacted as follows:

23-01-32. Viral hepatitis program - Vaccination - Study.

1. The ~~state~~ department of health and human services shall establish and administer a viral hepatitis program with the goal of distributing to residents of the state who are at an increased risk for exposure to viral hepatitis information that addresses the higher incidence of hepatitis C exposure and infection among these populations, addresses the dangers presented by the disease, and provides contacts for additional information and referrals.

2. The department shall establish a list of classes of individuals by category that are at increased risk for viral hepatitis exposure. The list must be consistent with recommendations developed by the federal centers for disease control and prevention. The department shall determine the type of information the department will distribute under the program and the form and manner of distribution.

3. The department shall establish a vaccination and testing program, to be coordinated by the department through local public health units.

SECTION 127. AMENDMENT. Section 23-01-33 of the North Dakota Century Code is amended and reenacted as follows:

23-01-33. Human papilloma virus - Information.

The ~~state~~ department of health and human services shall educate the public about the human papilloma virus and the availability of a human papilloma virus vaccine; promote immunization against the human papilloma virus; and distribute informational material regarding the human papilloma virus and the human papilloma virus vaccine. The department shall distribute the informational material through relevant department programs and divisions, including breast and cervical cancer control programs; immunization programs; family planning programs; and human immunodeficiency virus and sexually transmitted disease programs. Informational materials distributed must include the recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention; contain information relevant to the target populations of each of the participating programs and divisions distributing the informational material; and contain information regarding the availability of the vaccine through the vaccines for children program operated by the department under 42 U.S.C. 1396s, and the medical assistance program.

SECTION 128. AMENDMENT. Section 23-01-34 of the North Dakota Century Code is amended and reenacted as follows:

23-01-34. Children with special health care needs - Program administration.

The ~~state~~ department of health and human services shall administer programs for children with special health care needs as may be necessary to conform to title 5, part 2, of the federal Social Security Act, as amended through July 1, 2007 [Pub. L. 74-271; 49 Stat. 620; 42 U.S.C. 701 et seq.], including providing services and assistance to children with special health care needs and their families and developing and operating clinics for the identification, screening, referral, and treatment of children with special health care needs.

SECTION 129. AMENDMENT. Section 23-01-35 of the North Dakota Century Code is amended and reenacted as follows:

23-01-35. Tattooing, body piercing, branding, subdermal implants, or scarification - Permit - Fee - Adoption of rules - Exemptions - Injury reports.

1. A person may not operate a facility providing tattooing, body piercing, branding, subdermal implant, or scarification services without a permit issued by the department under this section. The holder of a permit shall display the permit in a conspicuous place at the facility for which the permit is issued. A permit issued under this section expires annually. An applicant for a permit shall submit an application for a permit to the department, on a form provided by the department, with a permit fee established by the department. The application must include the name and complete mailing address and street address of the facility and any other information reasonably required by the department for the administration of this section.

2. The ~~health council~~department of health and human services shall adopt rules to regulate any person that receives compensation for engaging in the practice of tattooing, body piercing, branding, subdermal implants, or scarification. The rules must establish health and safety requirements and limitations with respect to the age of an individual who may receive a tattoo, body piercing, or scarification and may prohibit any practice that the ~~health council~~department of health and human services deems unsafe or a threat to public health.

3. A facility is exempt from subsection 1 if the facility provides body piercing that is limited to the piercing of the noncartilaginous perimeter or lobe of the ear and the facility does not provide tattooing, branding, scarification, or subdermal implants. A person is exempt from regulation under subsection 2 if the person's practice under this section is limited to piercing of the noncartilaginous perimeter or lobe of the ear. A licensed health care professional acting within that professional's scope of practice and the associated medical facility are exempt from this section.

4. If a customer of a facility regulated under this section reports to the facility an injury the customer or operator of the facility believes to have resulted from the tattooing, body piercing, branding, subdermal implanting, or scarification provided at the facility, the operator of the facility shall provide the customer with written information on how to report the alleged injury to the ~~state~~ department of health and human services. If a licensed health care professional treats a patient for an injury the professional determines, in the exercise of professional judgment, occurred as a result of a service regulated under this section, the professional shall report the circumstances to the ~~state~~ department of health and human services. A licensed health care professional is immune from liability for making or not making a report under this subsection.

5. The fees established by the department must be based on the cost of conducting routine and complaint inspections and enforcement actions and preparing and sending license renewals. Fees collected under this section must be deposited in the department's operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly. The department shall waive all or a portion of the fee for any facility that is subject to local jurisdiction.

[226] **SECTION 130. AMENDMENT.** Section 23-01-37 of the North Dakota Century Code is amended and reenacted as follows:

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[226] Section 23-01-37 was also amended by section 1 of Senate Bill No. 2241, chapter 194.

23-01-37. Survey program - Health facilities construction or renovation projects - Innovation waivers.

1. The ~~state~~ department of health and human services shall conduct a life safety survey process for all health facilities licensed by the division of health facilities of the ~~state~~ department of health and human services during and at the conclusion of a construction, renovation, or construction and renovation project.

2. The department may charge a reasonable fee for the review of plans for construction, renovation, or construction and renovation projects performed under this section based on the size of the project. Revenues derived from the fees collected under this subsection must be deposited in the department's operating fund in the state treasury.

3. The ~~state~~ department of health and human services shall make a determination on a construction, renovation, or construction and renovation project of no more than one million dollars within sixty days of receipt of a complete application.

4. The ~~state~~ department of health and human services may approve a request for a waiver of a state law or rule relating to an innovative construction, renovation, or construction and renovation project if the lack of compliance does not adversely affect health or safety.

5. The department shall design and operate the program in a manner that will provide that the surveyor that performs a life safety survey under this section does not violate the federal requirements associated with Medicare-certified life safety surveys.

SECTION 131. AMENDMENT. Subdivision a of subsection 1 of section 23-01-39 of the North Dakota Century Code is amended and reenacted as follows:

a. "Department" means the ~~state~~ department of health and human services.

SECTION 132. AMENDMENT. Section 23-01-40 of the North Dakota Century Code is amended and reenacted as follows:

23-01-40. Diabetes goals and plans - Report to legislative management.

1. The department of health and 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 health and 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.

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.

SECTION 133. AMENDMENT. Section 23-01-41 of the North Dakota Century Code is amended and reenacted as follows:

23-01-41. Autism spectrum disorder database - Rulemaking - Confidentiality.

1. The ~~state~~ department of health <u>and human services</u> 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 <u>and human services</u> 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 physician or psychologist or any other licensed or certified health care professional who is qualified by training and by licensure or certification to make the diagnosis of autism spectrum disorder.

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. Indicate whether a complete physical evaluation was performed by a licensed independent practitioner as part of the diagnostic process for autism spectrum disorder.

4. The ~~health council~~department of health and human services shall adopt rules to provide for mandatory reporting to the autism spectrum disorder database and to establish reporting requirements, including timeliness requirements. A reporter who makes the diagnosis an individual is affected with autism spectrum disorder, or the reporter's designee, shall report this diagnosis in the form or manner prescribed by the ~~state~~ department of health and human services.

5. The ~~state~~ department of health and human services 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 134. AMENDMENT. Paragraph 1 of subdivision b of subsection 1 of section 23-01-42 of the North Dakota Century Code is amended and reenacted as follows:

(1) That is approved by the United States food and drug administration for the treatment of a drug overdose and is recognized by the ~~state~~ department of health and human services for the treatment of a drug overdose; and

[227] **SECTION 135. AMENDMENT.** Section 23-01-44 of the North Dakota Century Code is amended and reenacted as follows:

23-01-44. Syringe or needle exchange program - Authorization.

1. As used in this section:

   a. "Program" means a syringe exchange program established and operated under this section.

   b. "Qualified entity" means:

      (1) A local health department;

      (2) A city that operates a program within the boundaries of the city; or

      (3) An organization that has been authorized to operate a program by the ~~state~~ department of health and human services, the board of county commissioners, or the governing body for the operation of a program within the boundaries of the city.

2. The ~~state~~ department of health~~, in collaboration with the department of~~ and human services ~~behavioral health division,~~ shall design and administer a

[227] Section 23-01-44 was also amended by section 1 of House Bill No. 1163, chapter 195.

syringe exchange program. ~~The state department of health shall administer the program.~~

3. The ~~state~~ department of health and human services may authorize a qualified entity to operate a program in a county if:

   a. The area to be served is at risk of an increase or potential increase in prevalence of viral hepatitis or human immunodeficiency virus;

   b. A syringe exchange program is medically appropriate as part of a comprehensive public health response; and

   c. The qualified entity conducted a public hearing and submitted a report of the findings and an administration plan for the program to the state health officer.

4. A qualified entity operating a program under this chapter shall:

   a. Register the program annually in the manner prescribed by the ~~state~~ department of health and human services;

   b. Have a pharmacist, physician, or advanced practice registered nurse who is licensed in the state to provide oversight for the program;

   c. Store and dispose of all syringes and needles collected in a safe and legal manner;

   d. Provide education and training on drug overdose response and treatment, including the administration of an overdose reversal medication;

   e. Provide education, referral, and linkage to human immunodeficiency virus, viral hepatitis, and sexually transmitted disease prevention, treatment, and care services;

   f. Provide addiction treatment information and referrals to drug treatment programs, including programs in the local area and programs that offer medication-assisted treatment that includes a federal food and drug administration approved long-acting, non-addictive medication for the treatment of opioid or alcohol use disorder;

   g. Provide syringe, needle, and injection supply distribution and collection without collecting or recording personally identifiable information;

   h. Operate in a manner consistent with public health and safety; and

   i. Ensure the program is medically appropriate and part of a comprehensive public health response.

5. The ~~state~~ department of health and human services may terminate a program for failure to comply with any of the provisions in this section.

6. A state agency may not provide general fund moneys to a program to purchase or otherwise acquire hypodermic syringes, needles, or injection supplies for a program under this section.

7. A law enforcement officer may not stop, search, or seize an individual based on the individual's participation in a program under this section. Syringes and needles appropriately collected under this section are not considered drug paraphernalia as provided in chapter 19-03.4 or possession of a controlled substance under section 19-03.1-23.

8. Each program shall file a semiannual report with the ~~state~~ department of health and human services containing the following information listed on a daily basis and by location, identified by the postal zip code, where the program distributed and collected syringes and needles:

   a. The number of individuals served;

   b. The number of syringes and needles collected;

   c. The number of syringes and needles distributed; and

   d. Any additional information requested by the ~~state~~ department of health and human services.

SECTION 136. AMENDMENT. Section 23-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

23-01.2-01. Trauma system established - Duties of health council.

The health council, in conjunction with the ~~state~~ department of health and human services, may establish and maintain a comprehensive trauma system for the state. The trauma system may include standards for the following components:

1. A system plan.

2. Prehospital emergency medical services.

3. Hospitals, for which the standards must include:

   a. Standards for designation, redesignation, and dedesignation of trauma centers.

   b. Standards for evaluation and quality improvement programs for designated trauma centers. The standards must require each trauma center to collect quality improvement data and to provide specified portions to the department for use in state and regional trauma quality improvement programs.

   c. Qualifications for trauma center personnel.

4. A trauma registry. Data in the trauma registry is not subject to subpoena or discovery or introduction into evidence in any civil action. Designated trauma centers must participate in the trauma registry. A hospital not designated as a trauma center must provide to the registry a minimum set of data elements for all trauma patients as determined by the health council.

5. A trauma quality improvement program to monitor the performance of the trauma system. The proceedings and records of the program are not subject to subpoena or discovery or introduction into evidence in any civil action arising out of any matter that is the subject of consideration by the program.

SECTION 137. AMENDMENT. Subsection 2 of section 23-01.2-03 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~state~~department of health ~~council~~and human services shall adopt rules that allow provisional trauma designation status for a hospital that is partially compliant with trauma designation standards. When issuing a provisional trauma designation, the state health council shall allow a reasonable amount of time, determined by the department, for a hospital to fully meet all trauma designation standards.

SECTION 138. 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~~executive director of the department of health and human services or designee 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 and human services.

SECTION 139. AMENDMENT. Subsection 8 of section 23-01.3-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Public health authority" means the ~~state~~ department of health and human services' health division, department of environmental quality, a local public health unit, and any authority or instrumentality of the United States, a tribal government, a state, or a political subdivision of a state, a foreign nation, or a political subdivision of a foreign nation, which is:

   a. Primarily responsible for public health matters; and

   b. Primarily engaged in activities such as injury reporting, public health surveillance, and public health investigation or intervention.

SECTION 140. AMENDMENT. Section 23-01.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-01.3-08. Status of information in possession of a local public health authority.

Any protected health information that is created or received by a local public health authority, and that is submitted or is required to be submitted to the ~~state~~ department of health and human services' health division, is confidential and subject to the protection of, and may be disclosed only as authorized by, this chapter.

SECTION 141. AMENDMENT. Section 23-02.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-01. Definitions.

As used in this chapter:

1. "Authorized representative" means a person that has the legal authority to act on behalf of the person named on a record, including a personal representative or guardian.

2. "Certified" means a copy of the original record on file with the ~~state~~ department of health and human services which is signed and sealed by the state registrar or deputy state registrar.

3. "Dead body" means a lifeless human body or parts of such body or bones thereof from the state of which it may reasonably be concluded that death recently occurred.

4. "Electronic birth registration system" means the electronic birth registration system maintained by the ~~state~~ department of health and human services.

5. "Electronic death registration system" means the electronic death registration system maintained by the ~~state~~ department of health and human services.

6. "Facts of death" means the demographic and personal information pertaining to an individual's death.

7. "Fetal death" or "birth resulting in stillbirth" means death occurring before the complete expulsion or extraction from its mother of a product of human conception. The death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles.

8. "Filing" means the presentation of a record, report, or other information provided for in this chapter of a birth, death, fetal death, adoption, marriage, divorce, or other event as specified by the state health officer for registration by the state registrar.

9. "Final disposition" means the entombment, burial, interment, cremation, whole-body donation to a school of medicine, removal from the state, or other disposition of a dead body or fetus.

10. "Health statistics" means data derived from records of birth, death, fetal death, marriage, divorce, or other records relating to the health of the populace or the state of the environment.

11. "Institution" means any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment, or nursing, custodial, or domiciliary care to two or more individuals unrelated by blood, or to which individuals are committed by law.

12. "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.

13. "Medical certification" means the medical information pertaining to an individual's death, including the cause and manner of death.

14. "Miscarriage of birth" means the expulsion of a fetus from the womb, spontaneously or as a result of an accident, before twenty weeks gestation.

15. "Personal or real property interests" means ownership or other legal rights or duties concerning personal or real property.

16. "Physician" means an individual authorized or licensed to practice medicine or osteopathy under chapter 43-17.

17. "Registration" means the acceptance by the state registrar and incorporation into official records, reports, or other records provided for in this chapter, of birth, death, fetal death, marriage, divorce, or other records as may be determined by the state health officer.

18. "Relative" means an individual's current or surviving spouse, a parent or legal guardian, a child, a grandparent, or a grandchild. The state registrar may require proof of the relationship.

19. "Subregistrar" means a funeral practitioner or other suitable individual from a licensed funeral home who is appointed by the state registrar for the purpose of issuing final disposition-transit permits.

20. "System of health statistics tabulation and analysis" includes the tabulation, analysis, and presentation or publication of statistical data derived from health statistics.

21. "System of vital records registration" includes the registration, collection, preservation, amendment, and certification of birth, death, fetal death, marriage, divorce, or other records as may be determined necessary by the state health officer or the state health officer's designee.

SECTION 142. AMENDMENT. Section 23-02.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-02. Office of statistical services.

There is hereby established in the ~~state~~ department of health and human services an office of statistical services which shall install, maintain, and operate a system of health statistics tabulation and analysis and a system of vital records registration throughout the state. The ~~state health officer~~executive director of the department of health and human services or designee may create within the office of statistical services such working divisions as may be necessary to comply with the provisions of this chapter and shall appoint the directors of such divisions in accordance with the merit system laws and regulations of the state of North Dakota.

SECTION 143. AMENDMENT. Section 23-02.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-03. Director of the office of statistical services and associative duties, state and deputy state registrars.

The ~~state health officer~~executive director of the department of health and human services or designee shall appoint a director of the office of statistical services, in accordance with the merit system laws and regulations of the state of North Dakota, who must be the ex officio state registrar of vital statistics. The deputy state registrar of vital statistics must also be appointed by the ~~state health officer~~executive director of the department of health and human services or designee. The director of the office of statistical services shall administer and enforce this chapter and the rules and regulations issued hereunder, and issue instructions for the efficient

administration of a statewide system of health statistics tabulation and analysis and a statewide system of vital records registration. The director of the office of statistical services may delegate such functions and duties vested in the director to the officers and employees of the office of statistical services as the director deems necessary and expedient.

SECTION 144. AMENDMENT. Section 23-02.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-04. Duties of the ~~state~~ department ~~of health~~.

The ~~state department of health is authorized to~~department of health and human services may adopt, amend, and repeal rules and regulations for the purposes of carrying out the provisions of this chapter, in accordance with chapter 28-32.

SECTION 145. AMENDMENT. Subdivision c of subsection 1 of section 23-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

c. Prescribe, with the approval of the ~~state~~ department of health and human services, and distribute such forms as required by this chapter and the rules and regulations issued hereunder.

SECTION 146. AMENDMENT. Section 23-02.1-11 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-11. Form of records.

The form of the records, reports, and other information required by this chapter is subject to the approval of and modification by the ~~state~~ department of health and human services. In order to maintain uniformity in the system of vital records registration and the system of health statistics tabulation and analysis, substantial efforts should be made to ensure that information collected parallels that collected by other primary registration areas.

SECTION 147. AMENDMENT. Section 23-02.1-13 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-13. Birth registration.

1. A birth record for each live birth that occurs in this state must be filed with the state registrar.

2. When a birth occurs in an institution, the person in charge of the institution or a designated representative must use the ~~state~~ department of ~~health's~~health and human services' electronic birth registration system to report the birth, including all personal and medical facts, to the state registrar within five days after the birth.

3. When a birth occurs outside an institution, the required forms prescribed by the ~~state~~ department of health and human services must be prepared and filed with the state registrar, within thirty days of the birth by one of the following in the indicated order of priority:

   a. The physician in attendance at or immediately after the birth, or in the absence of such an individual;

b. Any other individual in attendance at or immediately after the birth, or in the absence of such an individual; or

c. The father, the mother, or in the absence of the father and the inability of the mother, the individual in charge of the premises where the birth occurred.

4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the man must be entered on the record as the father of the child unless the presumption of paternity has been rebutted by a court decree.

5. If the child is not born during the marriage of the mother, or within three hundred days after a marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father may not be entered on the birth record unless:

   a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:

      (1) He has acknowledged his paternity of the child in writing filed with the state registrar; or

      (2) He is obligated to support the child under a written voluntary promise or by court order;

   b. After the child's birth, the child's natural mother and the father voluntarily acknowledge the child's paternity on a form prescribed by the ~~state~~ department of health and human services, signed by the child's natural mother and biological father, and filed with the state registrar; or

   c. A court or other entity of competent jurisdiction has adjudicated paternity.

6. If, in accordance with subsections 4 and 5, the name of the father of the child is not entered on the birth record, the child's surname must be shown on the birth record as the current legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is filed with the ~~state~~ department of health and human services.

SECTION 148. AMENDMENT. Section 23-02.1-15 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-15. Delayed registration of birth.

1. When the birth of an individual born in this state has not been registered, a record may be filed in accordance with the regulations of the ~~state~~ department of health and human services. Such record must be registered subject to such evidentiary requirements as the ~~state~~ department of health and human services shall prescribe to substantiate the alleged facts of birth.

2. Records of birth registered one year or more after the date of occurrence must be marked "delayed" and show on the face of the record the date of delayed registration.

3. A summary statement of the evidence submitted in support of the delayed registration must be endorsed on the record.

4. a. When an applicant does not submit the minimum documentation required in the regulations for delayed registration or when the state registrar finds reason to question the validity or adequacy of the record or documentary evidence, the state registrar may not register the delayed record and shall advise the applicant of the reasons for this action. In the event that the deficiencies are not corrected, the state registrar shall advise the applicant of the right of appeal to a court of competent jurisdiction for a judicial determination of the birth facts.

   b. The ~~state~~ department of health and human services may by regulation provide for the dismissal of an application that is more than one year old and is not being actively pursued.

5. A report of live birth may not be registered for a deceased individual one year or more after that individual's date of birth.

SECTION 149. AMENDMENT. Section 23-02.1-16 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-16. Delayed registration of death.

When a death occurring in this state has not been registered within the time period specified in section 23-02.1-19, a record may be filed in accordance with regulations of the ~~state~~ department of health and human services.

1. Such records must be registered subject to such evidentiary requirements as the ~~state~~ department of health and human services may by regulation prescribe to substantiate the alleged facts of death.

2. Records of death registered one year or more after the date of occurrence must be marked "delayed" and must show on their face the date of delayed registration.

SECTION 150. AMENDMENT. Subsection 2 of section 23-02.1-17 of the North Dakota Century Code is amended and reenacted as follows:

2. Information in the possession of the petitioner necessary to prepare the adoption report must be furnished with the petition for adoption by each petitioner for adoption or petitioner's attorney. The department of health and human services or other persons concerned shall supply the court with such additional information as may be necessary to complete the report. The provision of such information is a prerequisite to the issuance of a final decree.

SECTION 151. AMENDMENT. Subsection 4 of section 23-02.1-18 of the North Dakota Century Code is amended and reenacted as follows:

4. If no birth record is on file for the person for whom a new birth record is to be established under this section, an original birth record must be filed with the

state registrar in accordance with the appropriate rules and regulations promulgated by the ~~state~~ department of health and human services. The new record is also to be prepared on the standard forms in use at the time of the adoption, legitimation, or paternity determination.

SECTION 152. AMENDMENT. Section 23-02.1-19 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-19. Death registration.

1. A death record for each death that occurs in this state must be filed with the state registrar in accordance with the rules and regulations set forth by the ~~state~~ department of health and human services using the electronic death registration system. All registration and issuing of copies of death records will be completed by the ~~state~~ department of health and human services.

2. The funeral director shall obtain the facts of death from the next of kin or the best qualified individual or source available and must file the facts of death information using the electronic death registration system within three days after assuming custody of the dead body. The funeral director shall obtain the medical certification of death from the individual responsible for the medical certification.

3. The medical certification must be completed and filed using the electronic death registration system within ten days after death by the physician, physician assistant, or nurse practitioner in charge of the patient's care for the illness or condition which resulted in death except when inquiry is required by the local health officer or coroner.

4. When death occurred without medical attendance or when inquiry is required by the local health officer or coroner, the county coroner shall investigate the cause of death, and shall obtain medical information about the individual from the individual's medical records or last-known physician or physician assistant, and shall complete and file the medical certification within ten days after taking charge of the case using the electronic death registration system.

5. If the cause of death cannot be determined within ten days after death, the medical certification may be filed after the prescribed period, in accordance with rules adopted by the ~~state~~ department of health and human services. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the body notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.

6. When a death is presumed to have occurred within this state but the body cannot be located, a death record may be prepared by the state registrar upon receipt of findings of a court of competent jurisdiction, including the facts of death and medical certification required to complete the death record. The death record must be marked "presumptive" and must show on the face of the death record the date of registration and must identify the court and the date of the decree.

7. Each death registration must include the social security number of the decedent, if the information is available. A social security number included on a death record is confidential and may be disclosed only to a relative or authorized representative of the individual named on the record, to a person

with personal or real property interests that depend upon information contained in the death record, or by an order of a court of competent jurisdiction.

SECTION 153. AMENDMENT. Section 23-02.1-20 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20. Fetal death registration.

1. A fetal death record for each fetal death that occurs in this state after a gestation period of twenty completed weeks or more must be filed with the state registrar.

2. When a fetal death occurs in an institution, the person in charge of the institution or a designated representative shall use the ~~state~~ department of ~~health's~~health and human services' electronic fetal death registration system to report the fetal death, including all personal and medical facts, to the state registrar within ten days after the delivery. If a fetal death occurs outside of an institution, a funeral director or other individual in attendance at or after delivery shall file the fetal death record.

3. When inquiry is required by the local health officer or coroner or in the absence of medical attendance, the county coroner shall investigate the cause of fetal death, and shall obtain medical information about the individual from that individual's medical records or last-known physician or physician assistant and file the medical certification within ten days after taking charge of the case using the electronic death registration system.

4. If the cause of fetal death cannot be determined within ten days after death, the medical certification may be filed after the prescribed period of time in accordance with rules adopted by the ~~state~~ department of health and human services. The attending physician, physician assistant, nurse practitioner, or coroner shall give the funeral director in custody of the fetus the notice of the reason for the delay and final disposition may not be made until authorized by the attending physician, physician assistant, nurse practitioner, or coroner.

5. The provision for entering the name of the father of the fetus on the fetal death record and the reporting of out-of-wedlock fetal deaths concur exactly with those set forth in section 23-02.1-13.

SECTION 154. AMENDMENT. Section 23-02.1-20.1 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-20.1. Fetal loss.

The state registrar may issue a certified copy of a fetal loss to an individual who experiences a documented miscarriage of birth, if the individual provides to the state registrar a completed fetal loss request form established by the ~~state~~ department of health and human services which is signed by the mother or the father and a letter signed by a hospital, physician, or other medical attendant documenting proof of pregnancy and fetal loss.

SECTION 155. AMENDMENT. Section 23-02.1-22 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-22. Extension of time.

1. The ~~state~~ department of health and human services may, by regulation and upon such conditions as it may prescribe to assure compliance with the purposes of this chapter, provide for the extension of the periods of time prescribed in sections 23-02.1-19, 23-02.1-20, and 23-02.1-21 for the filing of death records, fetal death records, medical certification of death, and for the obtaining of final disposition-transit permits in cases in which compliance with the applicable prescribed period would result in undue hardship.

2. Regulations of the ~~state~~ department of health and human services may provide for the issuance of a final disposition-transit permit under section 23-02.1-21 before the filing of a record of death or fetal death upon conditions designed to assure compliance with the purposes of this chapter in cases in which compliance with the requirement that the records be filed before the issuance of the permit would result in undue hardship.

SECTION 156. AMENDMENT. Section 23-02.1-25 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-25. Correction and amendment of vital records.

1. A record registered under this chapter may be amended only in accordance with this chapter and regulations under this chapter adopted by the ~~state~~ department of health and human services to protect the integrity and accuracy of vital records.

2. A record that is amended under this section must be marked "amended" except as provided in subsection 4. The date of amendment and a summary description of the evidence submitted in support of the amendment must be endorsed on or made a part of the record. The ~~state~~ department of health and human services shall prescribe by regulation the conditions under which additions or minor corrections may be made to birth records within one year after the date of birth without the record being considered as amended.

3. Upon receipt of a certified copy of a court order that is amending a birth, death, or fetal death record and upon request of such individual or the individual's parent, guardian, or legal representative, the state registrar shall amend the record as directed in the court order; however, if the state registrar has information to believe the facts of the court order are false or inaccurate, the state registrar shall provide the court and any known parties with the correct information.

4. Upon receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents and upon request, the state registrar shall amend a record of birth to show such paternity if paternity is not shown on the record. Upon request of the parents, the surname of the child must be changed on the appropriate record to the surname designated by the parents on the acknowledgment of paternity. Such record may not be marked as "amended". The provisions of this subsection apply also in their entirety to records of fetal death.

[228] **SECTION 157. AMENDMENT.** Subsection 6 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

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[228] Section 23-02.1-27 was also amended by section 158 of House Bill No. 1247, chapter 352, section 4 of Senate Bill No. 2035, chapter 56, and section 1 of Senate Bill No. 2123, chapter 196.

6. The ~~state~~ department of health and human services may grant limited access to birth and death information to divisions and programs of the ~~state~~ department of health and human services, the department of transportation, the protection and advocacy project, and the department of information technology~~, and to the department of human services~~ necessary for the purpose of completing their respective official duties.

[229] **SECTION 158. AMENDMENT.** Subsection 7 of section 23-02.1-27 of the North Dakota Century Code is amended and reenacted as follows:

7. The ~~state~~ department of health and human services may issue, through electronic means determined by the ~~state~~ department of health and human services, verifications of information contained on birth or death records filed with the state registrar when such information is provided and a verification is requested by a governmental agency, whether foreign or domestic, in the conduct of the agency's official duties. The ~~state~~ department of health and human services may also issue these electronic verifications for a negotiated and agreed-upon fee to:

   a. Benefit-paying parties, such as annuity companies, pension plans, and life insurance companies, that demonstrate a need for such information to determine whether the benefits the benefit-paying party are paying should be terminated or distributed to a beneficiary;

   b. Physicians licensed to practice in the United States who demonstrate such information is needed to determine whether a patient the physician is treating has been lost to care;

   c. Attorneys licensed to practice in the United States who demonstrate that the information is necessary to administer the attorneys' client's estate; or

   d. Other entities for fraud prevention as determined by the state registrar.

SECTION 159. AMENDMENT. Subsection 3 of section 23-02.1-28 of the North Dakota Century Code is amended and reenacted as follows:

3. Data or copies may be furnished for statistical purposes to federal, state, local, or other public or private agencies, including the federal agency responsible for national vital statistics, upon such terms and conditions as may be prescribed by the ~~state~~ department of health and human services through rules and regulations adopted pursuant to this chapter.

SECTION 160. AMENDMENT. Section 23-02.1-29 of the North Dakota Century Code is amended and reenacted as follows:

23-02.1-29. Fees.

1. The ~~state~~ department of health and human services shall prescribe the fees, if any, not to exceed fifteen dollars, to be paid for the following:

   a. Each certified copy of a record.

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[229] Section 23-02.1-27 was also amended by section 157 of House Bill No. 1247, chapter 352, section 4 of Senate Bill No. 2035, chapter 56, and section 1 of Senate Bill No. 2123, chapter 196.

b. Each certified statement of the facts of birth other than a copy of the original birth record.

c. Each filing of a new record of birth or fetal death following adoption.

d. Each filing of a delayed record of birth or death except as provided for in subsection 4 of section 23-02.1-18.

e. Each filing of an amendment to a birth or death record.

f. A search of the files or records when no copy is made.

g. A noncertified informational copy of a death or marriage record.

The fee for each additional copy of a death or fetal death record, requested at the same time, may not exceed ten dollars.

2. Except as otherwise provided in subsection 3, fees collected under this section by the state registrar must be deposited in the operating fund of the ~~state~~ department of health and human services, according to procedures established by the state treasurer.

3. The ~~state~~ department of health and human services shall quarterly pay fees in the amount of two dollars for the issuance of each certified copy of a birth record, authorized by subsection 1, into the children's trust fund created by section 50-27-01.

4. All fees collected in excess of the fees appropriated must be transferred to the general fund of this state at the end of each biennium.

SECTION 161. AMENDMENT. Subsection 3 of section 23-02.1-30 of the North Dakota Century Code is amended and reenacted as follows:

3. A funeral director, embalmer, or other person who removed from the place of death or transports or finally disposes of a dead body or fetus, in addition to filing any record or other form required by this chapter, shall keep a record which must identify the body, and the information pertaining to receipt, removal, and delivery of the body as may be prescribed in regulations adopted by the ~~state~~ department of health and human services.

SECTION 162. AMENDMENT. Subsection 6 of section 23-06-03 of the North Dakota Century Code is amended and reenacted as follows:

6. a. If the deceased did not leave sufficient means to pay for expenses of final disposition, including the cost of a casket, and is not survived by an individual described by subsection 1 and identified for financial responsibility within the human service zone's general assistance policy, within fifteen days of application for services the human service zone of the county in which the deceased had residence for general assistance purposes or, if residence cannot be established, within fifteen days of application for assistance the human service zone of the county in which the death occurs shall employ a person to arrange for and supervise the final disposition. If the deceased was a resident or inmate of a public institution, within fifteen days of application for assistance the human service zone in which the deceased was a resident for general assistance

purposes immediately before entering the institution shall employ a person to arrange for and supervise the final disposition.

b. The department of health and human services may negotiate with the interested funeral directors or funeral homes regarding cremation expenses and burial expenses but the total charges for burial services, including transportation of the deceased to the place of burial, the grave box or vault, grave space, and grave opening and closing expenses, may not be less than one thousand five hundred dollars.

c. The department of health and human services may provide for the use of a military casket or urn, if the deceased was a veteran as defined in section 37-01-40, unless the additional cost exceeds the negotiated expenses of this section or a surviving spouse or the nearest of kin of the deceased elects a nonmilitary casket.

d. The human service zone shall pay the charge for funeral expenses as negotiated by the department of health and human services. The human service zone may not decrease the human service zone payment due to a nominal amount left by the deceased or contributed by kin or any other party to defray the expenses of burial or cremation. Funds adequate to allow for burial instead of cremation are considered nominal under this section.

SECTION 163. AMENDMENT. Subsection 1 of section 23-06-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The dead body of a human being must be disposed of by the person charged with that duty within eight days after the death of such person except when any of the following occur:

   a. The right to dissect the body is expressly conferred by law.

   b. The body is being carried through this state.

   c. The body is being removed from this state for the purpose of final disposition in some other state.

   d. A permit is obtained from the local health officer or the ~~state~~ department of health and human services allowing a longer time during which the body need not be disposed. The permit shall state the additional length of time during which the body need not be disposed.

   e. The body is being stored for an extended period of time in a vault determined suitable by the ~~state~~ department of health and human services, but the body may not be stored in a vault for a period of more than eight days during the months of June through October unless a permit is obtained from the local health officer or the ~~state~~ department of health and human services.

SECTION 164. AMENDMENT. Section 23-06-07 of the North Dakota Century Code is amended and reenacted as follows:

23-06-07. Regulation of final disposition - Issuance of final disposition-transit permit regulated.

The body of any individual whose death occurs in this state may not be interred, deposited in a vault or tomb, cremated, donated to a school of medicine, or otherwise disposed as authorized by law, until a final disposition-transit permit has been properly issued by a subregistrar. If the certificate is incorrect or incomplete, the subregistrar may not issue the permit until it is corrected or completed. In the case of any death outside of this state, a final disposition-transit permit issued in accordance with the law and the health regulations in force in the state where the death occurred, when accompanying a body shipped through or into this state, may be accepted with the same effect as a permit from a subregistrar. If the death occurred from some disease that is held to be communicable by the ~~state~~ department of health and human services, the subregistrar shall refuse to issue a permit for the removal or other disposition of the body except under the conditions prescribed by the ~~state~~ department of health and human services and the local board of health.

SECTION 165. AMENDMENT. Section 23-06-20 of the North Dakota Century Code is amended and reenacted as follows:

23-06-20. Where body may be buried.

No dead human body may be buried in this state except in a properly registered cemetery or in some other place requested by the relatives and friends of the deceased if the same is authorized by the ~~state~~ department of health and human services and all rules and regulations promulgated by the department in that connection have been complied with.

SECTION 166. AMENDMENT. Section 23-06-21 of the North Dakota Century Code is amended and reenacted as follows:

23-06-21. Regulation of cemeteries.

All persons, corporations, municipalities, associations, and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies shall:

1. Provide for a sexton or secretary.

2. Cause the lot or parcel of ground used and designated as a cemetery to be platted into orderly blocks and lots, alleys and streets or driveways, giving to each a distinctive name or number that must be a permanent designation of its location.

3. File the original plat with the recorder of the county in which the cemetery or place of burial is located and the copy or blueprint thereof with the sexton or secretary.

4. Register with the ~~state~~ department of health and human services the name and location of the cemetery or place of burial, the name and address of the sexton, and the name and address of other officers of the cemetery association, corporation, or organization.

5. Furnish such information and reports as the ~~state~~ department of health and human services may require including the submission of plans and specifications for review and approval before constructing, erecting, or placing on the burial site for the burial or disposition of any human remains any interment structure or device constructed or placed wholly or partially above the natural surface of the ground.

6. Keep a local register of all burials showing as to each burial the name of the deceased, the date and location of burial, the date of death, and the name and address of the undertaker.

SECTION 167. AMENDMENT. Section 23-06-22 of the North Dakota Century Code is amended and reenacted as follows:

23-06-22. Sexton - Term of office, records, duties.

The sexton or secretary appointed by the person, corporation, municipality, association, or organization conducting a cemetery for the burial of dead human bodies shall hold office until a successor is appointed and qualified. The sexton or secretary shall transfer all records to the successor. The sexton or secretary shall enforce the laws of the state and the rules and regulations of the ~~state~~ department of health and human services with respect to the burial of dead human bodies within the cemetery under the sexton's or secretary's charge.

SECTION 168. AMENDMENT. Section 23-06-23 of the North Dakota Century Code is amended and reenacted as follows:

23-06-23. ~~State department of health~~Department to enforce regulation of cemeteries - Injunction.

The ~~state~~ department of health and human services shall make and enforce such rules and regulations as are necessary to carry out the laws relating to the regulation of cemeteries and may, through injunction or other legal process, enforce compliance.

SECTION 169. AMENDMENT. Subsection 7 of section 23-06-27 of the North Dakota Century Code is amended and reenacted as follows:

7. Subsection 3 does not apply to the inadvertent disturbance of a human burial site, human remains, or burial goods when the ~~state~~ department of health and human services and the state historical society have been notified of the disturbance and the human remains and burial goods must be studied and reinterred pursuant to rules adopted by the ~~state~~ department of health and human services and the state historical society. Subsection 3 also does not apply to situations in which the ~~state~~ department of health and human services and the state historical society are notified of the need to disinter and move the contents of human burial sites that are recorded with the state historical society to prevent the destruction of the human burial sites by actions including the construction of highways, dams, reservoirs, coal mines, power generation and transmission facilities, pipelines, farming practices, and other developments. Where feasible, the developments should avoid disturbance of the human burial sites. In these situations the disinterred human remains and burial goods must be studied and reinterred pursuant to rules adopted by the ~~state~~ department of health and human services and the state historical society.

SECTION 170. AMENDMENT. Section 23-06-30 of the North Dakota Century Code is amended and reenacted as follows:

23-06-30. Abandoned cemeteries to be maintained by counties.

The board of county commissioners of each county may provide for the identification, cataloguing, recording, and shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund levy authority. The board shall, at least once each year,

proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the ~~state~~ department of health and human services, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery.

SECTION 171. AMENDMENT. Subsection 1 of section 23-06.6-19 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~state~~ department of health and human services may establish or contract for the establishment of a donor registry.

SECTION 172. AMENDMENT. Section 23-07-01 of the North Dakota Century Code is amended and reenacted as follows:

23-07-01. ~~State department of health~~Department - Collection of public health information.

The ~~state~~ department of health and human services shall designate the diseases or conditions that must be reported. Such diseases or conditions may include contagious, infectious, sexually transmitted, or chronic diseases or any illness or injury which may have a significant impact on public health. The ~~state~~ department of health and human services shall maintain a uniform statewide population-based registry system for the collection of data pertaining to the incidence, prevalence, risk factors, management, survival, mortality, and geographic distribution of cancer and reportable benign tumors.

SECTION 173. AMENDMENT. Section 23-07-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-01.1. Reporting of physical or mental disorders.

The ~~state~~ department of health and human services shall define disorders characterized by lapses of consciousness, gross physical or mental impairments for the purposes of the reports hereinafter referred to:

1. A physician or other health care provider may report immediately to the department of transportation in writing, the name, date of birth, and address of every individual fourteen years of age or over coming before them for examination, attendance, care, or treatment if there is reasonable cause to believe that the individual due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments, and the report is necessary to prevent or lessen a serious and imminent threat to the health or safety of the individual or the public.

2. Such reports as required in this section are for the information of the director of the department of transportation in determining the eligibility of any person to operate a motor vehicle on the highways of this state and must be kept confidential and not divulged to any person or used as evidence in any trial, except that the reports may be admitted in proceedings under section 39-06-33.

3. The physician-patient privilege provided for by rules 501 and 503 of the North Dakota Rules of Evidence may not be asserted to exclude evidence regarding the mental or physical incapacity of a person to safely operate a motor vehicle in the reports as required under the provisions of this section.

4. Any physician or other medical professional who fails to make a report or who in good faith makes a report, gives an opinion or recommendation pursuant to this section, or participates in any proceeding founded upon this section is immune from any liability, civil or criminal, that might otherwise be incurred, as a result of such report, except for perjury.

SECTION 174. AMENDMENT. Section 23-07-02 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02. Who to report reportable diseases.

Except as otherwise provided by section 23-07-02.1, the following persons or their designees shall report to the ~~state~~ department of health and human services any reportable disease coming to their knowledge:

1. All health care providers, including physicians, physician assistants, nurse practitioners, nurses, dentists, medical examiners or coroners, pharmacists, emergency medical service providers, and local health officers.

2. The director, principal manager, or chief executive officer of:

   a. Health care institutions, including hospitals, medical centers, clinics, long-term care facilities, assisted living facilities, or other institutional facilities;

   b. Medical or diagnostic laboratories;

   c. Blood bank collection or storage centers;

   d. Public and private elementary and secondary schools;

   e. Public and private universities and colleges;

   f. Health or correctional institutions operated or regulated by municipal, county or multicounty, state, or federal governments;

   g. Funeral establishments and mortuaries; and

   h. Child care facilities or camps.

3. The state veterinarian, if the disease may be transmitted directly or indirectly to or between humans and animals.

4. A person having knowledge that a person or persons are suspected of having a reportable disease may notify the department and provide all information known to the person reporting concerning the reportable disease or condition of the person or persons.

If the person reporting is the attending physician or the physician's designee, the physician or the physician's designee shall report not less than twice a week, in the form and manner directed by the ~~state~~ department of health and human services, the

condition of the person afflicted and the state of the disease. A person making a report in good faith is immune from liability for any damages which may be caused by that act.

SECTION 175. AMENDMENT. Section 23-07-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.1. Reports of human immunodeficiency virus infection - Penalty.

Every attending physician treating an individual known by the physician to have a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, shall make a report on that individual to the ~~state~~ department of health and human services. A person treating an individual known to have human immunodeficiency virus infection in a hospital, a clinic, a sanitarium, the physical custody of the department of corrections and rehabilitation, a regional or local correctional facility or juvenile detention center, the North Dakota youth correctional center, or other private or public institution shall make a report on that individual to the facility administrator or the facility administrator's designee. Further disclosure of information on any individual known to have human immunodeficiency virus infection may only be provided to medical personnel providing direct care to the individual or as otherwise authorized by law. The designated official shall, if satisfied that the report is valid, make a report to the department on each individual having a diagnosis of human immunodeficiency virus infection, acquired immune deficiency syndrome, or human immunodeficiency virus-related illness, including death from human immunodeficiency virus infection, unless the diagnosed individual's attending physician has made such a report. The reports required under this section must contain the name, date of birth, sex, and address of the individual reported on and the name and address of the physician or designated official making the report. Failure by a facility to designate an official to whom reports must be made is an infraction. Any person who in good faith complies with this section is immune from civil and criminal liability for any action taken in compliance with this section.

SECTION 176. AMENDMENT. Section 23-07-02.2 of the North Dakota Century Code is amended and reenacted as follows:

23-07-02.2. Confidentiality of reports.

A report required by section 23-07-02.1 and held by the ~~state~~ department of health and human services is confidential information. The information may not be disclosed, shared with any agency or institution, or made public, upon subpoena, search warrant, discovery proceedings, or otherwise, except that:

1. Disclosure may be made of medical or epidemiological information for statistical purposes in a manner such that no individual person can be identified;

2. Disclosure may be made of medical or epidemiological information to the extent necessary to enforce section 23-07-02.1 and this section and related rules concerning the treatment, control, and investigation of human immunodeficiency virus infection by public health officials; or

3. Disclosure may be made of medical or epidemiological information to medical personnel to the extent necessary to protect the health or life of any individual.

No officer or employee of the ~~state~~ department of health and human services may be examined in any judicial, executive, legislative, or other proceeding regarding the

existence or content of any individual's report retained by the department under section 23-07-02.1.

[230] **SECTION 177. AMENDMENT.** Subsection 3 of section 23-07-02.3 of the North Dakota Century Code is amended and reenacted as follows:

3. The temporary order may be issued and is effective without regard to chapter 28-32 for a period of ninety days, unless earlier revoked by the state health officer. Emergency rulemaking must be initiated under chapter 28-32 within ninety days of the order or the order expires. The temporary order and any emergency rulemaking under this section are effective without the necessity of approval from the ~~health council~~department of health and human services.

SECTION 178. AMENDMENT. Section 23-07-03 of the North Dakota Century Code is amended and reenacted as follows:

23-07-03. Report of cases of sexually transmitted disease.

The superintendent of a hospital, dispensary, or charitable or penal institution, in which there is a case of sexually transmitted disease, or the superintendent's designee, shall report such case to the nearest health officer having jurisdiction. The report must be made in the form and manner directed by the ~~state~~ department of health and human services.

SECTION 179. AMENDMENT. Section 23-07-05 of the North Dakota Century Code is amended and reenacted as follows:

23-07-05. Local health officers to report reportable disease to ~~state~~ department of health and human services.

At such time as may be required by the ~~state~~ department of health and human services, each local health officer shall submit to such department, on blanks furnished by the department for that purpose, a summarized report of the reportable diseases reported to the health officer during the week. When no cases have been reported during the week, the report must be made with the notation "No cases reported".

SECTION 180. AMENDMENT. Subsection 2 of section 23-07-07.5 of the North Dakota Century Code is amended and reenacted as follows:

2. The results of any positive or reactive test must be reported to the ~~state~~ department of health and human services in the manner prescribed by the department and to the individual tested. Subsection 1 does not require the testing of an individual before sentencing or the testing of an individual held in a jail or correctional facility awaiting transfer to the state penitentiary.

[231] **SECTION 181. AMENDMENT.** Section 23-07-07.6 of the North Dakota Century Code is amended and reenacted as follows:

23-07-07.6. Report of testing result of imprisoned individuals.

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[230] Section 23-07-02.3 was also amended by section 1 of House Bill No. 1219, chapter 197.

[231] Section 23-07-07.6 was also amended by section 5 of Senate Bill No. 2035, chapter 56.

Notwithstanding any other provision of law, the ~~state~~ department of health and human services or any other agency shall release the results of any testing for any reportable disease performed on an individual convicted of a crime who is imprisoned if the request is made by any individual and the individual provides written proof from the administrator of the facility with control over the individual imprisoned which states that the individual has had a significant exposure as defined in section 23-07.3-01.

[232] **SECTION 182. AMENDMENT.** Section 23-07-15 of the North Dakota Century Code is amended and reenacted as follows:

23-07-15. Removal of person afflicted with contagious or infectious disease - Removal of person who died of such disease - Prohibited.

No person, unless the person has a permit from the local board of health or ~~state~~ department of health and human services, may remove or cause to be removed from without this state into this state, or from one building to another within this state, or from or to any railroad car or motor vehicle, any person afflicted with a contagious or infectious disease, or the body of any person who died of any such disease.

SECTION 183. AMENDMENT. Section 23-07-17.1 of the North Dakota Century Code is amended and reenacted as follows:

23-07-17.1. Inoculation required before admission to school.

1. A child may not be admitted to any public, private, or parochial school, or day care center, child care facility, head start program, or nursery school operating in this state or be supervised through home-based instruction unless the child's parent or guardian presents to the institution authorities a certification from a licensed physician or authorized representative of the ~~state~~ department of health and human services that the child has received age-appropriate immunization against diphtheria, pertussis, tetanus, measles, rubella (German measles), mumps, hepatitis B, haemophilus influenza type b (Hib), varicella (chickenpox), poliomyelitis, pneumococcal disease, meningococcal disease, rotovirus, and hepatitis A. In the case of a child receiving home-based instruction, the child's parent or legal guardian shall file the certification with the public school district in which the child resides.

2. A child may enter an institution upon submitting written proof from a licensed physician or authorized representative of the ~~state~~ department of health and human services stating that the child has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.

3. Any minor child, through the child's parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by the child's parent or guardian whose religious, philosophical, or moral beliefs are opposed to such immunization. The minor child is then exempt from the provisions of this section.

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[232] Section 23-07-15 was also amended by section 2 of House Bill No. 1219, chapter 197.

4. The enforcement of subsections 1, 2, and 3 is the responsibility of the designated institution authority.

5. The immunizations required, and the procedure for their administration, as prescribed by the ~~state~~ department of health and human services, must conform to recognized standard medical practices in the state. The ~~state~~ department of health and human services shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.

6. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this section, the exemptions from immunization against such disease may not be recognized and children not immunized must be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the ~~state~~ department of health and human services.

7. When, in the opinion of the health officer, extenuating circumstances make it difficult or impossible to comply with immunization requirements, the health officer may authorize children who are not immunized to be admitted to an institution listed in subsection 1 until the health officer determines that the extenuating circumstances no longer exist. Extenuating circumstances include a shortage of vaccine and other temporary circumstances.

SECTION 184. AMENDMENT. Section 23-07-21 of the North Dakota Century Code is amended and reenacted as follows:

23-07-21. Penalties.

Except as otherwise provided in this section, a person is guilty of an infraction:

1. Who violates or fails to obey any provision of this chapter, any lawful rule made by the ~~state~~ department of health and human services, or any order issued by any state, district, county, or municipal health officer;

2. Who violates any quarantine law or regulation, or who leaves a quarantined area without being discharged; or

3. Who, knowing that the person is infected with a sexually transmitted disease, willfully exposes another person to infection.

Any person required to make a report under section 23-07-02.1 who releases or makes public confidential information or otherwise breaches the confidentiality requirements of section 23-07-02.2 is guilty of a class C felony.

SECTION 185. AMENDMENT. Subsection 2 of section 23-07.1-01.1 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services, including local public health units.

SECTION 186. AMENDMENT. Section 23-07.1-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.1-04. State health officer - Designee - Responsibility.

The state health officer or designee is responsible for the inpatient and outpatient care of persons afflicted or suspected of being afflicted with tuberculosis. If the state health officer determines that suspected or actual tuberculous patients may be adequately cared for on an inpatient basis by contract with general hospitals or other appropriate facilities, authority for contracting with such facilities is granted to the ~~state health officer~~department of health and human services. In addition, the ~~state health officer~~department of health and human services is authorized to establish and maintain the necessary outpatient clinics for diagnostic workup and evaluation on all suspected or actual tuberculous patients in the state. The ~~state health officer~~department of health and human services shall pay the contract fee to general hospitals or other appropriate facilities and provide funds to the outpatient evaluation clinics from funds to be appropriated for this purpose by the legislative assembly. The state's claim on patient benefits as provided in section 23-07.1-03 applies insofar as applicable to tuberculous patients in general hospitals and for services rendered in outpatient clinics. The state health officer or a designee has the power to:

1. Do any act necessary and proper in the performance of the functions imposed upon the state health officer by the provisions of this chapter.

2. Issue orders and compel obedience thereto.

3. Administer oaths.

SECTION 187. AMENDMENT. Section 23-07.1-14 of the North Dakota Century Code is amended and reenacted as follows:

23-07.1-14. Care of tubercular patients - Acceptance of federal funds - General hospital.

The ~~state health officer, or a designee, is hereby authorized to~~department may contract with public or private agencies for the care of persons having tuberculosis. The ~~state health officer~~department is hereby authorized to accept any federal funds or to enter into any federal programs on behalf of persons having tuberculosis in North Dakota. The ~~state health officer~~department may also utilize general hospitals or other appropriate facilities in the placement of recalcitrant persons having tuberculosis.

SECTION 188. AMENDMENT. Section 23-07.2-02 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-02. Blood disorder assistance program.

The ~~state health officer~~department of health and human services shall establish a program of financial assistance to persons suffering from hemophilia and other related congenital bleeding disorders. The program shall assist those persons to purchase the blood derivatives and supplies necessary for home care.

SECTION 189. AMENDMENT. Section 23-07.2-03 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-03. Recovery from other sources.

The ~~state health officer~~department of health and human services may enter into agreements with third parties, including any insurer or private sources, for recovery of payments for blood products and supplies used in home care by persons participating in the program.

SECTION 190. AMENDMENT. Section 23-07.2-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.2-04. Rulemaking authority.

The ~~state health officer~~department of health and human services shall:

1. Establish a reasonable cost for blood products and supplies used in home care as a basis of reimbursement under this chapter.

2. Determine when reimbursement may not be made under this chapter for any blood products or supplies which are not purchased in compliance with regulations promulgated pursuant to this chapter. Reimbursement may not be made under this chapter for any portion of the costs of blood products or supplies which are payable under any other state or federal program or under any grant, contract, or any other contractual arrangement.

3. Define what constitutes "home care".

4. Define what constitutes "income", "net worth", and "patient eligibility" for assistance.

5. Provide guidelines to determine individual liability.

6. Adopt all rules necessary to implement subsections 1 through 5 pursuant to chapter 28-32.

SECTION 191. AMENDMENT. Subsection 4 of section 23-07.4-01 of the North Dakota Century Code is amended and reenacted as follows:

4. Upon issuance of any order under subsection 2 or 3, the state health officer or a designee of the state health officer shall promptly, personally, and confidentially notify the person who is the subject of the order, stating the grounds and provisions of the order and the right to contest the order, the right to be present at a judicial hearing in the district court serving the county in which the person resides to review the order, and the right to be represented by counsel during the hearing. If the person who is the subject of the order refuses to comply with the order and refuses to cooperate voluntarily with the state health officer or a designee of the state health officer, the state health officer or designee may petition the district court serving the county in which the person resides for an order of compliance. The state health officer or designee shall request the state's attorney in the county in which the person resides to file the petition in the district court. If an order of compliance is requested, the court shall hear the matter within ten days after the request. Notice of the place, date, and time of the court hearing must be made by personal service or, if the person is not available, must be mailed to the person who is the subject of the order by certified mail at the person's last-known address. Proof of mailing by the state health officer or designee is sufficient notice under this section. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that the specified grounds exist for the issuance of the order and for the need for compliance and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the ~~state~~ department of

health and human services. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.

SECTION 192. AMENDMENT. Subsection 3 of section 23-07.4-02 of the North Dakota Century Code is amended and reenacted as follows:

3. Any order issued by the district court under subsection 2 is subject to review in a court hearing. Prompt, personal, and confidential notice of the place, date, and time of the court hearing and of the person's right to be present at the hearing and the right to representation by counsel during the hearing must be given to the person who is the subject of the court order. The hearing must be conducted by the court within forty-eight hours after the order is issued. The burden of proof is on the state health officer or designee to show by clear and convincing evidence that grounds exist for the order issued by the court under subsection 2 and that the terms and conditions imposed in the order are no more restrictive than necessary to protect the public health. Upon conclusion of the hearing, the court shall issue appropriate orders affirming, modifying, or dismissing the order. If the court dismisses the order, the fact that the order was issued must be expunged from the records of the ~~state~~ department of health and human services. If the court affirms or modifies the order and the person subject to the order is infected with the human immunodeficiency virus, the court shall require the person to disclose the names and addresses, if known, of persons with whom the person subject to the order has had contact that poses an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus. Failure to comply with court-ordered disclosure constitutes contempt of court.

SECTION 193. AMENDMENT. Section 23-07.6-04 of the North Dakota Century Code is amended and reenacted as follows:

23-07.6-04. Place of confinement.

A respondent must be confined in a place designated in the written directive until the health officer who issued the written directive determines that the respondent no longer poses a substantial threat to the public health or until a court of competent jurisdiction orders the release of the respondent. The ~~state~~ department of health and human services or the local board may establish and maintain places of confinement.

SECTION 194. AMENDMENT. Subsection 3 of section 23-07.7-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The laboratory shall send a copy of the test results to the physicians designated in the court order, who shall then release the test results to the defendant or alleged juvenile offender and each requesting victim as designated in the court order. The court order must be served on the physicians before any test. The laboratory also shall send a copy of test results that indicate exposure to or infection by acquired immunodeficiency syndrome virus, acquired immunodeficiency syndrome-related conditions, or other sexually transmitted diseases to the ~~state~~ department of health and human services.

[233] **SECTION 195. AMENDMENT.** Subsection 4 of section 23-09-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the ~~state~~ department of health and human services.

SECTION 196. AMENDMENT. Section 23-09-02 of the North Dakota Century Code is amended and reenacted as follows:

23-09-02. ~~State department of health~~Department to enforce provisions of chapter.

The department shall enforce the provisions of this chapter. Under no circumstances may any other state agency adopt rules that relate in any way to the provisions of this chapter.

SECTION 197. AMENDMENT. Subsection 2 of section 23-09.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

SECTION 198. AMENDMENT. Section 23-09.1-02 of the North Dakota Century Code is amended and reenacted as follows:

23-09.1-02. Bed and breakfast facilities - Powers of ~~state~~ department ~~of health~~.

The department shall establish by rule the procedures for licensing, qualifying, classifying, inspecting, and regulating persons providing bed and breakfast facilities in private homes, including rules affecting the health and safety of the facility and the persons using the facility. No political subdivision, including a home rule city or county, may impose health and safety, licensure, or inspection requirements that exceed the requirements of this chapter or rules adopted by the department.

SECTION 199. AMENDMENT. Subsection 1 of section 23-09.2-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 200. AMENDMENT. Subsection 2 of section 23-09.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

[234] **SECTION 201. AMENDMENT.** Section 23-09.3-01.1 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-01.1. Moratorium on expansion of basic care bed capacity.

1. Basic care beds may not be added to the state's licensed bed capacity during the period between August 1, 2019, and July 31, 2021, except if:

   a. A nursing facility converts nursing facility beds to basic care;

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[233] Section 23-09-01 was also amended by section 1 of Senate Bill No. 2226, chapter 199.

[234] Section 23-09.3-01.1 was also amended by section 1 of House Bill No. 1332, chapter 201.

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.

2. Transfers of basic care beds from one basic care facility to another entity is permitted. Transferred basic care beds must become licensed within seventy-two months of transfer. The entity receiving the transferred beds or any new facility may seek to participate in the basic care assistance program. If the entity can demonstrate that individuals can be cared for at a more independent level and that this service will delay entry into the nursing facility, the entity may be approved for basic care assistance funds.

3. If an Indian tribe acquires basic care beds, the tribal facility must meet state licensing requirements for those beds within seventy-two months of acquisition. A tribal facility may seek to participate in the basic care assistance program. Basic care assistance payments may only be made to a tribal facility that agrees to participate and adhere to all federal and state requirements of the basic care assistance program including participation, screening, ratesetting, and licensing requirements.

SECTION 202. AMENDMENT. Section 23-09.3-05.1 of the North Dakota Century Code is amended and reenacted as follows:

23-09.3-05.1. Application for license - License fee.

Applicants for a license shall file applications under oath with the ~~state~~ department ~~of health~~ upon forms prescribed. An application for a license for facilities not owned by the state or its political subdivisions must be accompanied by a fee of ten dollars per bed. License fees collected pursuant to this section must be deposited in the ~~state~~ department ~~of health services~~ operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 203. AMENDMENT. Subsection 2 of section 23-09.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health <u>and human services</u>.

SECTION 204. AMENDMENT. Subsection 9 of section 23-09.5-02 of the North Dakota Century Code is amended and reenacted as follows:

9. The ~~state~~ department of health and human services or a local regulating authority may conduct an investigation upon complaint of an illness or environmental health complaint.

[235] **SECTION 205. AMENDMENT.** Subsection 2 of section 23-10-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

SECTION 206. AMENDMENT. Subsection 11 of section 23-12-09 of the North Dakota Century Code is amended and reenacted as follows:

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 health and 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 towncars 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.

SECTION 207. AMENDMENT. Subdivision a of subsection 3 of section 23-12-10 of the North Dakota Century Code is amended and reenacted as follows:

a. Private residences, except those residences used as a child care, adult day care, or health care facility subject to licensure by the department of health and human services.

SECTION 208. AMENDMENT. Subsection 1 of section 23-12-10.2 of the North Dakota Century Code is amended and reenacted as follows:

1. State agencies with statutory jurisdiction over a state-owned building or office shall enforce section 23-12-10. These agencies include the fire marshal department, ~~state~~ department of health~~, department of~~ and human services, legislative council, and office of management and budget.

SECTION 209. AMENDMENT. Subsection 2 of section 23-12-10.4 of the North Dakota Century Code is amended and reenacted as follows:

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[235] Section 23-10-01 was also amended by section 1 of House Bill No. 1103, chapter 202.

2. The owner, operator, manager, or other person in control of a public place or place of employment where smoking is prohibited by this chapter may request from the ~~state~~ department of health and human services the signs necessary to comply with the signage requirements of subsection 1.

SECTION 210. AMENDMENT. Subsection 2 of section 23-12-17 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~state~~ department of health and human services shall establish guidelines for employers concerning workplace breastfeeding and infant friendly designations.

SECTION 211. AMENDMENT. Section 23-16-01 of the North Dakota Century Code is amended and reenacted as follows:

23-16-01. Licensure of medical hospitals and state hospitals.

After July 1, 1947, no person, partnership, association, corporation, limited liability company, county or municipal corporation, or agency thereof, which maintains and operates organized facilities for the diagnosis, treatment, or care of two or more nonrelated persons suffering from illness, injury, or deformity or where obstetrical or other care is rendered over a period exceeding twenty-four hours, may be established, conducted, or maintained in the state of North Dakota without obtaining annually a license therefor in the manner hereinafter provided in sections 23-16-02 and 23-16-03. Chiropractic hospitals, sanatoriums, and hospitals such as those for unmarried mothers maintained and operated by the department of health and human services are not required to obtain a license under this chapter.

In the case of emergency or transfer beds attached to and forming a part of a licensed medical doctor's office, the ~~state~~ department of health and human services has the right of inspection, but no license may be required under the provisions of this chapter when the number of such beds does not exceed four.

[236] **SECTION 212. AMENDMENT.** Subsection 6 of section 23-16-01.1 of the North Dakota Century Code is amended and reenacted as follows:

6. A nursing facility, upon prior written notice to the ~~state~~ department of health and human services, may delicense a maximum of twenty-five percent of its licensed nursing facility bed capacity and have the delicensed nursing facility held for a period of forty-eight months. The total delicensed nursing facility bed capacity that may be held for a nursing facility at no time may be greater than fifty percent of the number of currently licensed beds in the nursing facility. Delicensed nursing facility bed capacity in excess of fifty percent of the nursing facility's licensed capacity may not be held and is not eligible for the provisions of subsection 7. Delicensed bed capacity not sold or relicensed at the conclusion of the forty-eight-month holding period ceases to exist.

SECTION 213. AMENDMENT. Section 23-16-03 of the North Dakota Century Code is amended and reenacted as follows:

23-16-03. Application for license - License fee.

Applicants for license shall file applications under oath with the ~~state~~ department of health and human services upon forms prescribed. Applications must be signed by

[236] Section 23-16-01.1 was also amended by section 1 of House Bill No. 1065, chapter 205, and section 2 of House Bill No. 1332, chapter 201.

the owner, or in the case of a corporation by two of its officers, or in the case of a county or municipal unit by the head of the governmental department having jurisdiction over it. Applications must set forth the full name and address of the owner of the institution for which license is sought, the names of the persons in control thereof, and such additional information as the ~~state~~ department of health and human services may require, including affirmative evidence of ability to comply with such minimum standards, rules, and regulations as may be lawfully prescribed pursuant to this section. An application for a license for facilities not owned by the state or its political subdivisions must be accompanied by the following fees:

1. For each licensed acute care bed, ten dollars.

2. For each licensed skill care bed, ten dollars.

License fees collected pursuant to this section must be deposited in the ~~state~~ department of health and human services services operating fund in the state treasury and any expenditure from the fund is subject to appropriation by the legislative assembly.

SECTION 214. AMENDMENT. Section 23-16-04 of the North Dakota Century Code is amended and reenacted as follows:

23-16-04. Licenses.

Licenses issued hereunder expire one year after date of issuance or upon such uniform dates annually, as the department of health ~~council~~and human services may prescribe by rule. Licenses must be issued only for the premises and persons named in the application and are not transferable or assignable. Licenses must be posted in a conspicuous place on the licensed premises.

SECTION 215. AMENDMENT. Section 23-16-05 of the North Dakota Century Code is amended and reenacted as follows:

23-16-05. Inspections, consultations, and approval of plans.

The ~~state~~ department of health and human services shall make or cause to be made such inspections as may be prescribed by regulation. The health council may prescribe by regulations that any licensee or prospective applicant desiring to make a substantial alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the ~~state~~ department of health and human services for preliminary inspection, recommendation, and approval.

SECTION 216. AMENDMENT. Section 23-16-06 of the North Dakota Century Code is amended and reenacted as follows:

23-16-06. Authority to issue, deny, suspend, or revoke licenses.

The ~~state~~ department of health and human services shall issue licenses for the operation of institutions subject to this chapter which are found to comply with the provisions of this chapter and ~~such regulations as are lawfully promulgated by the health council~~rules adopted by the department. The state health officer with the approval of the health council may, after a hearing, suspend or revoke licenses issued hereunder on any of the following grounds:

1. Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.

2. Permitting, aiding, or abetting the commission of any unlawful act.

3. Conduct or practices detrimental to the health or safety of patients and employees of said institutions; provided that this provision may not be construed to have any reference to practices authorized by law; and provided further that no license may be suspended or revoked for any trivial violation.

No application for a license may be denied, or any licenses suspended or revoked, except after a hearing before the health council held pursuant to written notice to the applicant or licensee, served by registered or certified mail, which notice must concisely state the grounds for such denial or for such proposed suspension or revocation and must fix the time and place of hearing which may not be less than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order, either denying the application for license or granting the same, or suspending or revoking such license, or dismissing the proceedings to suspend or revoke as the merits of the case warrant. The council shall send a copy of its order to the applicant or licensee by registered or certified mail, which must contain its findings and conclusions, and such order, except an order of dismissal, becomes final thirty days after the date of mailing unless the applicant or licensee appeals therefrom in the manner provided by section 23-16-10.

SECTION 217. AMENDMENT. Section 23-16-08 of the North Dakota Century Code is amended and reenacted as follows:

23-16-08. Offering or advertising to dispose of infants prohibited.

No hospital providing maternity care may in any way offer to dispose of any child or advertise that it will give children for adoption or hold itself out, directly or indirectly, as being able to dispose of children, however, such hospitals may inform an unmarried mother of child-placing agencies licensed by the department of health and human services.

SECTION 218. AMENDMENT. Section 23-16-09 of the North Dakota Century Code is amended and reenacted as follows:

23-16-09. Information confidential.

Information other than reports relating to vital statistics received by the ~~state~~ department of health and human services through inspection or otherwise, authorized under this chapter are confidential and may not be disclosed publicly except in a proceeding involving the question of license. No agent of the ~~state~~ department of health and human services or of any board of health, may disclose individually identifiable health information of such an institution obtained in the course of a survey or inspection except in a judicial or administrative proceeding in response to an order of a court or administrative tribunal.

SECTION 219. AMENDMENT. Subsection 2 of section 23-16-11 of the North Dakota Century Code is amended and reenacted as follows:

2. In addition to any criminal sanctions that may be imposed pursuant to law, any person maintaining or operating a nursing facility licensed by the department who is found guilty of knowingly violating any provision of this title or any rules adopted under this title, or any person maintaining or operating a nursing facility found to have deficiencies during a survey of the nursing facility, may be assessed a civil penalty not to exceed one thousand dollars for each violation and for each day the violation continues plus interest and any costs incurred by the department to enforce this penalty. This civil penalty may be

imposed by a court in a civil proceeding or by the state health officer through an administrative hearing under chapter 28-32. If a civil penalty levied by the department after an administrative hearing is not paid within thirty days after a final determination that a civil penalty is owed, unless the determination of a civil penalty is appealed to a district court, the civil penalty and any costs incurred by the department to enforce the penalty may be withheld from payments due to the person or nursing facility from the department of health and human services. Any funds received as penalties must be applied to protect residents of the nursing facility, to relocate residents, to maintain operation of the nursing facility, and to reimburse residents for loss of personal funds.

SECTION 220. AMENDMENT. Section 23-16-12 of the North Dakota Century Code is amended and reenacted as follows:

23-16-12. Injunction.

The ~~state~~ department of health and human services, in accordance with the laws of the state governing injunctions and other process, may maintain an action in the name of the state against any person, partnership, association, corporation, or limited liability company for establishing, conducting, managing, or operating any hospital within the meaning of the chapter without first having a license therefor as herein provided or without first obtaining from the ~~state~~ department of health and human services written approval of plans and specifications for major alterations of, additions to, or construction of health facilities.

SECTION 221. AMENDMENT. Subsection 1 of section 23-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 222. AMENDMENT. Section 23-17-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17-08. Establishment of advisory committee.

The chiropractic board of examiners shall request the governor to appoint an advisory committee consisting of the executive director of the department of health and human services, one chiropractic hospital superintendent, and one person interested in chiropractic hospitals. One member is to serve for three years, one for two, and one is to serve for one year from the date of their appointment or until their successors are duly appointed. Following this first appointment, the term of office must be for three years. This advisory committee shall act in an advisory capacity to the chiropractic board of examiners in dealing with matters pertaining to particular problems of chiropractic hospitals and sanatoriums and other related institutions.

SECTION 223. AMENDMENT. Subsection 2 of section 23-17.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

SECTION 224. AMENDMENT. Section 23-17.3-08 of the North Dakota Century Code is amended and reenacted as follows:

23-17.3-08. Rules ~~- State department of health~~.

The department shall adopt necessary rules relating to the home health agencies licensed pursuant to section 23-17.3-02, including rules governing:

1. Qualifications of professional and ancillary personnel in order to furnish adequately home health services.

2. Standards for the organization and quality of patient care.

3. Procedures for maintaining records.

4. Provision for contractual arrangements for professional and ancillary health services.

5. Procedures for application, issuance, and renewal of license.

6. Procedures for denial, suspension, or revocation of license.

7. Inspections of licensed home health agencies.

SECTION 225. AMENDMENT. Section 23-17.3-10 of the North Dakota Century Code is amended and reenacted as follows:

23-17.3-10. Information confidential.

Information received under this chapter by the ~~state~~ department ~~of health~~, through inspection or otherwise, is confidential and may not be disclosed except:

1. In a proceeding involving the question of license;

2. In a judicial proceeding, upon a court order; or

3. To a health or social services agency with specific responsibility for a patient's care.

SECTION 226. AMENDMENT. Subsection 2 of section 23-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health <u>and human services</u>.

SECTION 227. AMENDMENT. Section 23-21-16 of the North Dakota Century Code is amended and reenacted as follows:

23-21-16. Removal and reinterment by cemetery authority.

After the completion of notice, and after the expiration of the period of six months specified in the notice, any cemetery authority may cause the removal of all human remains interred in the cemetery or portion from which the remains have been ordered removed, and may reinter such remains in any other place in this state where interments are permitted, without further notice to any person claiming any interest in the cemetery, or portion affected, or in the remains interred therein. Whenever any remains are removed from any cemetery or portion of a cemetery pursuant to this chapter by a cemetery authority, such remains must be reinterred as near as possible to the cemetery from which such remains were taken. The remains of each person reinterred must be placed in a separate and suitable receptacle and decently and respectfully interred under rules and regulations adopted by the cemetery authority making the removal and the ~~state~~ department of health <u>and human services</u>.

SECTION 228. AMENDMENT. Section 23-21.1-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-21.1-02.1. License to operate a perpetual care cemetery - Fee.

No organization may operate as a perpetual care cemetery unless licensed on forms provided by the ~~state~~ department of health and human services by the recorder of the county within which the cemetery is located, unless the board of county commissioners designates a different official. The license must be renewed by or before July first of each year. Prior to issuance or renewal of a license, the recorder, or designated official, shall determine if the applicant is in full compliance with the provisions of this chapter. When applying for a license renewal, the applicant shall report to the recorder, or designated official, the number of spaces sold, the gross amount of receipts from the sale of spaces, and the amount of money transferred to the perpetual care trust fund during the organization's previous fiscal year. The license fee must be five dollars per year, except that any perpetual care cemetery which has sold less than ten spaces during the previous fiscal year may not be required to pay a license fee.

SECTION 229. AMENDMENT. Subsection 1 of section 23-21.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. Any organization subject to this chapter which is organized or commences business in this state and desires to operate as a perpetual care cemetery, before selling or disposing of any interment space or lots, shall establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash, except that the minimum perpetual care and maintenance guarantee fund for organizations in operation on July 1, 1963, must be five thousand dollars. The perpetual care and maintenance guarantee fund must be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and investment of funds as provided by chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 relating to the administration of trust estates. Only the income from such fund may be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the ~~state~~ department of health and human services and the commissioner of financial institutions.

SECTION 230. AMENDMENT. Section 23-23-03 of the North Dakota Century Code is amended and reenacted as follows:

23-23-03. Enforcement by health officer - Seizure - Inspection - Injunction.

It is the duty of the state health officer to enforce the provisions of this chapter, and for that purpose the investigators, inspectors, representatives, and agents of the ~~state~~ department of health and human services shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents, or other evidence. The state health officer may institute, in its own name, proceedings to enjoin and restrain violations of this chapter, regardless of

whether the defendant has been convicted of violation of the penal provisions thereof, and may not be required to pay any costs or filing fees or furnish any bond in connection therewith.

SECTION 231. AMENDMENT. Section 23-27-01 of the North Dakota Century Code is amended and reenacted as follows:

23-27-01. License required - Licensing of emergency medical services operations - Exception - Waiver.

1. The ~~state~~ department of health and human services shall license emergency medical services operations and may designate their service areas. The department shall limit the issuance of a license for any new emergency medical services operation based on the needs of the service area. A license for an emergency medical services operation is nontransferable.

2. Emergency medical services may not be advertised, offered, or provided to the public except by an emergency medical services operator that provides the emergency medical services through emergency medical services personnel.

3. Except as otherwise provided under subsection 4, an emergency medical services operator must be separately licensed for each of the operator's emergency medical services operations and an operation that is headquartered from a separate location must be considered a separate operation. Under this subsection, an operation with a single headquarters site may dispatch vehicles and emergency medical services personnel from more than one location if calls requesting services are received and orders for vehicle dispatch are made at the single headquarters site.

4. Notwithstanding subsection 3, an operator of an emergency medical services operation may operate one or more substation ambulance services operations under a single license if:

   a. The headquarters ambulance services operation is not a substation ambulance services operation of another emergency medical services operation;

   b. The substation ambulance services operation area borders the headquarters ambulance services operation area or borders another substation of the headquarters ambulance services operation;

   c. The headquarters ambulance services operation and the substation ambulance services operation are dispatched by the same entity; and

   d. The operator of the emergency medical services operation pays a license fee for each of its substation ambulance services operations.

5. The provisions of this chapter do not apply to an operator from another state which is headquartered at a location outside of this state and transports patients across state lines, but the operator may not treat patients within this state or pick up patients within this state for transportation to locations within this state, except as provided by rule.

6. The ~~state~~department of health ~~council~~and human services shall adopt rules for special licenses and waiver provisions for an operator of an emergency

medical services operation intended for industrial sites not available to the general public.

[237] **SECTION 232. AMENDMENT.** Subsection 1 of section 23-27-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 233. AMENDMENT. Section 23-27-03 of the North Dakota Century Code is amended and reenacted as follows:

23-27-03. License fees.

The fee for an emergency medical services operation license to operate an emergency medical services operation or a substation ambulance services operation must be set by the state health council at a sum of not more than twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. This operation license fee does not apply to licensure or certification of emergency medical services personnel. All license fees must be paid to the ~~state~~ department of health and human services and deposited with the state treasurer and credited to the state general fund.

[238] **SECTION 234. AMENDMENT.** Subsection 1 of section 23-27-04 of the North Dakota Century Code is amended and reenacted as follows:

1. An emergency medical services operation within this state may not operate unless the operation is licensed in accordance with this chapter and rules adopted by the ~~state~~department of health ~~council~~and human services. The rules must include:

   a. Time when operator's services must be available.

   b. Type of motor vehicle operator's license needed for drivers of ground vehicles.

   c. Training standards for operation personnel.

   d. Equipment and ground vehicle standards.

   e. Annual license fees.

   f. Number of personnel required for each run.

   g. The scope of practice for uncertified drivers, certified personnel, and emergency medical services professionals.

   h. Performance standards, which may include response time standards.

   i. Other requirements as may be found necessary to carry out the intent of this chapter.

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[237] Section 23-27-02 was also amended by section 1 of Senate Bill No. 2133, chapter 207.

[238] Section 23-27-04 was also amended by section 2 of Senate Bill No. 2133, chapter 207.

SECTION 235. AMENDMENT. Section 23-27-04.2 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.2. Emergency medical services - State assistance.

The ~~state~~ department of health and human services shall assist in the training of emergency medical services personnel of certain emergency medical services operations as determined by the department and financially shall assist certain emergency medical services operations as determined by the department in obtaining equipment. Assistance provided under this section must be within the limits of legislative appropriation. The department shall adopt criteria for eligibility for assistance in the training of emergency medical services personnel of various types of emergency medical services operations. To qualify for financial assistance for equipment an emergency medical services operation shall certify, in the manner required by the department, that the operation has fifty percent of the amount of funds necessary for identified equipment acquisitions. The department shall adopt a schedule of eligibility for financial assistance for equipment. The schedule must provide for a direct relationship between the amount of funds certified and the number of responses during the preceding calendar year for the purpose of rendering medical care, transportation, or both, to individuals who were sick or incapacitated. The schedule must require that as the number of responses increases, a greater amount of funds certified is required. The schedule must classify responses and the financial assistance available for various classifications. The department may establish minimum and maximum amounts of financial assistance to be provided to an emergency medical services operation under this section. If applications for financial assistance exceed the amount of allocated and available funds, the department may prorate the funds among the applicants in accordance with criteria adopted by the department. No more than one-half of the funds appropriated by the legislative assembly each biennium and allocated for training assistance may be distributed in the first year of the biennium.

[239] **SECTION 236. AMENDMENT.** Section 23-27-04.3 of the North Dakota Century Code is amended and reenacted as follows:

23-27-04.3. Emergency medical services personnel training, testing, certification, licensure, and quality review - Penalty.

The ~~state~~department of health ~~council~~and human services shall adopt rules prescribing minimum training, testing, certification, licensure, and quality review standards for emergency medical services personnel, instructors, and training institutions. Rules adopted must include a definition of minimum applicable standards, a definition of emergency medical services personnel, provide for a mechanism for certifying or licensing persons who have met the required standards, provide a mechanism to review and improve the quality of care rendered by emergency medical services personnel, and define minimum standards for emergency medical services training institutions. Licensing as an emergency medical services training institution is optional. It is a class B misdemeanor for an individual to willfully misrepresent that individual's certification or licensing status as emergency medical services personnel. Quality review and improvement information, data, records, and proceedings are not subject to subpoena or discovery or introduction into evidence in any civil action.

SECTION 237. AMENDMENT. Section 23-27-04.7 of the North Dakota Century Code is amended and reenacted as follows:

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[239] Section 23-27-04.3 was also amended by section 3 of Senate Bill No. 2133, chapter 207.

23-27-04.7. County reporting - Use of property tax levies.

The board of county commissioners of every county in this state shall conduct an annual review of the emergency medical services coverage within that county and shall submit an annual report to the state health officer in a format approved by the ~~state~~ department of health and human services. A taxing district that levies a special emergency medical services or ambulance service levy shall allocate all of the special tax levy revenue collected in a particular township to the ambulance service that serves the largest area within that township.

SECTION 238. AMENDMENT. Subsection 6 of section 23-27-04.10 of the North Dakota Century Code is amended and reenacted as follows:

6. The ~~state~~department of health ~~council~~and human services shall adopt rules establishing air ambulance service provider requirements that must address transport plans, including auto launch protocol and auto launch cancellation protocol; transporting to the nearest appropriate medical facility; medical necessity; and informed consent. As necessary, the ~~state~~department of health ~~council~~and human services shall adopt rules relating to quality of care standards and other appropriate requirements regarding air ambulance service providers.

SECTION 239. AMENDMENT. Section 23-34-02 of the North Dakota Century Code is amended and reenacted as follows:

23-34-02. Peer review records - Confidentiality.

1. Peer review records are confidential and may be used by a peer review organization and the organization members only for conducting a professional peer review.

2. A health care organization may release reports, data compilations, analyses, and summaries, which are prepared by a peer review organization and which identify or analyze trends in medical errors to the ~~state~~ department of health and human services, the North Dakota hospital association, and the North Dakota hospital foundation.

3. The ~~state~~ department of health and human services, the North Dakota hospital association, and the North Dakota hospital foundation may release any information provided under subsection 2 to the public.

4. This section does not prohibit access of the ~~state~~ department of health and human services to peer review records to determine compliance with requirements of federal or state law for the survey and certification of a health care facility or for trauma center designation and as authorized under any rules issued under section 23-01.2-01 or 23-01-11 to enable the state to be in compliance with any federal laws to qualify for any federal funds related to medical facilities or agencies licensed by the ~~state~~ department of health and human services.

SECTION 240. AMENDMENT. Section 23-34-02.1 of the North Dakota Century Code is amended and reenacted as follows:

23-34-02.1. Peer review organization reports - Admissibility.

Any report, data, data compilation, analyses, or summary that is generated by a peer review organization and made available to the ~~state~~ department of health and

human services or the public by the ~~state~~ department of health and human services, the North Dakota hospital association, or the North Dakota hospital foundation, may not be introduced into evidence, for any purpose, in any civil or administrative proceeding.

SECTION 241. AMENDMENT. Subsection 2 of section 23-35-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

SECTION 242. AMENDMENT. Section 23-35-02 of the North Dakota Century Code is amended and reenacted as follows:

23-35-02. Public health units.

All land in the state must be in a public health unit before January 1, 2001. The ~~health council~~department of health and human services may issue rules defining the core functions a public health unit shall undertake.

SECTION 243. AMENDMENT. Subsection 4 of section 23-36-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the ~~state~~ department of health and human services.

SECTION 244. AMENDMENT. Section 23-38.1-01 of the North Dakota Century Code is amended and reenacted as follows:

23-38.1-01. Cardiac ready community grant program.

The ~~state~~ department of health and human services shall establish a cardiac ready community grant program. The primary purpose of the program is to support bystander, emergency responder, and community private public partnerships for strengthening community-based capacity for cardiac and stroke emergency response and risk reduction programs throughout the state. The program must build on and may not duplicate existing programs. The department shall award grants on a competitive basis based on criteria established by an advisory committee. To facilitate volume purchasing savings, the department may procure vendor rates and purchases, and grant the acquired elements to community programs.

[240] **SECTION 245. AMENDMENT.** Subsection 1 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~state~~ department of health and human services shall establish a cardiac ready community grant program advisory committee with members appointed by the ~~state health officer~~executive director of the department of health and human services or designee. The advisory committee shall advise the department of health and human services in the development of the cardiac ready community grant program and the membership must include a representative of the department of health and human services, one cardiac ready community member, one representative of the emergency medical services association, one representative of the American heart association, one representative of the cardiac task force, one representative of the stroke task force, one representative of the emergency services advisory committee,

[240] Section 23-38.1-02 was also amended by section 246 of House Bill No. 1247, chapter 352.

one survivor advocate, and the ~~state~~ department of health and human services emergency medical services and trauma medical director.

[241] **SECTION 246. AMENDMENT.** Subsection 3 of section 23-38.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. The ~~state~~ department of health and human services, with the advisory committee's involvement, shall provide assistance to:

   a. Evaluate programs;

   b. Promote public awareness of core program elements;

   c. Facilitate the coordination of program components with the local level;

   d. Involve state agencies, law enforcement, and local government in the administration and management of the program; and

   e. Assist the department in screening and implementing the grants.

SECTION 247. AMENDMENT. Section 23-38.1-03 of the North Dakota Century Code is amended and reenacted as follows:

23-38.1-03. Gifts, grants, and donations - Continuing appropriation.

The ~~state~~ department of health and human services may accept any gifts, grants, or donations, whether conditional or unconditional. The department or local grantees may contract public or private entities and may expend any available moneys to obtain matching funds for the purposes of this chapter. All moneys received by the ~~state~~ department of health and human services as gifts, grants, or donations under this section are appropriated on a continuing basis to the department's operations fund for the purpose of funding the grant program.

SECTION 248. AMENDMENT. Subsection 1 of section 23-39-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 249. AMENDMENT. Section 23-39-06 of the North Dakota Century Code is amended and reenacted as follows:

23-39-06. Injury reports.

If a customer of a tanning facility reports a sunburn injury to that facility resulting from the use of its tanning device, the owner shall provide the customer with written information on how to report the alleged injury to the ~~state~~ department of health and human services. If a health care provider treats a patient for a sunburn injury and determines, in the exercise of professional judgment, that the injury occurred as a result of using a tanning device at a tanning facility, the health care provider shall report the circumstances of the injury to the ~~state~~ department of health and human services. A health care provider making or not making a report in good faith pursuant to this section is immune from liability for making or not making a report.

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[241] Section 23-38.1-02 was also amended by section 245 of House Bill No. 1247, chapter 352.

SECTION 250. AMENDMENT. Section 23-39-07 of the North Dakota Century Code is amended and reenacted as follows:

23-39-07. Enforcement - Rules - Penalty.

The department shall enforce this chapter~~. The state health council~~ and shall adopt rules necessary to implement this chapter. The department may deny issuance of a permit to an applicant or suspend or revoke any permit issued under this chapter if the applicant or permitholder, or an employee of the applicant or permitholder, violates this chapter or any rule adopted to implement this chapter. Violation of this chapter or any rule adopted to implement this chapter is a class B misdemeanor.

SECTION 251. AMENDMENT. Section 23-41-01 of the North Dakota Century Code is amended and reenacted as follows:

23-41-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. "Department" means the ~~state~~ department of health and human services.

2. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department of human services.

3. "Human services" means:

   a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

   b. A service or assistance provided, administered, or supervised by the department ~~of human services~~ in accordance with chapter 50-06.

   c. Licensing duties as administered or supervised by the department ~~of human services~~ or delegated by the department of human services to a human service zone.

SECTION 252. AMENDMENT. Subsection 1 of section 23-41-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Cooperate with the department in administering this chapter in its human service zone, subject to rules adopted by the ~~state health council~~department.

SECTION 253. AMENDMENT. Section 23-43-02 of the North Dakota Century Code is amended and reenacted as follows:

23-43-02. Designation of comprehensive stroke center, primary stroke centers, and acute stroke-ready hospitals.

1. The ~~state~~ department of health and human services shall identify hospitals that meet the criteria as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital. In order to receive a designation under this section, a hospital shall apply to the ~~state~~ department of health and human

services and shall demonstrate to the satisfaction of the department the hospital meets the applicable criteria.

2. In order to qualify for designation as a comprehensive stroke center, an accredited acute care hospital must be certified as a comprehensive stroke center by a department-approved, nationally recognized guidelines-based organization, which provides comprehensive stroke center hospital certification for stroke care. As a condition of retaining designation as a comprehensive stroke center, an acute care hospital shall maintain its certification.

3. In order to qualify for designation as a primary stroke center, an accredited acute care hospital must be certified as a primary stroke center by a department-approved, nationally recognized guidelines-based organization, which provides primary stroke center certification for stroke care. As a condition of retaining designation as a primary stroke center, an acute care hospital shall maintain its certification.

4. In order to qualify for designation as an acute stroke-ready hospital, an accredited acute care hospital must be certified as an acute stroke-ready hospital by department-approved, nationally recognized guidelines-based criteria. As a condition of retaining designation as an acute stroke-ready hospital, an acute care hospital shall maintain its certification.

5. Through agreement, a comprehensive stroke center and primary stroke center may coordinate with an acute stroke-ready hospital to provide appropriate access to care for acute stroke patients. The coordinating stroke care agreement must be in writing and include, at a minimum:

   a. The transfer agreement for the transport and acceptance of a stroke patient seen by the acute stroke-ready hospital for stroke treatment therapies the stroke center or primary care center is not capable of providing; and

   b. Communication criteria and protocol with the acute stroke-ready hospital.

6. If the department determines the hospital is not in compliance with the requirements set for designation level, after notice and a hearing, the ~~state~~ department of health and human services may suspend or revoke a hospital's state designation as a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.

7. Any facility that is not designated, must have a predetermined plan for the triage of acute stroke patients. The plan must be filed annually with the ~~state~~ department of health and human services, division of emergency medical services and trauma.

SECTION 254. AMENDMENT. Section 23-43-03 of the North Dakota Century Code is amended and reenacted as follows:

23-43-03. Emergency medical services operations - Assessment and transportation of stroke patients to a comprehensive stroke center, primary stroke center, or acute stroke-ready hospital.

1. Before June first of each year the ~~state~~ department of health and human services shall send the list of comprehensive stroke centers, primary stroke

centers, and acute stroke-ready hospitals to the medical director of each licensed emergency medical services operation in this state. The ~~state~~ department of health and human services shall maintain a copy of the list and shall post a list of comprehensive stroke centers, primary stroke centers, and acute stroke-ready hospitals to the ~~state~~ department of ~~health's~~and human services' website.

2. The ~~state~~ department of health and human services shall adopt and distribute a nationally recognized, standardized stroke triage assessment tool. The department shall post this stroke triage assessment tool on the department's website and provide a copy of the assessment tool to each licensed emergency medical services operation. Each licensed emergency medical services operation shall use a stroke triage assessment tool that is substantially similar to the sample stroke triage assessment tool provided by the ~~state~~ department of health and human services.

3. Each emergency medical services operation in the state shall establish prehospital care protocols related to the assessment, treatment, and transport of a stroke patient by a licensed emergency medical services operation. Such protocols must include plans for the triage and transport of an acute stroke patient to the closest comprehensive or primary stroke center or when appropriate to an acute stroke-ready hospital, within a specified time frame of onset of symptoms.

4. As part of current training requirements, each emergency medical services operation in the state shall establish protocols to assure licensed emergency medical services providers and 911 dispatch personnel receive regular training on the assessment and treatment of stroke patients.

5. An emergency medical services operation shall comply with this chapter.

6. All data reported under this chapter must be made available to the ~~state~~ department of health and human services and to all other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.

7. This chapter may not be construed to require disclosure of any confidential information or other data in violation of the federal Health Insurance Portability and Accountability Act of 1996 [Pub. L. 104-191; 110 Stat. 1936; 29 U.S.C. 1181 et seq.].

SECTION 255. AMENDMENT. Section 23-43-04 of the North Dakota Century Code is amended and reenacted as follows:

23-43-04. Continuous improvement of quality of care for individuals with stroke - Recommendations - Report to legislative management.

1. The ~~state~~ department of health and human services shall establish and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment. In implementing this plan, the ~~state~~ department of health and human services shall:

   a. Maintain a statewide stroke database that compiles information and statistics on stroke care which align with nationally recognized stroke

consensus metrics. The ~~state~~ department of health and human services shall utilize a nationally recognized data set platform with confidentiality standards no less secure than the stroke registry data platform. The ~~state~~ department of health and human services shall coordinate with national voluntary health organizations involved in stroke quality improvement to avoid duplication and redundancy.

b. Require comprehensive stroke centers and primary stroke centers and encourage acute stroke-ready hospitals and emergency medical services operations to report data consistent with nationally recognized guidelines on the treatment of individuals with confirmed stroke within the state.

c. Encourage sharing of information and data among health care providers on ways to improve the quality of care of stroke patients in this state.

d. Facilitate the communication and analysis of health information and data among the health care professionals providing care for individuals with stroke.

e. 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 treatment for stroke.

2. The ~~state~~ department of health and human services shall establish a data oversight process and implement a plan for achieving continuous quality improvement in the quality of care provided under the state comprehensive stroke system for stroke response and treatment which must:

a. Analyze data generated by the stroke registry on stroke response and treatment;

b. Identify potential interventions to improve stroke care in geographic areas or regions of the state; and

c. Provide recommendations to the ~~state~~ department of health and human services, emergency medical services advisory council, and legislative assembly for the improvement of stroke care and delivery in the state.

3. Data reported under this section must be made available to the ~~state~~ department of health and human services and to other government agencies, or contractors of government agencies, which have responsibility for the management and administration of emergency medical services throughout the state.

4. Before June first of each even-numbered year, the ~~state~~ department of health and human services shall provide a report to the legislative management regarding progress made toward the recommendations provided in this chapter and any recommendations for future legislation.

SECTION 256. AMENDMENT. Section 23-43-05 of the North Dakota Century Code is amended and reenacted as follows:

23-43-05. Stroke system of care task force.

1. The ~~state~~ department of health and human services shall establish a stroke system of care task force to address matters of triage, treatment, and transport of possible acute stroke patients. The stroke system of care task force must include representation from the ~~state~~ department of health and human services, the emergency medical services advisory council, the university of North Dakota's center for rural health, the American stroke association or similar entity, comprehensive stroke centers, primary stroke centers, rural hospitals, physicians, and emergency medical services operations.

2. The task force shall implement the regulations necessary to establish an effective stroke system of care in the state, with a focus on serving rural areas. The regulations must include protocols for the assessment, stabilization, and appropriate routing of stroke patients by emergency medical services operations, and for coordination and communication between hospitals, comprehensive stroke centers, primary stroke centers, and other support services necessary to assure all residents have access to effective and efficient stroke care.

3. The stroke system of care task force shall make recommendations to the ~~state~~ department of health and human services and health council. Upon receiving such recommendations, the department of health ~~council~~and human services may adopt rules implementing the recommendations.

4. As used in this subsection, "telemedicine services" means the use of interactive audio, video, and other electronic media used for the purpose of diagnosis, consultation, or treatment of acute stroke. The stroke system of care task force shall recommend eligible essential health care services for acute stroke care provided through telemedicine services.

SECTION 257. AMENDMENT. Section 23-43-06 of the North Dakota Century Code is amended and reenacted as follows:

23-43-06. General provisions.

1. 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 received a license under state law. Patients must be treated individually based on the needs and circumstances of each patient.

2. A person may not advertise to the public, by way of any medium, that a hospital is a comprehensive stroke center, primary stroke center, or acute stroke ready hospital unless the hospital is designated as such by the ~~state~~ department of health and human services.

3. The department of health ~~council~~and human services may adopt rules to implement this chapter.

SECTION 258. AMENDMENT. Subsection 2 of section 23-44-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the ~~state~~ department of health and human services.

SECTION 259. AMENDMENT. Subsection 2 of section 23-44-02 of the North Dakota Century Code is amended and reenacted as follows:

2. The ~~health council~~department shall adopt rules to regulate and register an individual who receives compensation for engaging in the provision of nursing or nursing-related services to an individual in a health care facility or other setting. The rules do not apply to a licensed health care professional practicing within the scope of that profession, an unlicensed assistive person under chapter 43-12.1, or a volunteer in the course of providing services without pay. In developing the rules, the ~~health council~~department shall consult with the state board of nursing and other key stakeholders.

SECTION 260. AMENDMENT. Subsection 2 of section 23-45-01 of the North Dakota Century Code is amended and reenacted as follows:

2. The method a health care professional uses to provide the information under subsection 1 may include verbally or in writing or by providing the patient with a publication prepared by the ~~state~~ department of health and human services under section 23-45-02.

SECTION 261. AMENDMENT. Subsection 1 of section 23-45-02 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~By January 1, 2012, the state~~The department of health and human services shall prepare a pamphlet that includes information regarding the following:

   a. The medical processes involved in the collection of umbilical cord blood.

   b. The medical risks of umbilical cord blood collection to the mother and her newborn child.

   c. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to a mother, her newborn child, and the mother's biological family.

   d. The current and potential future medical uses, risks, and benefits of umbilical cord blood collection to individuals who are not biologically related to a mother or her newborn child.

   e. Any costs that may be incurred by a patient who chooses to make an umbilical cord blood donation.

   f. Options for ownership and future use of the donated material.

   g. The average cost of public and private umbilical cord blood banking.

SECTION 262. AMENDMENT. Section 23-46-02 of the North Dakota Century Code is amended and reenacted as follows:

23-46-02. Emergency medical services advisory council.

The ~~state~~ department of health and human services shall establish an emergency medical services advisory council. The council must include at least three representatives appointed by an emergency medical services organization, one individual to represent basic life support and one individual to represent advanced life support, both appointed by the ~~state health officer~~executive director of the department of health and human services or designee, and other members designated by the ~~state health officer~~executive director of the department of health and human services or designee, not to exceed a total of fourteen members. The department of health and

human services and state health officer shall consider the recommendations of the council on the plan for integrated emergency medical services in the state, development of emergency medical services funding areas, development of the emergency medical services funding areas application process and budget criteria, and other issues relating to emergency medical services as determined by the executive director of the department of health and human services or state health officer. Council members are entitled to reimbursement for expenses in the manner provided in section 44-08-04. The department of health and human services shall establish by policy the length of terms and the method for rotation of membership.

SECTION 263. AMENDMENT. Section 23-46-03 of the North Dakota Century Code is amended and reenacted as follows:

23-46-03. Emergency medical services funding areas.

The ~~state~~ department of health and human services shall establish and update biennially a plan for integrated emergency medical services in this state. The plan must identify ambulance operations areas, emergency medical services funding areas that require state financial assistance to operate a minimally reasonable level of emergency medical services, and a minimum reasonable cost for an emergency medical services operation. The department shall designate emergency medical services funding areas based on criteria adopted by rule of the department of health ~~council and published in the North Dakota Administrative Code~~and human services.

SECTION 264. AMENDMENT. Section 23-46-04 of the North Dakota Century Code is amended and reenacted as follows:

23-46-04. State financial assistance for emergency medical services - Confidential information - Annual allocation.

Emergency medical services operations that request financial assistance from the state must provide requested fiscal information to the ~~state~~ department of health and human services for use in financial assistance determinations. All information provided to the department under this section is confidential. The ~~state~~ department of health and human services shall determine annually the allocation amount of state financial assistance for each emergency medical services funding area based on the department's determination of the minimum annual funding necessary to operate the emergency medical services operation or service designated to operate in the ambulance funding area, based on the financial needs unique to each emergency medical services funding area.

SECTION 265. AMENDMENT. Subsection 1 of section 23-47-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~state~~ department of health and human services.

SECTION 266. AMENDMENT. Section 23-47-02 of the North Dakota Century Code is amended and reenacted as follows:

23-47-02. 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.

SECTION 267. AMENDMENT. Subsection 1 of section 23-47-03 of the North Dakota Century Code is amended and reenacted as follows:

1. The ~~state health officer~~executive director of the department of health and human services or designee 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~~executive director of the department of health and human services or designee 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~~executive director of the department of health and human services.

SECTION 268. AMENDMENT. Section 23-50-01 of the North Dakota Century Code is amended and reenacted as follows:

23-50-01. Drug fatalities review panel.

1. The forensic pathology department of the university of North Dakota school of medicine and health sciences shall appoint individuals to serve as members on the drug fatalities review panel. To encompass disciplines needed for evaluation and balance of members' viewpoints, panel membership must include representation from multiple disciplines and services. Membership may include a forensic pathologist, a pharmacist with knowledge in pharmacogenomics, representatives of rural and urban healthcare facilities, a licensed addiction counselor, a physician, and representatives of nonregulatory divisions of the ~~state~~ department of health and ~~department of~~ human services.

2. The ~~state~~ department of health and human services and the university of North Dakota school of medicine and health sciences shall provide for or arrange for administrative services to assist the panel in performing official duties, including collection and management of case review files, the maintenance of records, data collection and analysis, and the issuance of a state report on drug-related fatalities. The department and the university of North Dakota school of medicine and health sciences are responsible for the confidentiality and security of data on the sharing site on which the documents are stored.

SECTION 269. AMENDMENT. Subsection 4 of section 23.1-01-03 of the North Dakota Century Code is amended and reenacted as follows:

4. Maintain, in conjunction with the ~~state~~ department of health and human services, a laboratory to carry out the necessary tests and examinations for purposes of this title, and establish a fee schedule for the tests and examinations;

SECTION 270. AMENDMENT. Subsection 7 of section 25-01-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Supervising officer" means the executive director of the department of health and human services or the superintendent of public instruction, as the case may be.

SECTION 271. AMENDMENT. Section 25-01-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-01-01.1. State council on developmental disabilities.

1. There must be maintained in the department of health and human services a state council on developmental disabilities consisting of ~~one~~:

a. One representative of each of the following departments, divisions, institutions, and organizations designated by the head of such agency or organization:

~~1.~~ (1) Office of superintendent of public instruction.

~~2. North Dakota department of human services.~~

~~3. State department of health.~~

~~4. Life skills and transition center.~~

~~5.~~ (2) Job service North Dakota.

b. Three representatives of the department of health and human services to include at least:

(1) One representative from the life skills and transition center designated by its superintendent; and

(2) One representative from the department's health division.

2. The council shall, at a minimum, include representation that conforms to federal law requirements regarding state councils on developmental disabilities. All members of the council must be appointed by the governor. The council shall select its own officers who shall serve for a term of two years commencing on October first of each year. Meetings must be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the council. A simple majority of the council constitutes a quorum and may act upon any matter coming before the council. Members of the council are entitled to reimbursement in the same manner and at the same rate provided by law for other state officials.

3. The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, and review and comment on all state plans in the state which relate to programs affecting individuals with developmental disabilities. The council may take any action reasonably necessary to secure and administer any money made available to state councils on developmental disabilities through the Developmentally Disabled and Bill of Rights Act [Pub. L. 95-602; 92 Stat. 2955; 42 U.S.C. 6000 et seq.]. The council, if approved by the governor, shall appoint a full-time director who shall assist the council. The director must be classified under the state personnel merit system. The council shall also perform studies and surveys of the needs of individuals with developmental disabilities in North Dakota and shall facilitate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of developmental disabilities.

SECTION 272. AMENDMENT. Subsection 2 of section 25-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 273. AMENDMENT. Section 25-01.2-18 of the North Dakota Century Code is amended and reenacted as follows:

25-01.2-18. Authority to adopt rules.

The ~~director of the state~~ department of health and human services may adopt, in accordance with chapter 28-32, any rules necessary to implement this chapter. The superintendent of public instruction may adopt rules to implement this chapter in schools. The rules adopted may not restrict or limit the rights guaranteed by this chapter.

SECTION 274. AMENDMENT. Section 25-02-01 of the North Dakota Century Code is amended and reenacted as follows:

25-02-01. State hospital for the mentally ill - Location - Title - Administration and control.

An institution for the care of the mentally ill must be maintained at the city of Jamestown and must be known as the state hospital. The department of health and human services shall administer and control the state hospital.

SECTION 275. AMENDMENT. Section 25-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

25-02-01.1. Maintenance of state hospital accreditation - Governing body membership - Rulemaking authority.

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

2. The department, in consultation with the state hospital, shall create a state hospital governing body and shall by rules describe the powers and duties of the governing body. The department shall compensate members not employed by the department in the amount of one hundred dollars per day and reimburse members for expenses incurred in attending meetings in the amounts provided by sections 44-08-04 and 54-06-09.

3. The governing body must be composed of the executive director of the department of health and human services; the director of the division of behavioral health of the department, who shall serve as chairman of the governing body; the state hospital superintendent; the state hospital medical director; a representative of the department's fiscal administration division; a behavioral health consumer selected by the mental health association; and a legislator selected by the legislative management. The governing body may include other persons as appointed by the governing body.

SECTION 276. AMENDMENT. Section 25-02-03 of the North Dakota Century Code is amended and reenacted as follows:

25-02-03. Object of state hospital.

The state hospital is an institution for mental diseases serving specialized populations of the mentally ill, including persons suffering from drug addiction or alcoholism. The state hospital is one component of the North Dakota mental health delivery system and serves as a resource to community-based treatment programs. The state hospital shall, pursuant to rules adopted by the department of health and

human services, receive and care for all mentally ill persons, including persons suffering from drug addiction or alcoholism, residing within this state in accordance with this title, and shall furnish to those mentally ill persons all needed food, shelter, treatment, and support that may tend to restore their mental health or to alleviate their illness or suffering.

SECTION 277. AMENDMENT. Subsection 5 of section 25-03.1-02 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 278. AMENDMENT. Section 25-03.1-34.1 of the North Dakota Century Code is amended and reenacted as follows:

25-03.1-34.1. Exchange of individuals with a substance use disorder.

The director of the department of health and human services, a county, a city, or a local law enforcement agency may enter into reciprocal agreements with the appropriate authorities of any other state regarding the mutual exchange, return, and transportation of individuals with a mental illness or substance use disorder who are treated or confined in hospitals of one state for treatment of a substance use disorder or mental illness but who have legal residence in another state.

SECTION 279. AMENDMENT. Subsection 3 of section 25-03.2-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 280. AMENDMENT. Subsection 2 of section 25-03.3-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Executive director" means the executive director of the department of health and human services or the executive director's designee.

SECTION 281. AMENDMENT. Section 25-03.3-07 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-07. Appointment of guardian ad litem.

At any stage of a proceeding under this chapter, on application of any individual or on its own motion, the court may appoint a guardian ad litem for a minor or an individual with an intellectual disability who is a respondent or witness or otherwise involved in the proceeding, if the minor or an individual with an intellectual disability has no parent, guardian, or custodian appearing on behalf of the minor or the individual with an intellectual disability or the interests of those persons conflict with those of the minor or an individual with an intellectual disability. The department of health and human services shall pay the expense of the guardian ad litem fee as established by the court.

SECTION 282. AMENDMENT. Section 25-03.3-08 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-08. Sexually dangerous individual - Procedure on petition - Detention.

1. Upon the filing of a petition pursuant to this chapter, the court shall determine whether to issue an order for detention of the respondent named in the

petition. The petition may be heard ex parte. The court shall issue an order for detention if there is cause to believe that the respondent is a sexually dangerous individual. If the court issues an order for detention, the order must direct that the respondent be taken into custody and transferred to an appropriate treatment facility or local correctional facility to be held for subsequent hearing pursuant to this chapter. Under this section, the department of health and human services shall pay for any expense incurred in the detention or evaluation of the respondent.

2. If the state's attorney knows or believes the respondent named in the petition is an individual with an intellectual disability, the state's attorney shall notify the court in the petition and shall advise the court of the name of the legal guardian of the respondent or, if none is known, the court may appoint a guardian ad litem for the respondent. Before service of the notice required in section 25-03.3-10, the court shall appoint an attorney for the respondent. An individual with an intellectual disability may be detained in a correctional facility before the probable cause hearing only when no other secure facility is accessible, and then only under close supervision.

SECTION 283. AMENDMENT. Section 25-03.3-12 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-12. Sexually dangerous individual - Evaluation.

The evaluation must be conducted by one or more experts chosen by the executive director. Whenever a respondent is subject to an evaluation pursuant to this chapter, the respondent may retain an expert to perform an evaluation or testify on the respondent's behalf. When the respondent is an adult with an intellectual disability and a guardian or guardian ad litem has not been appointed for the respondent, the court shall appoint an expert to perform an evaluation on behalf of the respondent. In the case of a respondent who is indigent, the court shall appoint a qualified expert to perform an examination or participate in the commitment proceeding on the respondent's behalf. The department of health and human services shall compensate any qualified expert appointed by the court on behalf of an indigent respondent in a reasonable amount based on time and expenses. An expert retained on behalf of the respondent must have reasonable access to the respondent for the purpose of the examination and to all relevant medical, psychological, and court records and reports.

SECTION 284. AMENDMENT. Section 25-03.3-17 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-17. Postcommitment proceeding, discharge, and further disposition.

1. A committed individual must remain in the care, custody, and control of the executive director until, in the opinion of the executive director, the individual is safe to be at large.

2. Each committed individual must have an examination of that individual's mental condition at least once a year. A report regarding the examination must be provided to the court that committed the individual. At the time of the annual examination, the committed individual has the right to have an expert examine the individual, and, upon the request of an indigent committed individual, the court shall appoint a qualified expert to examine the committed individual and report to the court. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have

reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.

3. If a committed individual has been committed to an out-of-state facility by the executive director for purposes of treatment, an expert from that state may be appointed by the court as a qualified expert for an indigent committed individual for any postcommitment proceeding.

4. After any report pursuant to this section is provided to the court, the court may order further examination and investigation of the committed individual as the court considers necessary. The court may set the matter for a hearing. At the hearing, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state at the hearing. After the hearing, the court shall determine whether the committed individual is to be discharged or to be retained as a sexually dangerous individual in the care, custody, and control of the executive director.

5. The executive director may only discharge a sexually dangerous individual from commitment pursuant to a court order. The executive director may petition the committing court at any time for the discharge of the committed individual. The executive director shall give the state's attorney notice of any petition for discharge the executive director files with the court. Before the petition is granted, the state's attorney has the right to be heard by the court on the petition. The state's attorney may waive this right.

6. If the executive director moves a committed individual from a placement in the community to a placement in a secure treatment facility that is more restrictive, the committed individual may challenge the move at a hearing to be held within thirty days after the move in accordance with procedures established by the department of health and human services.

SECTION 285. AMENDMENT. Subsection 3 of section 25-03.3-18 of the North Dakota Century Code is amended and reenacted as follows:

3. At the hearing on the petition for discharge, the committed individual is entitled to be present and to the benefit of the protections afforded at the commitment proceeding. The state's attorney shall represent the state and may have the committed individual evaluated by experts chosen by the state. The committed individual is entitled to have an expert of the committed individual's choice conduct an evaluation. The court shall appoint a qualified expert if the committed individual is indigent and requests an appointment. The department of health and human services shall compensate a qualified expert appointed by the court in a reasonable amount based on time and expenses. That expert must have reasonable access to the committed individual and to all records relating to the committed individual, including confidential records.

SECTION 286. AMENDMENT. Section 25-03.3-21 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-21. Recovery of expense.

The department of health and human services, to the extent it has expended sums or provided services pursuant to this title, may seek civil recovery from the property of the respondent or committed individual. The department of health and human services must commence the action within six years after the department paid

the sums or provided the services to the respondent or committed individual. After notice and hearing, the court may order an individual to reimburse the department of health and human services for all or part of the expenditures made for that individual pursuant to this chapter. In establishing the amount of reimbursement ordered under this section, the court shall consider the ability of the respondent or committed individual to pay.

SECTION 287. AMENDMENT. Section 25-03.3-22 of the North Dakota Century Code is amended and reenacted as follows:

25-03.3-22. Rules.

The department of health and human services may adopt rules under chapter 28-32 to implement this chapter, but the rules may not restrict or limit the rights guaranteed by this chapter.

SECTION 288. AMENDMENT. Section 25-04-01 of the North Dakota Century Code is amended and reenacted as follows:

25-04-01. Life skills and transition center - Name - Administration and control.

A facility for individuals with developmental disabilities must be maintained at or near the city of Grafton in Walsh County. The facility must also be available for an individual who is determined to be an individual who may benefit from the facility's services. The facility must be known and designated as the life skills and transition center. The department of health and human services has administrative authority and control of the life skills and transition center.

SECTION 289. AMENDMENT. Section 25-04-02 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02. Purpose of life skills and transition center.

1. The life skills and transition center must be maintained for the relief, instruction, care, and custody of individuals with developmental disabilities or other individuals who may benefit from the services offered at the center. For this purpose the department of health and human services may introduce and establish such trades and manual industries as in its judgment will best prepare the residents for future self-support.

2. The department may provide onsite and offsite additional services and effectuate its powers and duties to best serve individuals with developmental disabilities and other individuals who may benefit from those activities. The services provided and the duties effectuated need not be accredited by the accreditation council on services for people with developmental disabilities or certified by the health care financing administration, or any other similar accrediting or certifying organization, if the service or duty is not provided to individuals with developmental disabilities or if such accrediting or certifying organization does not accredit or certify the service or duty.

SECTION 290. AMENDMENT. Section 25-04-02.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-02.1. Accreditation of life skills and transition center.

The department of health and human services shall request appropriations and resources sufficient to ensure maintenance of the life skills and transition center's accreditation by the accreditation council on services for people with developmental disabilities and certification by the health care financing administration and, if deemed necessary, by similar accrediting and certifying organizations and agencies possessing standards applicable to an individual with a developmental disability and disciplines needed to provide quality services to individuals served.

SECTION 291. AMENDMENT. Section 25-04-04 of the North Dakota Century Code is amended and reenacted as follows:

25-04-04. Who may receive benefits of life skills and transition center.

Subject to this chapter and to any rules adopted by the department of health and human services, the benefits of the life skills and transition center may be received by:

1. Individuals with developmental disabilities and other individuals who may benefit from services provided at the life skills and transition center who, in the opinion of the superintendent of the life skills and transition center are of suitable age and capacity to receive instruction in the center and whose deficiencies prevent them from receiving proper training and instruction in the public schools;

2. Individuals with developmental disabilities and other individuals who may benefit from services provided at the life skills and transition center who cannot be properly cared for in their homes or other available facilities; or

3. Individuals with developmental disabilities and other individuals who may benefit from onsite and offsite services provided or duties effectuated by the life skills and transition center.

Residents and nonresidents of this state may receive the benefits of the life skills and transition center. Priority, however, must be given to residents of this state and first priority must be given to individuals with developmental disabilities.

SECTION 292. AMENDMENT. Section 25-04-05 of the North Dakota Century Code is amended and reenacted as follows:

25-04-05. Qualifications for admission to state facility - Screening required prior to admission or readmission - Educational or related services without charge for persons twenty-one years of age and under.

1. The superintendent may admit a person to the life skills and transition center when all of the following conditions have been met:

   a. Application for admission has been made on behalf of the person by a parent or guardian or the person or agency having legal custody, or by the person seeking admission, in accordance with procedures established by the department of health and human services.

   b. A comprehensive evaluation of the person has been made within three months of the date of application, a report of which has been filed with the superintendent and which, together with such other information or reviews as the department of health and human services may require, indicates to the superintendent's satisfaction that the person is eligible for admission to the life skills and transition center.

c. The person may be admitted without exceeding the resident capacity of the facility as specified in the professional standards adopted by the department of health and human services.

2. No person may be admitted or readmitted to the life skills and transition center unless that person has undergone a screening process at the life skills and transition center to determine whether the admission or readmission is appropriate. Length of stay criteria may be established under rules as the department of health and human services may adopt. Any person who is suspected of being able to benefit from the services offered at the center may be screened to ascertain whether or not that person is actually a proper case for care, treatment, and training at the life skills and transition center. If in the opinion of the superintendent the person screened under this subsection is a proper subject for institutional care, treatment, and training at the life skills and transition center, that person may remain as a voluntary resident at the center at the discretion of the superintendent if all other conditions for admission required by this section are met.

3. Notwithstanding any other provision of this chapter, no handicapped patient, twenty-one years of age or under, or the estate or the parent of such patient, may be charged for educational or related services provided at the life skills and transition center. Except as provided in subsection 4, the department of health and human services has prior claim on all benefits accruing to such patients for medical and medically related services under entitlement from the federal government, medical or hospital insurance contracts, workforce safety and insurance, or medical care and disability programs. For purposes of this subsection, "related services" means transportation and such developmental, corrective, and other supportive services, as determined by the department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services other than medical and medically related services must be paid by the life skills and transition center, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the department of health and human services, the school district of residence, and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each agency and political subdivision is liable. The department of public instruction may adopt rules necessary to implement this section.

4. Parents of an individual with a developmental disability, who is twenty-one years of age or under, are not required to file, assist in filing, agree to filing, or assign an insurance claim when filing the claim would pose a realistic threat that the parents would suffer a financial loss not incurred by similarly situated parents of children with disabilities. Financial losses do not include incidental costs such as the time needed to file or assist in filing an insurance claim or the postage needed to mail the claim. Financial losses include:

   a. A decrease in available lifetime coverage or any other benefit under an insurance policy.

   b. An increase in premiums or the discontinuation of a policy.

c. An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim unless the life skills and transition center pays or waives the out-of-pocket expense.

SECTION 293. AMENDMENT. Subsection 1 of section 25-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

1. The superintendent shall have the right of temporary transfer of any resident of the life skills and transition center to an appropriate hospital or other specialized facility when in the superintendent's opinion the immediate health and safety of the resident requires the transfer. The superintendent shall also have the right and responsibility of indefinite transfer of a resident from one state facility for individuals with developmental disabilities to another when the best interest of the resident will be served thereby, or when the transfer is required in conformity with the policies of the department of health and human services; provided, however, that no transfer may be effected until all reasonable efforts have been made to consult with the resident's parent or guardian of the person.

SECTION 294. AMENDMENT. Subsection 3 of section 25-04-08 of the North Dakota Century Code is amended and reenacted as follows:

3. The person is admitted on indefinite transfer to a hospital, school, or other facility, or a protective service under the jurisdiction of another state, or another agency or department of this state; provided, however, that if such admission be by contractual arrangement made by the department of health and human services, the person must be placed on nonresident release status, but not discharged.

SECTION 295. AMENDMENT. Section 25-04-08.1 of the North Dakota Century Code is amended and reenacted as follows:

25-04-08.1. Notification before discharge.

Before discharge the superintendent shall consult with the parent or guardian of the person to be discharged, or with the court that ordered the commitment, and shall notify the director of the county social service board or human service zone of the county in which it is proposed that such person will assume residence and also shall notify the executive director of the department of health and human services.

SECTION 296. AMENDMENT. Section 25-04-11 of the North Dakota Century Code is amended and reenacted as follows:

25-04-11. Disposition of person who is not a legal resident.

If a person who has no legal residence in this state is subject to admission to the life skills and transition center or other appropriate state facility, by order of a court of competent jurisdiction, such person must be sent, at the expense of the county or human service zone, to the life skills and transition center in the same manner as a resident of this state who is found to be in need of services offered at the life skills and transition center, and the superintendent of the life skills and transition center shall then arrange for the transportation of such person to the place where the person belongs. The department of health and human services shall ascertain the place where such person belongs when the same conveniently can be done.

SECTION 297. AMENDMENT. Section 25-04-14 of the North Dakota Century Code is amended and reenacted as follows:

25-04-14. Expenses chargeable against patient or patient's estate - Filing claims.

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

SECTION 298. AMENDMENT. Subsection 2 of section 25-04-15 of the North Dakota Century Code is amended and reenacted as follows:

2. No real property belonging to the estate may be sold during the lifetime of the patient except for the maintenance and support of the patient's dependents, unless it is shown that the sale of the property will not result in undue hardship to those dependents, and it may be sold only upon the order of the district court having jurisdiction of the estate, with the consent of the department of health and human services.

SECTION 299. AMENDMENT. Subsection 5 of section 25-04-16 of the North Dakota Century Code is amended and reenacted as follows:

5. As used in this chapter, "supervising department" means the department of health and human services.

SECTION 300. AMENDMENT. Section 25-11-02 of the North Dakota Century Code is amended and reenacted as follows:

25-11-02. Compact administrator - Powers.

Pursuant to said compact, the executive director of the department of health and human services must be the compact administrator and who, acting jointly with like officers of other party states, may adopt rules to carry out more effectively the terms of the compact. The compact administrator shall cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or any supplementary agreement or agreements entered into by this state thereunder.

SECTION 301. AMENDMENT. Section 25-14-02 of the North Dakota Century Code is amended and reenacted as follows:

25-14-02. ~~State~~Department of health ~~officer~~and human services shall administer compact.

The ~~state~~department of health ~~officer is hereby authorized to~~and human services may negotiate and enter ~~into~~ contracts on behalf of the state pursuant to article III of the compact and may perform such contracts; provided that no funds, personnel,

facilities, equipment, supplies, or materials shall be pledged, committed, or used on account of any such contract unless legally available therefor.

SECTION 302. AMENDMENT. Subsection 1 of section 25-16-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 303. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is amended and reenacted as follows:

25-16-07. Records of treatment or care center confidential.

Except as otherwise authorized by law, an agent of the department ~~of human services~~ or the superintendent of the life skills and transition center or the licensee or their agents or employees may not disclose the contents of the individual records of a treatment or care center for individuals with a developmental disability, nor of the reports received from those records, except:

1. In a judicial proceeding when ordered by the presiding judge;

2. To a law enforcement official for a law enforcement purpose or any other legally constituted boards or agencies serving the interests of the residents for treatment, payment, or health care operations, to arrange, facilitate, or coordinate service to any such person;

3. To the parents or legal guardians of the resident;

4. To a physician to aid in the treatment of an individual within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to genetic health information that has a direct bearing on the health of the relative, the relative's child, or the relative's decision to have a child; or

5. To an individual who is within the fourth degree of consanguinity of a deceased resident, if the disclosure is limited to information about a resident needed to establish a family's genealogy.

SECTION 304. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is amended and reenacted as follows:

25-16-12. Efforts to obtain private and governmental grants.

The department ~~of human services~~ and the duly licensed treatment or care centers for individuals with a developmental disability may exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of individuals with a developmental disability.

SECTION 305. AMENDMENT. Subsection 1 of section 25-16.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 306. AMENDMENT. Section 25-16.2-01 of the North Dakota Century Code is amended and reenacted as follows:

25-16.2-01. Work activity center - Definition.

As used in this chapter "work activity center" means a facility, licensed by the department of health and human services, which is located in the state and operated by a nonprofit corporation organized for the primary purpose of employing and providing rehabilitative activities for individuals with physical disabilities, developmental disabilities, or chronic mental illnesses.

SECTION 307. AMENDMENT. Section 25-17-00.1 of the North Dakota Century Code is amended and reenacted as follows:

25-17-00.1. Definitions.

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

1. "Confirmatory-diagnostic testing" means testing to prove or disprove the presence of a specific metabolic disease or genetic disease.

2. "Confirmatory-diagnostic testing laboratory" means a laboratory performing confirmatory-diagnostic testing.

3. "Department" means the ~~state~~ department of health and human services.

4. "Licensed clinician" means a currently licensed physician, physician assistant, or advanced practice registered nurse.

5. "Low-protein modified food product" means a food product that is specially formulated to have less than one gram of protein per serving and is intended to be used under the direction of a licensed clinician for the dietary treatment of a metabolic disease. The term does not include a natural food that is naturally low in protein.

6. "Medical food" means a food that is intended for the dietary treatment of a disease or condition for which nutritional requirements are established by medical evaluation and is formulated to be consumed or administered under the direction of a licensed clinician.

7. "Metabolic disease" and "genetic disease" mean a disease as designated by rule of the ~~state health council~~department for which early identification and timely intervention will lead to a significant reduction in mortality, morbidity, and associated disabilities.

8. "Newborn screening program" means a program facilitating access to appropriate testing, followup, diagnosis, intervention, management, evaluation, and education regarding metabolic diseases and genetic diseases identified in newborns.

9. "Out-of-range screening result" means a screening result that is outside of the expected range of testing results established for a particular disease.

10. "Responsible clinician" means the licensed clinician, midwife, naturopath, or birth attendant attending a newborn.

11. "Screening" means initial testing of a newborn for the possible presence of metabolic disease or genetic disease.

12. "Screening laboratory" means the laboratory the department selects to perform screening.

SECTION 308. AMENDMENT. Section 25-17-01 of the North Dakota Century Code is amended and reenacted as follows:

25-17-01. Newborn screening education programs and tests.

The ~~state~~ department ~~of health~~ shall:

1. Develop and implement a metabolic disease and genetic disease educational program among licensed clinicians, hospital staffs, public health nurses, and the citizens of this state. This educational program must include information about the nature of the diseases and about screening for the early detection of these diseases so that proper measures may be taken to reduce mortality, morbidity, and associated disabilities.

2. Provide, on a statewide basis, a newborn screening program.

3. Coordinate with or refer individuals to public and private health care service providers for long-term followup services for metabolic diseases and genetic diseases.

4. Select a screening laboratory.

5. Store, maintain, and dispose of blood spots used for screening.

SECTION 309. AMENDMENT. Section 25-17-02 of the North Dakota Century Code is amended and reenacted as follows:

25-17-02. Rulemaking requirement.

The ~~state health council~~department shall adopt rules necessary to implement this chapter.

SECTION 310. AMENDMENT. Section 25-17-03 of the North Dakota Century Code is amended and reenacted as follows:

25-17-03. Treatment for positive diagnosis - Registry of cases.

The ~~state~~ department ~~of health~~ shall:

1. Notify responsible clinicians regarding cases with out-of-range screening results or positive confirmatory-diagnostic testing results in order to facilitate access to appropriate treatment. If the responsible clinician is not a licensed clinician, the responsible clinician shall refer the patient to a licensed clinician for appropriate followup care.

2. Refer every diagnosed case of a metabolic disease or genetic disease to a licensed clinician for necessary treatment.

3. Maintain a registry of cases of metabolic diseases and genetic diseases.

4. Provide medical food at no cost to males under age twenty-six and females under age forty-five who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. If treatment services under this subsection are provided to an individual by the department, the department may seek reimbursement from any government program that provides coverage to that individual for the treatment services provided by the department.

5. Offer for sale at cost medical food to females age forty-five and over and to males age twenty-six and over who are diagnosed with phenylketonuria or maple syrup urine disease, regardless of income. These individuals are responsible for payment to the department for the cost of medical food.

6. Provide low-protein modified food products, if medically necessary as determined by a qualified health care provider, to females under age forty-five and males under age twenty-six who are receiving medical assistance and are diagnosed with phenylketonuria or maple syrup urine disease.

SECTION 311. AMENDMENT. Section 25-17-06 of the North Dakota Century Code is amended and reenacted as follows:

25-17-06. Pulse oximetry screening for critical congenital heart defects - Exception.

Before discharge of a newborn child born in a hospital with a birthing center, the newborn child must receive a pulse oximetry screening for critical congenital heart defects. The screening requirement of this section does not apply if the parents or guardians of a newborn child object to the screening. The ~~state~~ department ~~of health~~ shall provide medical staff and facilities that provide birthing services with notice regarding this screening requirement. For purposes of this chapter, pulse oximetry screening is not a test under section 25-17-05 and a congenital heart defect detected by screening under this section is not a metabolic disease or genetic disease as those terms are used under this chapter.

SECTION 312. AMENDMENT. Subsection 1 of section 25-18-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of <u>health and</u> human services.

SECTION 313. AMENDMENT. Subdivision b of subsection 1 of section 26.1-02-28 of the North Dakota Century Code is amended and reenacted as follows:

b. "Department" means the department of <u>health and</u> human services and any designee of the department.

SECTION 314. AMENDMENT. Subdivision b of subsection 9 of section 26.1-26.4-02 of the North Dakota Century Code is amended and reenacted as follows:

b. An agent acting on behalf of the federal government or the department of <u>health and</u> human services, but only to the extent that the agent is providing services to the federal government or the department of <u>health and</u> human services.

SECTION 315. AMENDMENT. Subsection 2 of section 26.1-36-09 of the North Dakota Century Code is amended and reenacted as follows:

2. a. The benefits must be provided for each of the following services: inpatient treatment, treatment by partial hospitalization, residential treatment, and outpatient treatment.

   b. In the case of benefits provided for inpatient treatment, the benefits must be provided for a minimum of forty-five days of services covered under this section and section 26.1-36-08 in any calendar year if provided by a hospital as defined under section 52-01-01 and rules of the ~~state~~

department of health and human services pursuant thereto offering treatment for the prevention or cure of mental disorder or other related illness. An insurance provider may require an individualized treatment plan from the inpatient treatment service provider which indicates that the course of treatment is the most appropriate and least restrictive form of treatment available in the community.

c. In the case of benefits provided for partial hospitalization, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section and section 26.1-36-08 in any calendar year. Partial hospitalization must be provided by a hospital as defined under section 52-01-01 and rules of the ~~state~~ department of health and human services pursuant thereto or by a regional human service center licensed under section 50-06-05.2, offering treatment for the prevention or cure of mental disorder or other related illness. For services provided in regional human service centers, charges must be reasonably similar to the charges for care provided by hospitals as defined in this subsection.

d. In the case of benefits provided for residential treatment, the benefits must be provided for a minimum of one hundred twenty days of services covered under this section in any calendar year. Residential treatment services must be provided by a hospital as defined under section 52-01-01 and rules of the ~~state~~ department of health and human services; by a regional human service center licensed under section 50-06-05.2 offering treatment for the prevention or cure of mental disorder or other related illness; or by a residential treatment program. For services provided in a regional human service center, charges must be reasonably similar to the charges for care provided by a hospital as defined in this subsection.

e. Any individual receiving residential treatment services who requires residential treatment service beyond the minimum of one hundred twenty days may trade unused inpatient treatment benefits provided for under subdivision b. For the purpose of computing the period for which benefits are payable, each day of inpatient treatment is equivalent to two days of treatment by a residential treatment program; provided, however, that no more than twenty-three days of the inpatient treatment benefits required by this section may be traded for residential treatment services.

f. (1) In the case of benefits provided for outpatient treatment, the benefits must be provided for a minimum of thirty hours for services covered under this section in any calendar year if the treatment services are provided within the scope of licensure by a nurse who holds advanced licensure with a scope of practice within mental health or if the diagnosis, evaluation, and treatment services are provided within the scope of licensure by a licensed physician, a licensed psychologist who is eligible for listing on the national register of health service providers in psychology, a licensed professional clinical counselor who is qualified in the clinical mental health counseling specialty in this state, or a licensed independent clinical social worker.

(2) A person who is qualified for third-party payment by the board of social work examiners on August 1, 1997, is exempt from paragraph 1.

(3) Upon the request of an insurance company, a nonprofit health service corporation, or a health maintenance organization, the North Dakota

board of social work examiners shall provide to the requesting entity information to certify that a licensed certified social worker meets the qualifications required under this section.

(4) The insurance company, nonprofit health service corporation, or health maintenance organization may not establish a deductible or a copayment for the first five hours in any calendar year, and may not establish a copayment greater than twenty percent for the remaining hours. The deductible limitation of this paragraph does not apply to a high-deductible health plan used to establish a health savings account pursuant to and as defined in section 223 of the Internal Revenue Code [26 U.S.C. 223].

(5) If the services are provided by a provider outside a preferred provider network without a referral from within the network, the insurance company, nonprofit health service corporation, or health maintenance organization may establish a copayment greater than twenty percent for only those hours after the first five hours in any calendar year.

g. "Partial hospitalization" means continuous treatment for at least three hours, but not more than twelve hours, in any twenty-four-hour period and includes the medically necessary treatment services provided by licensed professionals under the supervision of a licensed physician.

h. "Residential treatment" has the same meaning as provided in section 25-03.2-01, but only applies to individuals under twenty-one years of age.

SECTION 316. AMENDMENT. Subsection 4 of section 26.1-36-09.7 of the North Dakota Century Code is amended and reenacted as follows:

4. This section does not require medical benefits coverage for low-protein modified food products or medical food for an individual to the extent those benefits are available to that individual under a ~~state~~ department of health ~~or department of~~and human services program.

SECTION 317. AMENDMENT. Subdivision b of subsection 1 of section 26.1-36-09.10 of the North Dakota Century Code is amended and reenacted as follows:

b. "Prehospital emergency medical services" means a service or its personnel either licensed under chapter 23-27 or certified by the ~~state~~ department of health and human services.

SECTION 318. AMENDMENT. Subsection 1 of section 26.1-36-12 of the North Dakota Century Code is amended and reenacted as follows:

1. Any provision in any individual or group accident and health insurance policy, employee welfare benefit plan, or nonprofit health service contract issued by any insurance company, group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 [Pub. L. 99-272; 100 Stat. 281; 29 U.S.C. 1167(1)], or nonprofit health service corporation denying or prohibiting the insured, participant, beneficiary, or subscriber from assigning to the department of health and human services any rights to medical benefits coverage to which the insured, participant, beneficiary, or subscriber is entitled under the policy, plan, or contract is void. An individual or group insurance company or nonprofit health service corporation shall recognize the

assignment of medical benefits coverage completed by the insured, participant, beneficiary, or subscriber, notwithstanding any provision contained in the policy or contract to the contrary.

SECTION 319. AMENDMENT. Subsection 2 of section 26.1-36-12.2 of the North Dakota Century Code is amended and reenacted as follows:

2. Notwithstanding the provisions of subsection 1, the department of health and human services may exclude, from participation in the medical assistance program administered under chapter 50-24.1 and title XIX of the Social Security Act [Pub. L. 89-97; 79 Stat. 343; 42 U.S.C. 1396 et seq.], as amended, any provider of pharmacy services who does not agree to comply with state and federal requirements governing the program, or who, after so agreeing, fails to comply with those requirements.

SECTION 320. AMENDMENT. Section 26.1-36-30 of the North Dakota Century Code is amended and reenacted as follows:

26.1-36-30. Individual or group accident and health insurer or nonprofit health service corporation responsibility - Release of information to department of health and human services.

1. Any individual or group accident and health insurer or nonprofit health service corporation, upon request of the department of health and human services, shall provide any information contained in its records pertaining to an individual who is an applicant for or recipient of medical assistance under chapter 50-24.1, and who is covered under an accident and health insurance policy or a health service contract issued by the insurer or nonprofit health service corporation or the medical benefits paid by or claims paid to the insured or subscriber under a policy or contract. The insurer or nonprofit health service corporation shall make the requested records or information available upon receipt of a certification by the department of health and human services that the individual is an applicant for or recipient of medical assistance under chapter 50-24.1, or is a person who is legally responsible for the applicant or recipient.

2. The information required to be made available pursuant to this section is limited to information necessary to determine whether benefits under the policy or contract have been or should have been claimed and paid pursuant to an accident and health insurance policy or health service contract with respect to items of medical care and services received by a particular individual for which medical assistance coverage would otherwise be available.

3. The department of health and human services shall, in consultation with the commissioner, establish guidelines:

   a. For the method of requesting and furnishing appropriate information, the time in which the information is to be provided, and method of reimbursing insurance companies and nonprofit health service corporations for necessary costs incurred in furnishing the requested information.

   b. To assure that information relating to an individual certified to be an applicant for or recipient of medical assistance under chapter 50-24.1, furnished to an insurer or subscriber pursuant to this section, is used only

for the purpose of identifying the records or information requested in such manner so as not to violate section 50-06-15.

SECTION 321. AMENDMENT. Subsection 1 of section 26.1-36-45 of the North Dakota Century Code is amended and reenacted as follows:

1. Regardless of whether a resident of this state has or is eligible for health insurance coverage under a health insurance policy, health service contract, or evidence of coverage by or through an employer or under a plan sponsored by the state or federal government, the resident is not required to obtain or maintain a policy of individual health coverage except as may be required by a court or by the department of health and human services through a court or administrative proceeding.

SECTION 322. AMENDMENT. Subsection 2 of section 26.1-36.5-03 of the North Dakota Century Code is amended and reenacted as follows:

2. If a parent fails to provide health coverage for any child, enroll the child under family coverage upon application by the child's other parent or by the department of health and human services;

SECTION 323. AMENDMENT. Subsection 2 of section 26.1-36.5-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Permit the custodial parent, the provider of health care, with the custodial parent's approval, or the department of health and human services, as the custodial parent's assignee, to submit claims for covered services without the approval of the noncustodial parent; and

SECTION 324. AMENDMENT. Section 26.1-45-13 of the North Dakota Century Code is amended and reenacted as follows:

26.1-45-13. Qualified service providers.

Any insurance company providing long-term care coverage for home and community-based services shall pay a provider meeting qualified service provider standards a daily payment allowance as defined in the policy or certificate. "Qualified service provider" means a human service zone or independent contractor that agrees to meet standards for personal attendant care service as established by the department of health and human services.

[242] **SECTION 325. AMENDMENT.** Section 26.1-47-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-47-01. Definitions.

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

1. "Air ambulance" means a specially equipped aircraft licensed by the ~~state~~ department of health and human services for transporting patients.

2. "Air ambulance provider" means a publicly or privately owned organization that is licensed or applies for licensure by the ~~state~~ department of health and

[242] Section 26.1-47-01 was also amended by section 2 of House Bill No. 1493, chapter 243.

human services to provide transportation and care of patients by air ambulance.

3. "Commissioner" means the insurance commissioner of the state of North Dakota.

4. "Covered person" means any person on whose behalf the health care insurer is obligated to pay for or provide health care services.

5. "Health benefit plan" means the health insurance policy or subscriber agreement between the covered person or the policyholder and the health care insurer which defines the services covered.

6. "Health care insurer" includes an insurance company as defined in section 26.1-02-01, a health service corporation as defined in section 26.1-17-01, a health maintenance organization as defined in section 26.1-18.1-01, and a fraternal benefit society as defined in section 26.1-15.1-02.

7. "Health care provider" means licensed providers of health care services in this state.

8. "Health care services" means services rendered or products sold by a health care provider within the scope of the provider's license. The term includes hospital, medical, surgical, dental, vision, chiropractic, and pharmaceutical services or products.

9. "In-network payment" means a full and final payment for air ambulance services pursuant to a network plan.

10. "Network" means a group of preferred providers providing services under a network plan.

11. "Network plan" means a health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed by, owned by, under contract with, or employed by the health care insurer.

12. "Out-of-network" means a provider that is not providing the service under a network plan.

13. "Preferred provider" means a duly licensed health care provider or group of providers who have contracted with the health care insurer, under this chapter, to provide health care services to covered persons under a health benefit plan.

14. "Preferred provider arrangement" means a contract between the health care insurer and one or more health care providers which complies with all the requirements of this chapter.

Definitions. (Contingent effective date - See note) As used in this chapter, unless the context indicates otherwise:

1. "Air ambulance" means a specially equipped aircraft licensed by the ~~state~~ department of health and human services for transporting patients.

2. "Air ambulance provider" means a publicly or privately owned organization that is licensed or applies for licensure by the ~~state~~ department of health and human services to provide transportation and care of patients by air ambulance.

3. "Authorized representative" means:

   a. A person to which a covered person has given express written consent to represent the covered person;

   b. A person authorized by law to provide substituted consent for a covered person; or

   c. If a covered person is unable to provide consent, the covered person's treating health care professional or a family member of the covered person.

4. "Balance billing" means the practice of an air ambulance provider billing for the difference between the air ambulance provider's charge and the health care insurer's allowed amount.

5. "Commissioner" means the insurance commissioner of the state of North Dakota.

6. "Covered person" means an individual on whose behalf the health care insurer is obligated to pay for or provide health care services.

7. "Facility" means an institution or other immobile health care setting providing physical, mental, or behavioral health care services.

8. "Health benefit plan" means the health insurance policy or subscriber agreement between the covered person or the policyholder and the health care insurer which defines the services covered.

9. "Health care insurer" includes an insurance company as defined in section 26.1-02-01, a health service corporation as defined in section 26.1-17-01, a health maintenance organization as defined in section 26.1-18.1-01, and a fraternal benefit society as defined in section 26.1-15.1-02.

10. "Health care provider" means licensed providers of health care services in this state.

11. "Health care services" means services rendered or products sold by a health care provider within the scope of the provider's license. The term includes hospital, medical, surgical, dental, vision, chiropractic, and pharmaceutical services or products.

12. "Network" means a group of preferred providers providing services under a network plan.

13. "Network plan" means a health benefit plan that requires a covered person to use, or creates incentives, including financial incentives, for a covered person to use health care providers managed by, owned by, under contract with, or employed by the health care insurer.

14. "Out-of-network" means a provider that is not providing the service under a network plan.

15. "Preferred provider" means a duly licensed health care provider or group of providers who have contracted with the health care insurer, under this chapter, to provide health care services to covered persons under a health benefit plan.

16. "Preferred provider arrangement" means a contract between the health care insurer and one or more health care providers which complies with all the requirements of this chapter.

17. "Prior authorization" means confirmation by the covered person's health care insurer that the air ambulance services sought to be provided by the air ambulance provider meet the criteria for coverage under the covered person's health benefit plan as defined by the provisions of the covered person's health benefit plan.

[243] **SECTION 326. AMENDMENT.** Section 26.1-47-10 of the North Dakota Century Code is amended and reenacted as follows:

26.1-47-10. Preferred provider arrangements - Requirements for accessing air ambulance providers. (Contingent effective date - See note)

1. In addition to the other preferred provider arrangement requirements under this chapter, a preferred provider arrangement must require the health care insurer and health care provider comply with this section.

2. Except as otherwise provided under this section, before a health care provider arranges for air ambulance services for an individual the health care provider knows to be a covered person, the health care provider shall request a prior authorization from the covered person's health care insurer for the air ambulance services to be provided to the covered person. If the health care provider is unable to request or obtain prior authorization from the covered person's health care insurer:

   a. The health care provider shall provide the covered person or the covered person's authorized representative an out-of-network services written disclosure stating the following:

      (1) Certain air ambulance providers may be called upon to render care to the covered person during the course of treatment;

      (2) These air ambulance providers might not have contracts with the covered person's health care insurer and are, therefore, considered to be out of network;

      (3) If these air ambulance providers do not have contracts with the covered person's health care insurer, the air ambulance services will be provided on an out-of-network basis;

      (4) A description of the range of the charges for the out-of-network air ambulance services for which the covered person may be responsible;

[243] Section 26.1-47-10 was also amended by section 1 of House Bill No. 1493, chapter 243.

(5) A notification the covered person or the covered person's authorized representative may agree to accept and pay the charges for the out-of-network air ambulance services, contact the covered person's health care insurer for additional assistance, or rely on other rights and remedies that may be available under state or federal law; and

(6) A statement indicating the covered person or the covered person's authorized representative may obtain a list of air ambulance providers from the covered person's health care insurer which are preferred providers and the covered person or the covered person's representative may request those participating air ambulance providers be accessed by the health care provider.

b. Before air ambulance services are accessed for the covered person, the health care provider shall provide the covered person or the covered person's authorized representative the written disclosure, as outlined by subdivision a and obtain the covered person's or the covered person's authorized representative's signature on the disclosure document acknowledging the covered person or the covered person's authorized representative received the disclosure document before the air ambulance services were accessed. If the health care provider is unable to provide the written disclosure or obtain the signature required under this subdivision, the health care provider shall document the reason, which may include the health and safety of the patient. The health care provider documentation satisfies the requirement under this subdivision.

3. This section does not:

a. Preclude a covered person from agreeing to accept and pay the charges for the out-of-network services and not access the covered person's health care insurer's out-of-network air ambulance billing process described under this section.

b. Preclude a covered person from agreeing to accept and pay the bill received from the out-of-network air ambulance provider or from not accessing the air ambulance provider mediation process described under this section.

c. Regulate an out-of-network air ambulance provider's ability to charge certain fees for services or to charge any amount of fee for services provided to a covered person by the out-of-network air ambulance provider.

4. A health care insurer shall develop a program for payment of out-of-network air ambulance bills submitted under this section. A health benefit plan may not be issued in this state without the terms of the health benefit plan including the provisions of the health care insurer's program for payment of out-of-network air ambulance bills.

a. A health care insurer may elect to pay out-of-network air ambulance provider bills as submitted, or the health care insurer may elect to use the out-of-network air ambulance provider mediation process described in subsection 5.

b. This section does not preclude a health care insurer and an out-of-network facility air ambulance provider from agreeing to a separate payment arrangement.

5. A health care insurer shall establish an air ambulance provider mediation process for payment of out-of-network air ambulance provider bills. A health benefit plan may not be issued in this state if the terms of the health benefit plan do not include the provisions of the health care insurer's air ambulance provider mediation process for payment of out-of-network air ambulance provider bills.

   a. A health care insurer's air ambulance provider mediation process must be established in accordance with mediation standards recognized by the department by rule.

   b. If the health care insurer and the out-of-network air ambulance provider agree to a separate payment arrangement or if the covered person agrees to accept and pay the out-of-network air ambulance provider's charges for the out-of-network services, compliance with the air ambulance provider mediation process is not required.

   c. A health care insurer shall maintain records on all requests for mediation and completed mediation under this subsection for one year and, upon request of the commissioner, submit a report to the commissioner in the format specified by the commissioner.

6. The rights and remedies provided under this section to covered persons are in addition to and may not preempt any other rights and remedies available to covered persons under state or federal law.

7. The department shall enforce this section and shall report a violation of this section by a facility to the ~~state~~ department of health <u>and human services</u>.

8. This section does not apply to a policy or certificate of insurance, whether written on a group or individual basis, which provides coverage limited to:

   a. A specified disease, a specified accident, or accident-only coverage;

   b. Credit;

   c. Dental;

   d. Disability;

   e. Hospital;

   f. Long-term care insurance as defined by chapter 26.1-45;

   g. Vision care or any other limited supplemental benefit;

   h. A Medicare supplement policy of insurance, as defined by the commissioner by rule or coverage under a plan through Medicare;

   i. Medicaid;

j. The federal employees health benefits program and any coverage issued as a supplement to that coverage;

k. Coverage issued as supplemental to liability insurance, workers' compensation, or similar insurance; or

l. Automobile medical payment insurance.

9. The commissioner may adopt rules to implement this section.

SECTION 327. AMENDMENT. Section 26.1-54-01 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-01. American health benefit exchange.

To ensure that an American health benefit exchange is created in the state, the commissioner and the department of health and human services shall:

1. Plan for the implementation of an American health benefit exchange for the state that facilitates the purchase of qualified health benefit plans; provides for the establishment of a small business health options program that is designed to assist qualified small employers in facilitating the enrollment of their employees in qualified health benefit plans offered in the small group market; implements eligibility determination and enrollment of individuals in the state's medical assistance program and the state's children's health insurance program; provides simplification; provides coordination among medical assistance, the children's health insurance program, and the state health insurance exchange; and meets the requirements of the Patient Protection and Affordable Care Act of 2010 [Pub. L. 111-148] as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152]. The legislative assembly may consider establishing one exchange that will provide services to both qualified individuals and qualified small employers;

2. Subject to section 3 of chapter 225 of the 2011 Session Laws, take all actions necessary to ensure that the exchange is determined, not later than January 1, 2013, by the federal government to be ready to operate not later than January 1, 2014, and that the exchange is operating on or after January 1, 2014;

3. Subject to section 3 of chapter 225 of the 2011 Session Laws, consider whether to seek federal grant funds for the planning and implementation of the exchange and administer all funds appropriated or made available for the purpose of carrying out the provisions of this chapter;

4. Subject to section 3 of chapter 225 of the 2011 Session Laws, contract with outside entities as necessary to provide services necessary to implement the exchange; and

5. Collaborate with the information technology department as necessary and appropriate in completing the responsibilities set forth in this section.

SECTION 328. AMENDMENT. Section 26.1-54-02 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-02. Rules.

The commissioner and the department of health and human services may adopt rules necessary or desirable to carry out the provisions of this chapter.

SECTION 329. AMENDMENT. Section 26.1-54-03 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-03. Cooperation of state agencies.

State agencies shall cooperate with the commissioner and the department of health and human services to ensure the success of the exchange.

SECTION 330. AMENDMENT. Section 26.1-54-04 of the North Dakota Century Code is amended and reenacted as follows:

26.1-54-04. Records.

Notwithstanding any provision of this code making records confidential, the commissioner or the commissioner's designee and the department of health and human services may receive from and provide to federal and state agencies information gathered in the administration of the exchange, including social security numbers, if the disclosure is necessary for the commissioner, the department of health and human services, or the receiving entity to perform its duties and responsibilities.

SECTION 331. AMENDMENT. Section 27-20-11 of the North Dakota Century Code is amended and reenacted as follows:

27-20-11. Venue.

A proceeding under this chapter may be commenced in the county in which the child resides. A proceeding under section 27-20-30.1 must be commenced in the county within the administrative human service zone, as determined by the department of health and human services. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the county in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced, the county in which the child has resided the majority of the thirty days prior to the date of the alleged deprivation, or the county where the alleged deprivation has occurred. The court shall determine the appropriate venue for a deprivation action based upon the best interests of the child.

SECTION 332. AMENDMENT. Subdivision c of subsection 7 of section 27-20-20.1 of the North Dakota Century Code is amended and reenacted as follows:

c. "Department" means the department of health and human services or its designee, including any county social service board.

SECTION 333. AMENDMENT. Section 27-20-30.1 of the North Dakota Century Code is amended and reenacted as follows:

27-20-30.1. Disposition of child needing continued foster care services.

1. For purposes of this section, "child" means an individual between the ages of eighteen and twenty-one years who is in need of continued foster care services.

2. A petition to commence an action under this section must contain information as required by supreme court rule along with an affidavit either prepared by

the administrative human service zone, as determined by the department of health and human services, or prepared by an agency or tribal council of a recognized Indian reservation in North Dakota.

3. The court shall issue a summons in accordance with section 27-20-22 upon the filing of a petition and affidavit.

4. If a child is in need of continued foster care services as determined by the human service zone and the department of health and human services and as set forth in a continued foster care agreement, the court shall make the following judicial determination:

   a. That the child is not deprived, delinquent, or unruly but is in need of continued foster care services;

   b. That the child will remain in or will return to foster care pursuant to the child's continued foster care agreement;

   c. That the child's continued foster care agreement has been willfully entered between:

      (1) The human service zone and the department of health and human services or its agent, the child, and the foster care provider; or

      (2) An agency or tribal council of a recognized Indian reservation in North Dakota if the child is not subject to the jurisdiction of the state of North Dakota, the child, and the foster care provider;

   d. That it is in the best interest of the child to remain in or return to foster care;

   e. That reasonable efforts were made in accordance with subsection 7 of section 27-20-32.2;

   f. That the child has attained the age of eighteen or older but does not exceed the age of twenty-one years;

   g. That the child has satisfied the education, employment, or disability requirements under the Fostering Connections to Success and Increasing Adoptions Act of 2008 [Pub. L. 110-351] and as set forth by the department of health and human services;

   h. That the administrative human service zone, as determined by the department, or that an agency or tribal council of a recognized Indian reservation in North Dakota, shall continue foster care case management, unless otherwise agreed to or required by the department;

   i. That the administrative human service zone or an agency or tribal council of a recognized Indian reservation in North Dakota must have care and placement responsibility of the child;

   j. That permanency hearing must be as set forth in section 27-20-36; and

   k. That there are no grounds to file a petition to terminate parental rights under chapter 27-20.

5. Pursuant to rule 16 of the North Dakota Rules of Juvenile Procedure, a court may modify or vacate the judicial determination made under subsection 4.

SECTION 334. AMENDMENT. Subsection 7 of section 27-20-45 of the North Dakota Century Code is amended and reenacted as follows:

7. At least ten days before the petition is heard, the clerk of district court or juvenile court shall provide a copy of the petition and summons, if any, to the human service zone and the department of health and human services.

[244] **SECTION 335. AMENDMENT.** Subsection 1 of section 27-20-51 of the North Dakota Century Code is amended and reenacted as follows:

1. Except as provided in this section, all files and records of the juvenile court, whether in the office of the clerk of district court or juvenile court, of a proceeding under this chapter are closed to the public. Juvenile court files and records are open to inspection only by:

   a. The judge and staff of the juvenile court.

   b. The parties to the proceeding or their counsel or the guardian ad litem of any party.

   c. A public or private agency or institution providing supervision or having custody of the child under order of the juvenile court, which must be given a copy of the findings and order of disposition when it receives custody of the child.

   d. Any court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who, prior to the criminal case, had been a party to the proceeding in juvenile court.

   e. The professional staff of the uniform crime victims compensation program when necessary for the discharge of their duties pursuant to chapter 54-23.4.

   f. A staff member of the division of children and family services of the department of health and human services or a law enforcement officer when necessary for the performance of that person's duties under section 50-11.1-06.2 or the National Child Protection Act of 1993 [Pub. L. 103-209; 107 Stat. 2490; 42 U.S.C. 5119 et seq.].

   g. An employee or agent of the department of health and human services when necessary for performance of that individual's duty under chapter 50-11 or 50-11.1 to investigate the background of an individual living or working in the facility, home, or residence for which licensure is sought.

   h. A criminal justice agency if the juvenile is required to register under section 12.1-32-15.

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[244] Section 27-20-51 was also amended by section 1 of House Bill No. 1047, chapter 247.

i. The staff of a children's advocacy center if the juvenile or a victim of the juvenile has been referred for or has received services at the children's advocacy center.

j. A victim of the delinquent child or the victim's guardian. All records including medical, educational, and school information must be redacted before inspection. For purposes of this subdivision, only records pertaining to the specific offense between the victim and the delinquent child may be inspected.

SECTION 336. AMENDMENT. Subsection 2 of section 27-20-54 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon the final destruction of a file or record, the proceeding must be treated as if it never occurred. The juvenile court shall notify each agency named in the file or record of the destruction. All index references, except those which may be made by the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, must be deleted. Each agency, except the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones, upon notification of the destruction of a file or record, shall destroy all files, records, and references to the child's apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court. The attorney general, the department of health and human services, the department of corrections and rehabilitation, the commission on legal counsel for indigents and its public defender offices, law enforcement agencies, and human service zones may not keep a juvenile file or record longer than is required by the records retention policy of that official, department, or agency. Upon inquiry in any matter the child, the court, and representatives of agencies, except the attorney general and the directors of the department of transportation, the department of health and human services, the department of corrections and rehabilitation, law enforcement agencies, and human service zones, shall properly reply that no record exists with respect to the child.

[245] **SECTION 337. AMENDMENT.** Section 27-21-09 of the North Dakota Century Code is amended and reenacted as follows:

27-21-09. Cooperation with other agencies and departments of the state - Right to inspect facilities of state institutions - Right to examine children.

The division of juvenile services shall cooperate with and receive the cooperation of the department of health and human services, the department of public instruction, the department of career and technical education, the juvenile courts, ~~the state department of health,~~ and such other agencies and departments of the state as may be necessary to carry out the objectives of this chapter. The division of juvenile services may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this chapter, and may examine any child it has placed in the care of such institution, and may contract with public and private

[245] Section 27-21-09 was also amended by section 29 of House Bill No. 1035, chapter 245.

agencies to provide services for them or to retain from them required services to meet the purpose and objective of this chapter.

[246] **SECTION 338. AMENDMENT.** Subdivision d of subsection 2 of section 27-21-12 of the North Dakota Century Code is amended and reenacted as follows:

d. The department of health and human services or a human service zone.

SECTION 339. AMENDMENT. Section 28-21-05.2 of the North Dakota Century Code is amended and reenacted as follows:

28-21-05.2. Department of health and human services may issue executions for child support arrearages.

1. Notwithstanding section 28-21-05, if the judgment debtor is listed on the arrears registry as defined in section 14-09-09.10, or if the judgment debtor meets criteria established by the secretary of the United States department of health and human services that apply when a financial institution is doing business in two or more states, the department of health and human services may issue an execution, against the property of the judgment debtor, to the sheriff of any county in which the property may be found.

2. A writ of execution issued by the department of health and human services must be issued as provided in section 28-21-06, except the past-due support need not be docketed and the writ may be issued in a form prescribed by the department of health and human services. A writ issued under this section must be accompanied by a copy of the payment records maintained under section 50-09-02.1 which has been certified under section 14-08.1-08.

3. A writ issued by the department of health and human services is returnable to the department.

SECTION 340. AMENDMENT. Section 30-16-04 of the North Dakota Century Code is amended and reenacted as follows:

30-16-04. Descent and distribution of real property subject to homestead estate.

The real property subjected to the homestead estate descends, subject to the full satisfaction of that estate, exempt from decedent's debts except claims in favor of the county for county general assistance, the department of health and human services for general assistance, and also for claims of the state of North Dakota for repayment of old-age assistance and aid to the permanently and totally disabled and as otherwise provided in section 47-18-04, and must be distributed in the manner in which real property not subjected to a homestead estate is distributed or as directed in the decedent's will. The real property constituting the homestead of a decedent, or any part thereof, may not descend or be distributed to any person other than the surviving spouse and decedent's heirs in the direct descending line as prescribed in title 30.1 until all the decedent's debts are fully paid.

SECTION 341. AMENDMENT. Section 32-03-48 of the North Dakota Century Code is amended and reenacted as follows:

32-03-48. Definitions.

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[246] Section 27-21-12 was also amended by section 30 of House Bill No. 1035, chapter 245.

As used in sections 32-03-48 through 32-03-50, unless the context otherwise requires:

1. "Critical incident" means any event encountered by emergency service personnel within the scope of their employment which causes them to experience unusually strong emotional reactions that have the potential to interfere with their ability to perform their jobs or that may interfere with their personal lives.

2. "Critical incident stress debriefing" means the process of resolving the effects of critical incidents on emergency service personnel through a structured meeting with both psychological and educational components according to the model approved by the ~~state~~ department of health and human services.

3. "Critical incident stress management team" means those volunteers who are recognized by the ~~state~~ department of health and human services as members of an organized group that provides critical incident stress debriefing services on behalf of the state.

4. "Emergency service personnel" means individuals who provide emergency services to persons requiring medical aid, firefighting services, law enforcement assistance, or other emergency assistance. The term includes law enforcement officers, firefighters, rescue personnel, ambulance personnel, quick response personnel, emergency service dispatchers, nurses, physicians, and other emergency care providers.

5. "Peer support personnel" means those members of a critical incident stress management team who are emergency service personnel and who have completed appropriate training approved by the ~~state~~ department of health and human services.

SECTION 342. AMENDMENT. Section 32-37-05 of the North Dakota Century Code is amended and reenacted as follows:

32-37-05. Fees paid by petitioner - Filing copy of judgment.

The petitioner, upon the filing of the petition, must pay to the clerk of the district court a filing fee as prescribed in subsection 1 of section 27-05.2-03. The cost of the publication of the notice required by this chapter shall be paid by the petitioner. In the event that said judgment shall establish the date and place of birth of the petitioner, the clerk of the court shall certify a copy of such judgment and file the same with the division of vital statistics, ~~state~~ department of health and human services, Bismarck, North Dakota.

SECTION 343. AMENDMENT. Paragraph 3 of subdivision b of subsection 4 of section 34-13-01 of the North Dakota Century Code is amended and reenacted as follows:

(3) An individual, firm, corporation, limited liability company, or association licensed or certified by the department of health and human services to provide employment related services, to the extent the employment-related services are being provided for the clientele identified by the department in the issuance of the license or certificate.

SECTION 344. AMENDMENT. Subsection 2 of section 34-15-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 345. AMENDMENT. Subsection 2 of section 36-01-12.2 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request by the person confiscating the animal, the board, the ~~state~~ department of health and human services, the game and fish department, any county sheriff's office, city police department, or other peace officer may provide assistance in any action to seize, impound, confiscate, or quarantine any animal suspected of being held or possessed in violation of this title.

SECTION 346. AMENDMENT. Section 37-17.4-01 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Disaster relief organization" means an entity that provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners and which:

   a. Is designated or recognized as a provider of those services pursuant to a disaster response and recovery plan adopted by an agency of the federal government, the ~~state~~ department of health and human services, or the state board of animal health; or

   b. Regularly plans and conducts its activities in coordination with an agency of the federal government, the ~~state~~ department of health and human services, or the state board of animal health.

2. "Emergency" means an event or condition that is a disaster or an emergency as defined under chapter 37-17.1 and any event, condition, or incident for which the deployment of volunteer health practitioners is determined to be necessary by the state health officer, a local board of health, or the state veterinarian.

3. "Emergency declaration" means a declaration or proclamation of disaster or emergency issued by the governor.

4. "Emergency management assistance compact" means the interstate compact approved by Congress by Public Law No. 104-321 [110 Stat. 3877].

5. "Entity" means a person other than an individual.

6. "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

7. "Health practitioner" means an individual licensed under the laws of this or another state to provide health or veterinary services and any other individual performing nonmedical support disaster or emergency responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the ~~state~~ department of health and human services or a local

public health unit and deployed through the emergency system for advance registration of volunteer health professionals.

8. "Health services" means the provision of treatment, care, advice or guidance, or other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

   a. The following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

      (1) Preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; and

      (2) Counseling, assessment, procedures, or other services;

   b. Sale or dispensing of a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

   c. Funeral, cremation, cemetery, or other mortuary services.

9. "Host entity" means an entity operating in this state which uses volunteer health practitioners to respond to an emergency.

10. "License" means authorization by a state to engage in health or veterinary services that are unlawful without the authorization. The term includes authorization under the laws of this state to an individual to provide health or veterinary services based upon a national certification issued by a public or private entity.

11. "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

12. "Veterinary services" means the provision of treatment, care, advice or guidance, or other services, or supplies related to the health or death of an animal or animal populations, to the extent necessary to respond to an emergency, including:

   a. Diagnosing, treating, or preventing an animal disease, injury, or other physical or mental condition by prescribing, administering, or dispensing vaccine, medicine, surgery, or therapy;

   b. Using a procedure for reproductive management; and

   c. Monitoring and treating animal populations for diseases that have spread or demonstrate the potential to spread to humans.

13. "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services. The term does not include a practitioner who receives compensation pursuant to a pre-existing employment relationship with a host entity or affiliate which requires the practitioner to provide health services in this state, unless the practitioner is not a resident of this state and is employed

by a disaster relief organization providing services in this state during an emergency.

SECTION 347. AMENDMENT. Section 37-17.4-03 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-03. Regulation of services during emergencies.

1. During an emergency, the ~~state~~ department of health and human services or the state board of animal health may limit, restrict, or otherwise regulate:

   a. The duration of practice by volunteer health practitioners;

   b. The geographical areas in which volunteer health practitioners may practice;

   c. The types of volunteer health practitioners who may practice; and

   d. Any other matters necessary to coordinate effectively the provision of health or veterinary services during the emergency.

2. An order issued under subsection 1 may take effect immediately, without prior notice or comment, and is not a rule within the meaning of chapter 28-32.

3. A host entity that uses volunteer health practitioners to provide health or veterinary services in this state shall:

   a. Consult and coordinate its activities with the ~~state~~ department of health and human services or the state board of animal health to the extent practicable to provide for the efficient and effective use of volunteer health practitioners; and

   b. Comply with any laws other than this chapter relating to the management of emergency health or veterinary services, including chapters 23-27 and 43-29.

SECTION 348. AMENDMENT. Section 37-17.4-04 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-04. Volunteer health practitioner registration systems.

1. In the case of a volunteer health practitioner whose principal practice is located in this state and who is licensed by a North Dakota professional board or agency, the volunteer health practitioner registration system is the emergency system for advance registration of volunteer health professionals and is maintained by the ~~state~~ department of health and human services and is known as the public health emergency volunteer medical reserve corps.

2. In the case of a volunteer health practitioner who is not covered under subsection 1, the volunteer health practitioner registration system is the system established under subsection 1 or a system that qualifies under this subsection. To qualify as a volunteer health practitioner registration system under this subsection, a system must:

   a. Accept applications for the registration of volunteer health practitioners before or during an emergency;

b. Include information about the licensure and good standing of health practitioners which is accessible by authorized persons;

c. Be capable of confirming the accuracy of information concerning whether a health practitioner is licensed and in good standing before health services or veterinary services are provided under this chapter; and

d. Meet one of the following conditions:

(1) Be an emergency system for advance registration of volunteer health-care practitioners established by a state and funded through the United States department of health and human services under section 319I of the Public Health Services Act [42 U.S.C. 247d-7b];

(2) Be a local unit consisting of trained and equipped emergency response, public health, and medical personnel formed pursuant to section 2801 of the Public Health Services Act [42 U.S.C. 300hh]; or

(3) Be operated by a:

(a) Disaster relief organization;

(b) Licensing board;

(c) National or regional association of licensing boards or health practitioners;

(d) Health facility that provides comprehensive inpatient and outpatient health care services, including a tertiary care and teaching hospital; or

(e) Governmental entity.

3. During an emergency, the ~~state~~ department of health and human services, a person authorized to act on behalf of the ~~state~~ department of health and human services, or a host entity may confirm whether volunteer health practitioners utilized in this state are registered with a registration system that complies with subsection 1 or 2. Confirmation is limited to obtaining identities of the practitioners from the system and determining whether the system indicates that the practitioners are licensed and in good standing.

4. Upon request of a person in this state authorized under subsection 3, or a similarly authorized person in another state, a registration system located in this state shall notify the person of the identities of volunteer health practitioners and whether the practitioners are licensed and in good standing.

5. A host entity is not required to use the services of a volunteer health practitioner even if the practitioner is registered with a registration system that indicates that the practitioner is licensed and in good standing.

SECTION 349. AMENDMENT. Subsection 3 of section 37-17.4-07 of the North Dakota Century Code is amended and reenacted as follows:

3. The ~~state~~ department of health and human services or the state board of animal health may modify or restrict the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter. An order

under this subsection may take effect immediately, without prior notice or comment, and is not a rule within the meaning of chapter 28-32.

SECTION 350. AMENDMENT. Section 37-17.4-09 of the North Dakota Century Code is amended and reenacted as follows:

37-17.4-09. Regulatory authority.

The department of health ~~council~~and human services may adopt rules to implement this chapter. In doing so, the ~~health council~~department shall consult with and consider rules adopted by similarly empowered agencies in other states to promote uniformity of application of this chapter and make the emergency response systems in the various states reasonably compatible.

[247] **SECTION 351. AMENDMENT.** Section 39-01-01 of the North Dakota Century Code is amended and reenacted as follows:

39-01-01. Definitions.

In this title, unless the context or subject matter otherwise requires:

1. "Appropriate licensed addiction treatment program" means an addiction treatment program conducted by an addiction facility licensed by the department of health and human services or conducted by a licensed individual specifically trained in addiction treatment.

2. "Authorized emergency vehicles":

   a. "Class A" authorized emergency vehicles means:

      (1) Vehicles of a governmentally owned fire department.

      (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of a municipal police department within the municipality or by a sheriff or deputy sheriff not including special deputy sheriffs, or by the director of the department of corrections and rehabilitation and the director's authorized agents who have successfully completed training in the operation of class A authorized emergency vehicles.

      (3) Vehicles clearly identifiable as property of the department of corrections and rehabilitation when operated or under the control of the director of the department of corrections and rehabilitation.

      (4) Ambulances and other vehicles authorized by licensure granted under chapter 23-27.

      (5) Vehicles operated by or under the control of the director, district deputy director, or a district deputy game warden of the game and fish department.

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[247] Section 39-01-01 was also amended by section 1 of House Bill No. 1148, chapter 278, section 1 of Senate Bill No. 2097, chapter 280, and section 1 of Senate Bill No. 2329, chapter 279.

(6) Vehicles owned or leased by the United States and used for law enforcement purposes.

(7) Vehicles designated for the use of the adjutant general or assistant adjutant general in cases of emergency.

(8) Vehicles operated by or under the control of the director of the parks and recreation department.

(9) Vehicles operated by or under the control of a licensed railroad police officer and used for law enforcement purposes.

(10) Vehicles operated by or under the control of the state forester.

(11) Vehicles operated by or under the control of the bureau of criminal investigation and used for law enforcement purposes.

(12) Vehicles operated by or under the ~~state~~ department of health and human services in cases of emergencies.

b. "Class B" authorized emergency vehicles means wreckers and such other emergency vehicles as are authorized by the local authorities.

c. "Class C" authorized emergency vehicles means:

(1) Vehicles used by the state division of homeland security or local division of emergency management organizations.

(2) Vehicles used by volunteer firefighters while performing their assigned disaster and emergency responsibilities.

(3) Vehicles, other than ambulances, used by emergency medical services personnel.

3. "Bicycle" means every device propelled solely by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches [50.8 centimeters] in diameter.

4. "Bus" means every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons, and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. Provided, every motor vehicle designed for carrying not more than fifteen persons and used for a ridesharing arrangement, as defined in section 8-02-07, is not a "bus".

5. "Business district" means the territory contiguous to a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet [91.44 meters] or more is occupied by buildings in use for business.

6. "Camping trailer" means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

7. "Cancellation" means a license is annulled and terminated because of an error or defect or because the licensee is no longer entitled to the operator's license, but the cancellation of a license is without prejudice and application for a new license may be made at any time after the cancellation.

8. "Child restraint system" means a specifically designed device, built-in seating system, or belt-positioning booster that meets the federal motor vehicle safety standards and is permanently affixed to a motor vehicle, is affixed to the vehicle by a safety belt or universal attachment system, or is combined with a federally compliant safety belt system.

9. "Commercial freighting" means the carriage of things other than passengers, for hire, except that such term does not include:

   a. The carriage of things other than passengers within the limits of the same city;

   b. Carriage by local dray lines of baggage or goods to or from a railroad station from or to places in such city or in the immediate vicinity thereof, in this state, and not to exceed two miles [3.22 kilometers] from the corporate or recognized limits of said city; or

   c. Hauling done by farmers for their neighbors in transporting agricultural products to or from market.

10. "Commercial passenger transportation" means the carriage of passengers for hire, except that the term does not include:

    a. The carriage of passengers within the limits of a city.

    b. The carriage by local buslines of passengers to or from a railroad station from or to places within any city or within two miles [3.22 kilometers] of the limits of the city.

    c. The carriage of passengers under a ridesharing arrangement, as defined in section 8-02-07.

11. "Commissioner" means the director of the department of transportation of this state, acting directly or through authorized agents as provided by section 24-02-01.3.

12. "Controlled-access highway" means every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

13. "Conviction" means a final order or judgment or conviction by the North Dakota supreme court, any lower court having jurisdiction, a tribal court, or a court in another state if an appeal is not pending and the time for filing a notice of appeal has elapsed. Subject to the filing of an appeal, the term includes:

    a. An imposed and suspended sentence;

b. A deferred imposition of sentence under subsection 4 of section 12.1-32-02; or

c. A forfeiture of bail or collateral deposited to secure a defendant's appearance in court and the forfeiture has not been vacated.

14. "Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

15. "Dealer" means every person, partnership, corporation, or limited liability company engaged in the business of buying, selling, or exchanging motor vehicles, or who advertises, or holds out to the public as engaged in the buying, selling, or exchanging of motor vehicles, or who engages in the buying of motor vehicles for resale. Any person, partnership, corporation, limited liability company, or association doing business in several cities or in several locations within a city must be considered a separate dealer in each such location.

16. "Department" means the department of transportation of this state as provided by section 24-02-01.1.

17. "Director" means the director of the department of transportation of this state as provided by section 24-02-01.3.

18. "Driver" means every person who drives or is in actual physical control of a vehicle.

19. "Electronic communication device" means an electronic device, including a wireless telephone, personal digital assistant, a portable or mobile computer or other device, and video display equipment. The term does not include a global positioning system or navigation system or a device that is physically or electronically integrated into the motor vehicle.

20. "Essential parts" means all integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation and includes all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity or substantially alter the appearance of the vehicle.

21. "Explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and which contains any oxidizing and combustive units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or by destroying life or limb.

22. "Farm tractor" includes every motor vehicle designed and used primarily as a farm implement for drawing plows, moving machines, and other implements of husbandry.

23. "Farm trailer" includes those trailers and semitrailers towed by a bona fide resident farmer hauling the farmer's own agricultural, horticultural, dairy, and other farm products if the gross weight, not including the towing vehicle, does not exceed twenty-four thousand pounds [10886.22 kilograms].

24. "Fifth-wheel travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

25. "Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit [21.11 degrees Celsius], or less, as determined by a tagliabue or equivalent closed-cup test device.

26. "Foreign vehicle" means every motor vehicle which is brought into this state other than in the ordinary course of business by or through a manufacturer or dealer and which has not been registered in this state.

27. "Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

28. "Guest" means and includes a person who accepts a ride in any vehicle without giving compensation therefor.

29. "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel and of every way privately maintained within a mobile home park, trailer park, or campground containing five or more lots for occupancy by mobile homes, travel trailers, or tents when any part thereof is open for purposes of vehicular travel.

30. "House car" or "motor home" means a motor vehicle which has been reconstructed or manufactured primarily for private use as a temporary or recreational dwelling and having at least four of the following permanently installed systems:

    a. Cooking facilities.

    b. Icebox or mechanical refrigerator.

    c. Potable water supply including plumbing and a sink with faucet either self-contained or with connections for an external source, or both.

    d. Self-contained toilet or a toilet connected to a plumbing system with connection for external water disposal, or both.

    e. Heating or air-conditioning system, or both, separate from the vehicle engine or the vehicle engine electrical system.

f. A 110-115 volt alternating current electrical system separate from the vehicle engine electrical system either with its own power supply or with a connection for an external source, or both, or a liquefied petroleum system and supply.

31. "Implement of husbandry" means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highway.

32. "Intersection" means the area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of each roadway of such divided highway by an intersecting highway must be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet [9.14 meters] or more apart, then every crossing of two roadways of such highways must be regarded as a separate intersection.

33. "Intoxicating liquor" means and includes any beverage containing alcohol.

34. "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state of the United States, upon a claim for relief arising out of ownership, maintenance, or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a claim for relief on an agreement of settlement for such damages.

35. "Legal owner" means a person who holds the legal title to a vehicle.

36. "Licensed health care provider" means doctor of medicine, doctor of osteopathy, doctor of chiropractic, optometrist, psychologist, advanced practice registered nurse, or physician assistant who is licensed, certified, or registered in accordance with laws and regulations in this or another state.

37. "Lienholder" means a person holding a security interest in a vehicle.

38. "Local authorities" includes every county, municipal, and other local board or body having authority to adopt local police regulations under the constitution and laws of this state.

39. "Mail" means to deposit mail properly addressed and with postage prepaid with the United States postal service.

40. "Manifest injustice" means a specific finding by the court that the imposition of sentence is unreasonably harsh or shocking to the conscience of a reasonable person, with due consideration of the totality of circumstances.

41. "Manufactured home" means a structure, transportable in one or more sections, that, in the traveling mode, is eight body feet [2.44 meters] or more in width or forty body feet [12.19 meters] or more in length, or, when erected onsite, is three hundred twenty square feet [29.73 square meters] or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to whether the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under title 42 of the United States Code.

42. "Manufacturer" means any person who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term does not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.

43. "Metal tires" includes all tires the surface of which in contact with the highway is wholly or partly of metal or other hard, nonresilient material except that this provision does not apply to pneumatic tires.

44. "Mobile home" means a structure, either single or multisectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet [8.23 meters] or more in length.

45. "Modular unit" includes every factory fabricated transportable building unit designed to be incorporated with similar units at a building site into a modular structure to be used for residential, commercial, educational, or industrial purposes.

46. "Motor vehicle" includes every vehicle that is self-propelled, every vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, and, for purposes of motor vehicle registration, title registration, and operator's licenses, motorized bicycles. The term does not include a snowmobile as defined in section 39-24-01.

47. "Motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding implements of husbandry.

48. "Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion or footrests for use by the operator, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches [49.98 milliliters] if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles [48.28 kilometers] per hour on a level road surface, and a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and the vehicle may not have a width greater than thirty-two inches [81.28 centimeters].

49. "Motor-powered recreational vehicle" means a motorcycle, unconventional vehicle, or off-highway vehicle as defined in section 39-29-01, or a snowmobile as defined in section 39-24-01.

50. "Nonresident" means any person who is not a resident of this state.

51. "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

52. "Official traffic-control devices" means all signs, signals, markings, and devices not inconsistent with this title placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

53. "Operator" means every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

54. "Operator's license", "driver's license", or "license to operate a motor vehicle" means any operator's or driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

    a. Any temporary license or instruction permit;

    b. The privilege of any person to drive a motor vehicle whether such person holds a valid license; or

    c. Any nonresident's operating privilege as defined in this section.

55. "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

56. "Park", when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

57. "Passenger motor vehicle" means every motor vehicle designed principally for the transportation of persons and includes vehicles which utilize a truck chassis, but have a seating capacity for four or more passengers.

58. "Pedestrian" means any person afoot.

59. "Person" includes every natural person, firm, copartnership, association, corporation, or limited liability company.

60. "Pneumatic tires" includes all tires inflated with compressed air.

61. "Pole trailer" means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and

ordinarily used for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

62. "Police officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

63. "Primary source identity document" means documentary evidence of an individual's name, date of birth, and legal presence required in chapters 39-06 and 39-06.2 related to the issuance of permits, licenses, and nondriver photo identification cards, and retained in the driver record.

64. "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

65. "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring after the effective date of the proof, arising out of the ownership, maintenance, or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to the limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident.

66. "Railroad" means a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

67. "Railroad sign or signal" means any sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

68. "Reconstructed vehicle" means any vehicle, of a type required to be registered, materially altered from its original construction by the removal, addition, or substitution of new or used essential parts.

69. "Recreational vehicle" means any motorcycle not qualified for registration, off-highway vehicle, snowmobile, vessel, or personal watercraft.

70. "Residence district" means territory contiguous to a highway not comprising a business district, when the frontage on such highway for a distance of three hundred feet [91.44 meters] or more is occupied mainly by dwellings, or by dwellings and buildings in use for business.

71. "Revocation" means that the operator's license is terminated and may not be renewed or restored, except on application for a new license presented to and acted upon by the director after the expiration of the period of revocation.

72. "Right of way" means the privilege of the immediate use of a roadway.

73. "Road tractor" means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

74. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein refers to any such roadway separately but not to all such roadways collectively.

75. "Saddle mount" means placing the front wheels of the drawn vehicle upon the bed of the drawing vehicle.

76. "Safety zone" means the area or space officially set aside within a highway for the exclusive use of pedestrians and which is so plainly marked or indicated by proper signs as to be plainly visible at all times while set aside as a safety zone.

77. "Salvage certificate of title" means a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicle registration purposes.

78. "Schoolbus" means a commercial motor vehicle used to transport preprimary, primary, or secondary school students from home to school, from school to home, or to and from school-related events. For the purposes of chapter 39-21, "schoolbus" means any motor vehicle that is owned or leased by a public or governmental agency and used to transport primary or secondary school students to or from school or to or from school-related events, or is privately owned and operated for compensation to transport primary or secondary school students to or from school or to or from school-related events. Schoolbus does not include a bus used as a common carrier.

79. "Semitrailer" includes every vehicle of the trailer type so designed and used in conjunction with a truck or truck tractor that some part of its own weight and that of its own load rests upon or is carried by a truck or truck tractor, except that it does not include a "housetrailer" or "mobile home".

80. "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

81. "Solid tire" includes every tire made of rubber or other resilient material other than a pneumatic tire.

82. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway.

83. "Specially constructed vehicle" means any vehicle which was not constructed originally under the distinct name, make, model, or type by a generally recognized manufacturer of vehicles.

84. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

85. "State" means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada.

86. "Stop", when required, means complete cessation from movement.

87. "Stop" or "stopping", when prohibited, means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

88. "Street" means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

89. "Superintendent" means the superintendent of the North Dakota state highway patrol, acting directly or through authorized employees of the superintendent.

90. "Suspension" means that the operator's license is temporarily withdrawn but only during the period of the suspension.

91. "Through highway" means every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right of way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law.

92. "Trackless trolley coach" means every motor vehicle which is propelled by electric power obtained from overhead trolley wires but not operated upon rails.

93. "Traffic" means pedestrians, ridden or herded animals, vehicles, streetcars, and other conveyances either singly or together while using any highway for purposes of travel.

94. "Traffic-control signal" means any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

95. "Trailer" includes every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle, except that it does not include a "housetrailer" or "mobile home", which terms mean a vehicle as defined in this subsection which is designed and intended for use as living or sleeping quarters for people and which is not used for commercial hauling of passengers.

96. "Travel trailer" means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle.

97. "Truck" includes every motor vehicle designed, used, or maintained primarily for transportation of property.

98. "Truck camper" means a portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use; consists of a roof, floor, and sides; and is designed to be loaded onto and unloaded from the bed of a pickup truck.

99. "Truck tractor" includes every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

100. "Urban district" means the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet [30.48 meters] for a distance of a quarter of a mile [402.34 meters] or more.

101. "Used vehicle" means a motor vehicle which has been sold, bargained, exchanged, given away, or the title to which has been transferred to another, by the person who first acquired it from the manufacturer or importer, dealer, or agent of the manufacturer or importer.

102. "Vehicle" includes every device in, upon, or by which any person or property may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION 352. AMENDMENT. Subsection 5 of section 39-01-15 of the North Dakota Century Code is amended and reenacted as follows:

5. Except as provided in this subsection, two dollars of each fee for issuance of a certificate and one dollar of each fee for issuance of an additional certificate under this section must be deposited in the state highway department fund for purposes of defraying the cost of issuing the certificate. The rest of the fee, and the five dollar fee received for the issuance of an additional certificate under subsection 4, must be deposited in the state treasury and credited to the state rehabilitation council fund. The fees deposited in the fund are hereby appropriated on a continuing basis to the department of <u>health and</u> human services for use by the state rehabilitation council to accomplish the council's statutory duties provided under section 50-06.1-16. If a certificate is lost, mutilated, or destroyed, the individual to whom the certificate was issued is entitled to a replacement. The individual shall furnish proof satisfactory to the director that the certificate has been lost, mutilated, or destroyed, and shall pay a replacement fee of three dollars.

SECTION 353. AMENDMENT. Section 39-01-19 of the North Dakota Century Code is amended and reenacted as follows:

39-01-19. Permits for vending machines at rest areas.

A vending machine that allows access to a tobacco product may not be placed or remain upon a rest area, and any other vending machine may not be placed or remain upon a rest area under the supervision of the director without a permit from the director. The director shall charge a fee for the issuance of a vending machine permit. The amount of the permit fee must relate to the department's actual cost of administration, annual review, and enforcement of the permit process, but may not exceed twenty-five dollars annually. The permit process may not be affected by the content of a publication. The director shall require permittees to comply with appropriate indemnification, insurance, and other risk management provisions of the permit. Vending machines must be secured in a manner that prevents tipping and moving, deters theft, and leaves state property undamaged. Plexiglass, safety glass, or other shatter-resistant materials must be employed in windows or displays. All vending machines must be sufficiently enclosed to prevent the distributed product from inadvertently being removed or blown from the machine or weathered by the elements. Stolen or damaged vending machines do not result in liability to the

department and must be repaired, restored, or replaced within thirty calendar days. All cashboxes and accesses to cashboxes must be metal and securely locked in place. All vending machines must be placed in a well-lighted area visible from the rest area roadway. All vending machines must be placed on a route allowing parallel access by motorized or standard wheelchairs, with at least sixty-six inches [1676.400 millimeters] of clear width. A vending machine may not have a component or function used by the public which requires more than five pounds [2.268 kilograms] of force to be applied. The height of controls, doors, or access points necessary for use by the public may not exceed sixty inches [1524 millimeters]. The director may determine the maximum number of vending machine placements at a given rest area. Priority must be given to vending machines placed pursuant to the Randolph Sheppard Act [Pub. L. 74-732; 49 Stat. 1559; 20 U.S.C. 107], as administered by the vocational rehabilitation division of the department of health and human services under section 50-06.1-13. When, after allowing for the placement of vending machines pursuant to the Randolph Sheppard Act [Pub. L. 74-732; 49 Stat. 1559; 20 U.S.C. 107], the director determines that the number of permit applications for a particular rest area would exceed the remaining available space or would prevent compliance with this section or other law, the director shall grant permits by means of a lottery, with permits allocated pro rata according to the number of applications for each type. The permittee is solely responsible to ensure that any trash, wrapping, boxes, or debris, generated when stocking or servicing vending machines is not left on or at the rest area. The permittee is solely responsible for all installation, maintenance, replacement, inspection, access area cleaning, and stocking of vending machines. Vandalism and graffiti on vending machines must be repaired or removed within fourteen days of written notice by the director. The permittee must inspect and stock vending machines as needed, but at least monthly, to provide adequate service to the public. Vending machines removed for repair or for other reasons must be restored or replaced by the permittee within thirty days. Vending machines in violation of this section or any other applicable law may be removed by the director fourteen days after notice of violation is provided and without liability to the director. Vending machines judged by the director to pose a risk to safety may be removed immediately without liability to the director and without prior notice to the permittee. The director shall retain any removed vending machines for thirty days to allow retrieval by the permittee, after compensation to the director for removal costs. The director may dispose of or sell machines not retrieved within thirty days of removal, but removal costs must be satisfied only to the extent of proceeds received by the director. The director has a cause of action to recover any deficiency, attorney's fees, and litigation expenses. The director, upon the determination that a rest area must be closed for a period of greater than thirty days, may order the permittee, at the permittee's expense, to remove all vending machines in a manner that does not damage state property, or remove all product and money and place upon the vending machine a prominent notice that all product and money have been removed. Should the director determine that removal of vending machines is necessary to conduct repairs, construction, surveys, or other duties of the department, the permittee, at the permittee's expense, shall remove all vending machines in a manner that does not damage state property, upon fourteen days' notice. The current address and telephone number where customer service or business is conducted by the permittee must be legibly and prominently posted upon the vending machine. The director shall cancel the permit should the permittee remove vending machines, except as provided in this section. The cost of any removal must be borne by the permittee. The permittee, at the permittee's own expense, must restore the site the machine formerly occupied to the satisfaction of the director. For purposes of this section, "vending machine" means any device that allows access to a newspaper, magazine, beverage, concession, or other item for public consumption or use. For purposes of this section, "permittee" means any person or organization, including any corporation, partnership,

firm, or any other legal entity capable of owning property and transacting business, which has applied for a permit under this chapter. For purposes of this section, "notice" consists of a written communication and must be deemed to have occurred within seventy-two hours of mailing, if mailed within North Dakota, or one hundred twenty hours of mailing, if mailed outside North Dakota. "Notice" to a vendor of the condition of a vending machine also occurs if a period of time greater than the required inspection interval for the vending machines has passed.

SECTION 354. AMENDMENT. Subdivision b of subsection 1 of section 39-04-10.16 of the North Dakota Century Code is amended and reenacted as follows:

b. "Volunteer emergency responder" means an emergency medical services provider certified by the ~~state~~ department of health and human services and the individual's squad leader for a continuous period exceeding two years and who receives an annual compensation of less than ten thousand dollars.

SECTION 355. AMENDMENT. Subsection 1 of section 43-04-11 of the North Dakota Century Code is amended and reenacted as follows:

1. It may prescribe sanitary regulations for barbershops and barber schools. Such regulations shall be subject to the approval of the ~~state~~ department of health and human services. A copy of the rules and regulations adopted by the board and approved by the ~~state~~ department of health and human services shall be furnished by the board to the owner or manager of every barbershop and barber school and shall be posted by such owner or manager in a conspicuous place in such barbershop or barber school.

SECTION 356. AMENDMENT. Subsection 8 of section 43-10-12 of the North Dakota Century Code is amended and reenacted as follows:

8. Rules of the ~~state~~ department of health and human services and the board governing the practice of funeral service.

SECTION 357. AMENDMENT. Section 43-10-23 of the North Dakota Century Code is amended and reenacted as follows:

43-10-23. Inspections - Hearings - Revocations - Appeal.

The funeral establishment, or that part of a funeral establishment in which is conducted or intended to be conducted any funeral service business, must be open at all times for inspection by the board or the ~~state~~ department of health and human services. The board or agents employed by it and the ~~state~~ department of health and human services may make such inspections as are necessary of facilities and equipment of funeral establishments to ensure compliance with safety and sanitary rules adopted by the board or any other rules or federal regulations pertaining to funeral service whenever either deems the inspection advisable. The board may subpoena witnesses, administer oaths, and take testimony. All proceedings under this section must be conducted in accordance with chapter 28-32. The board may, after a hearing, revoke, suspend, or refuse to issue or renew a license upon good cause. A person aggrieved by the action of the board may appeal to the district court of the county in which the person resides or the district court of Burleigh County in accordance with chapter 28-32.

[248] **SECTION 358. AMENDMENT.** Section 43-11-11 of the North Dakota Century Code is amended and reenacted as follows:

43-11-11. Sanitary rules - Practice outside salon.

The board with the approval of the ~~state~~ department of health and human services shall adopt sanitary rules necessary to prevent the creating and spreading of infectious and contagious diseases. A cosmetology salon must be at a fixed location and may not be used for living or sleeping quarters. A cosmetologist or esthetician may practice outside of the establishment under the direction and control of a master cosmetologist or master esthetician thereof under rules adopted by the board.

SECTION 359. AMENDMENT. Section 43-12.1-04 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-04. Persons exempt from provisions of chapter.

This chapter does not apply to a person that is not licensed or registered under this chapter and is:

1. A person that performs nursing interventions in cases of emergency or disaster.

2. A student practicing nursing as a part of an in-state board-approved nursing education program.

3. A licensed nurse of another state who is in good standing and who is employed in this state by the United States government or any of its bureaus, divisions, or agencies.

4. A nurse licensed by another state or Canada, whose employment requires the nurse to accompany and care for a patient in transit for health care.

5. A nurse licensed by another state whose employment by a resident of that state requires the nurse to accompany and care for the resident in North Dakota.

6. An individual who performs nursing tasks for a family member.

7. A person that renders assistance pursuant to chapter 23-27.

8. A person licensed or registered under another chapter of this title and carrying out the therapy or practice for which the person is licensed or registered.

9. A person that provides medications, other than by the parenteral route:

   a. Within a correctional facility, in compliance with section 12-44.1-29;

   b. Within a psychiatric residential treatment facility for children licensed under chapter 25-03.2 and North Dakota Administrative Code chapter 75-03-17;

   c. Within a treatment or care center for individuals with developmental disabilities licensed under chapter 25-16;

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[248] Section 43-11-11 was also amended by section 3 of Senate Bill No. 2092, chapter 309.

d. Within a group home, a qualified residential treatment program, or an adult foster care facility licensed under section 50-11-01;

e. Within the life skills and transition center, to the extent the individual who provides medications is a direct training technician or a vocational training technician as approved by the department of health and human services;

f. Within a human service center licensed under chapter 50-06; or

g. Within a primary or secondary school under a program established under section 15.1-19-23 if the individual has received education and training in medication administration and has received written consent of the student's parent or guardian; or

h. Who is an employee of a qualified service provider agency who meets the criteria set forth in subsection 2 of section 50-24.1-18.

10. A nurse currently licensed to practice nursing by another jurisdiction:

    a. Whose practice in another state requires that nurse to attend orientation, meetings, or continuing education in North Dakota;

    b. Who serves as a guest lecturer or short-term consultant; or

    c. Who provides evaluation undertaken on behalf of an accrediting organization.

11. An individual, including a feeding assistant, performing nonhands-on tasks while employed in a Medicare-funded organization.

12. A student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability.

13. An individual who is registered on the ~~state~~ department of health and human services nurse aide registry, including a certified nurse aide, home health aide, nurse aide, and medication assistant.

[249] **SECTION 360. AMENDMENT.** Subsection 14 of section 43-15-10 of the North Dakota Century Code is amended and reenacted as follows:

14. To adopt, amend, and repeal rules determined necessary by the board for the proper administration and enforcement of this chapter, chapter 19-02.1 as that chapter pertains to drugs, subject to approval of the director of the ~~state~~ department of health and human services, and chapter 19-03.1.

[250] **SECTION 361. AMENDMENT.** Subsection 4 of section 43-15-31.5 of the North Dakota Century Code is amended and reenacted as follows:

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[249] Section 43-15-10 was also amended by section 2 of Senate Bill No. 2221, chapter 312.

[250] Section 43-15-31.5 was also amended by section 1 of Senate Bill No. 2279, chapter 313.

4. Requirements relating to the reporting of the administration to a patient's primary health care provider and to the ~~state~~ department of health and human services.

SECTION 362. AMENDMENT. Subsection 5 of section 43-28-02 of the North Dakota Century Code is amended and reenacted as follows:

5. To the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, air force, public health service, coast guard, veterans' bureau, or director of the dental division of the ~~state~~ department of health and human services.

SECTION 363. AMENDMENT. Section 43-29.1-02 of the North Dakota Century Code is amended and reenacted as follows:

43-29.1-02. Loan repayment program - Veterinarians - Powers of state health council.

The state health council may:

1. Determine the eligibility and qualifications of an applicant for loan repayment funds under this chapter;

2. Identify communities that are in need of a veterinarian and establish a priority ranking for participation in the program by the selected communities;

3. Create and distribute a loan repayment application;

4. Determine the amount of the loan repayment funds for which an applicant may be eligible under this chapter and, in making this determination, examine any outstanding education loans incurred by the applicant;

5. Establish conditions regarding the use of the loan repayment funds;

6. Enter a nonrenewable contract with the selected applicant and the selected community to provide to the applicant funds for the repayment of education loans in exchange for the applicant agreeing to actively practice in the selected community;

7. Receive and use funds appropriated for the program;

8. Enforce any contract under the program;

9. Cancel a contract for reasonable cause;

10. Participate in federal programs that support the repayment of education loans incurred by veterinarians and agree to the conditions of the federal programs;

11. Accept property from an entity; and

12. Cooperate with the ~~state~~ department of health and human services to effectuate this chapter.

SECTION 364. AMENDMENT. Subsection 2 of section 43-34-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Nursing home" means any institution or facility defined as such for licensing purposes under North Dakota state law or pursuant to the rules and regulations for nursing homes by the ~~state~~ department of health and human services, whether proprietary or nonprofit, including nursing homes owned or administered by the state government or an agency or political subdivision thereof.

SECTION 365. AMENDMENT. Subsection 1 of section 43-34-02 of the North Dakota Century Code is amended and reenacted as follows:

1. Two members of the board must be the state health officer and the executive director of the department of health and human services or the members' designees.

SECTION 366. AMENDMENT. Section 43-38-03 of the North Dakota Century Code is amended and reenacted as follows:

43-38-03. Rulemaking authority of ~~state~~department of health ~~council~~and human services.

The ~~state~~department of health ~~council~~and human services shall establish standards, rules, and regulations ~~which~~that are found necessary for the maintenance of public health, including sanitation and disease control. The ~~council~~department of health and human services has the following powers:

1. To establish minimum age levels.

2. To establish education and training levels for electrologists and electronic hair removal technicians.

3. To issue, deny, suspend, or revoke licenses.

4. To develop application and licensure forms.

5. To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it.

6. To promulgate such requirements as may be found necessary to carry out the intent of this chapter.

All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the ~~council~~department of health and human services upon proof, satisfactory to the ~~council~~department, of having met the qualifications.

SECTION 367. AMENDMENT. Subsection 2 of section 43-41-04.2 of the North Dakota Century Code is amended and reenacted as follows:

2. The board shall require from each applicant for licensure and may require from any licensee written consent to a child abuse information index check and authorization for the department of health and human services or its designee to release to the board reports of decisions that services are required for child abuse or neglect filed pursuant to section 50-25.1-05.2. All information obtained from the department or its designee is confidential and closed to the public except that it may be disclosed for use in an adjudicative

or judicial proceeding. All costs associated with obtaining the reports are the responsibility of the applicant or licensee.

SECTION 368. AMENDMENT. Section 43-43-03 of the North Dakota Century Code is amended and reenacted as follows:

43-43-03. Advisory board duties and compensation.

The advisory board shall meet at the request of the state health officer to assist in implementation of duties as defined in section 43-43-04. The advisory board must be reimbursed for any necessary expenses, but shall serve without further compensation except as may be authorized and fixed by the ~~state health officer~~department of health and human services by rule.

SECTION 369. AMENDMENT. Section 43-43-04 of the North Dakota Century Code is amended and reenacted as follows:

43-43-04. Powers and duties of ~~state~~department of health ~~officer~~and human services.

The ~~state health officer~~department of health and human services shall adopt rules consistent with and necessary for the implementation and enforcement of this chapter, including rules concerning the:

1. Qualifications and requirements for licensure under this chapter.
2. Application for licensure and renewal of license.
3. Licensure.
4. Fees that may not exceed fifty dollars for licensure fees.
5. Scope of practice.
6. Ethical standards of conduct.
7. Continuing competency and education requirements.
8. Grievances and complaints.
9. Reimbursement of advisory board expenses.
10. Emergency exemptions as to requirements for licensure under this chapter.
11. Qualifications and requirements for specialty licenses or credentials within the scope of practice of an environmental health practitioner, including specialty licenses or credentials for limited practice areas.

SECTION 370. AMENDMENT. Section 43-43-06 of the North Dakota Century Code is amended and reenacted as follows:

43-43-06. Environmental health practitioner licensure fee administration fund.

There must be maintained in the state treasury a special fund to be known as the environmental health practitioner licensure fee administrative fund. All money deposited or paid into this fund must be continuously available to the ~~state health~~

~~officer~~department of health and human services for reimbursement to the advisory board, and may not lapse at any time or be transferred to any other fund. The fund must consist of any money collected by the ~~state health officer~~department of health and human services in accordance with section 43-43-04.

SECTION 371. AMENDMENT. Section 43-43-07 of the North Dakota Century Code is amended and reenacted as follows:

43-43-07. Denial, suspension, revocation of license.

The ~~state health officer~~department of health and human services may refuse to issue or renew a license or may suspend or revoke a license when the licensee or applicant for license has engaged in unprofessional conduct. Unprofessional conduct includes:

1. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

2. Engaging in unprofessional conduct, as defined by the rules adopted by the ~~state health officer~~department of health and human services, or violating the code of ethics adopted by the ~~state health officer~~department of health and human services.

3. Conviction of an offense, as defined by section 12.1-01-04, determined by the ~~state health officer~~department of health and human services to have a direct bearing on the person's ability to serve the public in the capacity of a licensed environmental health practitioner; or the ~~state health officer~~department of health and human services determines that such applicant or licensee, following conviction of any offense, is not sufficiently rehabilitated under section 12.1-33-02.1.

4. Violation of any order or rule adopted by the ~~state health officer~~department of health and human services.

5. Violation of this chapter.

The person may apply to the ~~state health officer~~department of health and human services for reinstatement after one year from the date of revocation of a license. The ~~state health officer~~department of health and human services may accept or reject an application for reinstatement, or may require conditions and an examination for reinstatement.

SECTION 372. AMENDMENT. Subsection 11 of section 43-48-03 of the North Dakota Century Code is amended and reenacted as follows:

11. Personnel of the division of laboratory services of the ~~state~~ department of health and human services or department of environmental quality who are participating in the centers for disease control and prevention's chemical terrorism toxic metals determination program.

SECTION 373. AMENDMENT. Subdivision e of subsection 3 of section 43-60-02 of the North Dakota Century Code is amended and reenacted as follows:

e. An employee of the ~~state~~ department of health and human services in the provision of education regarding single gene conditions, including sickle cell, cystic fibrosis, and hemoglobinopathies; and

SECTION 374. AMENDMENT. Subsection 3 of section 44-04-18.4 of the North Dakota Century Code is amended and reenacted as follows:

3. This section does not limit or otherwise affect a record pertaining to any rule of the ~~state~~ department of health and human services or department of environmental quality or to any record pertaining to the application for a permit or license necessary to do business or to expand business operations within this state, except as otherwise provided by law.

SECTION 375. AMENDMENT. Subdivision b of subsection 1 of section 44-04-18.30 of the North Dakota Century Code is amended and reenacted as follows:

b. "Public social services agency" means a state, county, or local public agency that provides human services, and includes regional human service centers, county social services boards, multicounty social services districts, and the department of health and human services.

SECTION 376. AMENDMENT. Subsection 2 of section 50-01-01 of the North Dakota Century Code is amended and reenacted as follows:

2. Shall comply with the written eligibility standards for general assistance established by the human service zone director or department of health and human services. A copy of the written standards must be available upon request. Pursuant to this requirement, the ownership of property by an applicant for general assistance, or by the spouse of the applicant, either individually or jointly, or of insurance on the life of the applicant does not preclude the granting of assistance if the applicant is without funds for the applicant's support.

SECTION 377. AMENDMENT. Section 50-01-13 of the North Dakota Century Code is amended and reenacted as follows:

50-01-13. Medical attention and hospitalization furnished poor.

Within the limits of the human service zone appropriation, the human service zone promptly shall provide necessary medical services, covered in the written eligibility standards for general assistance, for any poor person in the human service zone who is not provided for in a public institution. The human service zone shall cause to be furnished to the person the necessary covered medicines prescribed by a physician. Necessary covered hospitalization must be furnished by the human service zone upon approval or subsequent ratification by the human service zone director or the director's designee. If the poor person is a nonresident of the state, the human service zone furnishing the medical services must be reimbursed within the limits of funds appropriated for that purpose by the legislative assembly for eighty percent of the expenses incurred in carrying out this section. The reimbursement must be made upon vouchers having the approval of the department of health and human services.

SECTION 378. AMENDMENT. Section 50-01-17.2 of the North Dakota Century Code is amended and reenacted as follows:

50-01-17.2. Community work experience programs - Development.

The department of health and human services may develop community work experience programs through agreements with any public entity, nonprofit agency or organization, or in conjunction with, or through utilization of, applicable federal programs. The number of hours to be worked may be determined by dividing the amount of the assistance payment by the prevailing minimum wage.

[251] **SECTION 379. AMENDMENT.** Subsection 1 of section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 380. AMENDMENT. Subsection 1 of section 50-01.2-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 381. AMENDMENT. Subsection 3 of section 50-06-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 382. AMENDMENT. Section 50-06-01.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.1. Department of health and human services to be substituted for public welfare board of North Dakota and social service board of North Dakota, members of board, ~~and~~ executive director, and department of human services.

When the terms "public welfare board of North Dakota", "social service board of North Dakota", "executive director of the public welfare board", "executive director of the social service board", "department of human services", or "executive director of the department of human services", "member of the public welfare board", or "member of the social service board", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, appear in the North Dakota Century Code, the term "department of health and human services", or the term "executive director of the department of health and human services", as the case may be, must be substituted therefor. It is the intent of the legislative assembly that the department of health and human services must be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the public welfare board of North Dakota ~~or~~, by the social service board of North Dakota, by the department of human services, or by the state department of health. The legislative council may replace references to the "department of human services" or "executive director of the department of human services" or any derivatives of those terms with "department of health and human services" or "executive director of the department of health and human services" in any measure enacted by the sixty-seventh legislative assembly.

[252] **SECTION 383. AMENDMENT.** Section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-01.4. Structure of the department.

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, health division, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory

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[251] Section 50-01.1-01 was also amended by section 8 of Senate Bill No. 2086, chapter 353.

[252] Section 50-06-01.4 was also amended by section 1 of House Bill No. 1091, chapter 355.

duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.

b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.

c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.

d. Administration of behavioral health programs, including:

(1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and

(2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.

e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.

f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.

g. Administration of general assistance.

h. Administration of child support.

i. Administration of program, services, and licensing outlined in title 23 and other previous duties of the state department of health.

2. The executive director shall consult with and maintain a close working relationship ~~with the state department of health;~~ with the department of

corrections and rehabilitation and the superintendents of the school for the deaf and the North Dakota vision services - school for the blind to develop programs for individuals with developmental disabilities; and with the superintendent of public instruction to maximize the use of resource persons in regional human service centers in the provision of special education services. The executive director shall also maintain a close liaison with human service zones.

3. By August 1, 2019, the department shall establish a template for the development of human service zone plans, including process and content requirements, access point expectations, client grievances procedures, human resources, and locally funded programs or services and how those services will be addressed.

4. The department shall develop, with assistance from the North Dakota association of counties, a process for consultation and technical assistance for human service zone working groups by August 1, 2019.

SECTION 384. AMENDMENT. Subsection 1 of section 50-06-01.7 of the North Dakota Century Code is amended and reenacted as follows:

1. The department ~~of human services~~ shall administratively restructure the behavioral health division to require the division to develop and revise, when necessary, the state mental health plan and provide the behavioral health division the authority to implement and supervise a unified mental health delivery system and to assure the mental health services provided by the human service centers, the state hospital, and contracted services are in accordance with the state plan.

SECTION 385. AMENDMENT. Section 50-06-06.3 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.3. Facility staff training.

It is the intent of the legislative assembly that the department ~~of human services~~ design and implement a facility staff training system in cooperation with the board of higher education to assure adequate and appropriate staff development and training for the providers of community-based care on behalf of individuals with developmental disabilities.

SECTION 386. AMENDMENT. Section 50-06-06.4 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.4. Comprehensive community residential program.

It is the intent of the legislative assembly that the department ~~of human services~~ implement a comprehensive community residential program for children with developmental disabilities, including the use of intermediate care facilities and other such foster home and group home resources as deemed appropriate.

SECTION 387. AMENDMENT. Section 50-06-06.6 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.6. Department ~~of human services~~ may lease real and personal property.

The executive director of the department ~~of human services~~ may lease surplus farm and pastureland at the state hospital and the life skills and transition center. The executive director also may enter into further leases of real or personal property at the life skills and transition center or the state hospital upon a specific finding that the granting of each such leasehold interest will result in a net economic gain for the department, taking into account all identifiable costs. Any lease of space for the purpose of providing child care services must meet requirements as determined by the department. The executive director may prescribe the terms and conditions of any leases entered into pursuant to this section and may renew existing leases. Any lease entered into must be subject to renewal or cancelable each biennium.

SECTION 388. AMENDMENT. Section 50-06-06.10 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.10. Family life education program.

The department ~~of human services~~ shall enter into an agreement with the North Dakota state university extension service for the design of a program to educate and support individuals at all points within the family life cycle. The program must provide support for families and youth with research-based information relating to personal, family, and community concerns and must contain a research component aimed at evaluation of planned methods or programs for prevention of family and social problems. The program must address the following inter-related topics:

1. Child and youth development.
2. Parent education with an emphasis on parents as educators.
3. Human development.
4. Interpersonal relationships.
5. Family interaction and family systems.
6. Family economics.
7. Intergenerational issues.
8. Impact of societal changes on the family.
9. Coping skills.
10. Community networks and supports for families.

SECTION 389. AMENDMENT. Section 50-06-06.11 of the North Dakota Century Code is amended and reenacted as follows:

50-06-06.11. Child care provider payments.

Within the limits of federal regulations, the department ~~of human services~~, at the election of the early childhood facility, shall directly pay early childhood facilities monthly under child care assistance programs administered by the department.

SECTION 390. AMENDMENT. Section 50-06-14.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-14.1. Limitation on state reimbursement for rental expenses of long-term care facilities.

The department ~~of human services~~ shall limit the reimbursement for rental expense paid by a provider of services when a provider sells its skilled nursing facility, intermediate care facility, basic care facility, or other facility furnishing care to its residents, when a care rate is based, in part, upon property costs unique to that facility, to a third party who leases the facility back to the provider. The department's reimbursement for rental expense may not exceed the lesser of the rental expense paid by the provider or the cost of ownership of the facility. The cost of ownership includes depreciation, interest, real estate taxes, and other expenses properly related to the facility. The department ~~of human services~~ shall apply this limit to rates set for each facility's first fiscal year beginning on or after July 1, 1985, but shall consider, in setting such rates, all sales occurring on or after July 18, 1984.

SECTION 391. AMENDMENT. Section 50-06-21 of the North Dakota Century Code is amended and reenacted as follows:

50-06-21. Gambling disorder prevention, awareness, crisis intervention, rehabilitation, and treatment services.

The department ~~of human services~~ shall contract with qualified treatment service providers for the development and implementation of a program for gambling prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services. The program may provide outpatient services, partial care services, aftercare services, intervention services, financial counseling services, consultation services, or other forms of preventive, rehabilitative, or treatment services for individuals with a gambling disorder. An individual who provides treatment services must be a licensed professional operating within the individual's scope of practice. An individual who provides financial counseling services must be a certified consumer credit counselor with an accredited financial counseling agency. The department ~~of human services~~ may establish a sliding payment scale for services under the program. The department ~~of human services~~ may establish a centrally located repository of educational materials on identifying and treating gambling disorders. Any service fee collected by qualified treatment service providers for services provided under the contract must be applied toward the program's gambling disorder services. The term "qualified treatment service provider" means an entity based in North Dakota which is experienced in and capable of delivering gambling disorder education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health treatment services as defined by the department of health and human services. The term "gambling disorder" means a chronic, progressive disease that is characterized by a preoccupation with gambling, loss of control over gambling behaviors, and oftentimes disregard for the negative consequences as a result of gambling. Gambling disorder includes gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits.

SECTION 392. AMENDMENT. Section 50-06-24 of the North Dakota Century Code is amended and reenacted as follows:

50-06-24. Guardianship services.

The department ~~of human services~~ may create and coordinate a unified system for the provision of guardianship services to vulnerable adults who are ineligible for developmental disabilities program management services. The system must include a base unit funding level at the same level as developmental disability corporate guardianship rates, provider standards, staff competency requirements, and

guidelines and training for guardians. The department shall adopt rules for guardianship services to vulnerable adults which are consistent with chapters 30.1-26, 30.1-28, and 30.1-29.

SECTION 393. AMENDMENT. Section 50-06-26 of the North Dakota Century Code is amended and reenacted as follows:

50-06-26. Alternatives-to-abortion services program.

The department ~~of human services~~ shall disburse funds available through title IV-A of the Social Security Act [42 U.S.C. 601 et seq.] to nongovernmental entities that provide alternatives-to-abortion services and expend funds to inform the public about this program. The services must be outcome-based with positive outcome-based results. The department, in consultation with a nongovernmental entity that provides alternatives-to-abortion services, shall contract to inform the public about this program. For purposes of this section, "alternatives-to-abortion services" are those services that promote childbirth instead of abortion by providing information, counseling, and support services that assist pregnant women or women who believe they may be pregnant to choose childbirth and to make informed decisions regarding the choice of adoption or parenting with respect to their children.

SECTION 394. AMENDMENT. Section 50-06-29 of the North Dakota Century Code is amended and reenacted as follows:

50-06-29. Application for aging and disability resource center funding.

The department ~~of human services~~ shall operate an aging and disability resource center for the state. The resource center will be a single point of information program at the community level which will help people make informed decisions about the full range of long-term care service and support options, including both institutional and home and community-based care, and which will provide unbiased information and assistance to individuals needing either public or private resources, to professionals seeking assistance on behalf of their clients, and to individuals planning for their future long-term care needs. The resource center must be free from a conflict of interest which would inappropriately influence or bias the actions of a contractor, staff member, board member, or volunteer of the resource center to limit the information given to a consumer to steer the consumer to services that may also be provided by the resource center.

SECTION 395. AMENDMENT. Section 50-06-30 of the North Dakota Century Code is amended and reenacted as follows:

50-06-30. Interagency agreement between the department of <u>health and</u> human services and the department of corrections and rehabilitation.

The executive director of the department ~~of human services~~ and the director of the department of corrections and rehabilitation may amend the interagency agreement entered under this section which became effective August 1, 2007. The amended agreement must provide that the department of corrections and rehabilitation shall train, consult, and assist the department of <u>health and</u> human services with the provision and enforcement of safety and security procedures at the state hospital for all patients at the state hospital, including those committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3 and for all staff, visitors, and volunteers at the state hospital. The amended interagency agreement must provide that the executive director of the department ~~of human services~~ shall continue to be responsible for the custody and care of patients at the state hospital, including those

committed to the state hospital under chapter 25-03.1 or placed at the state hospital for evaluation or civil commitment and treatment under chapter 25-03.3, including responsibility for all assessments, evaluations, and treatment required under chapter 25-03.3, the provision of all necessary staffing, including maintenance staff, and the provision of all daily care and health care.

SECTION 396. AMENDMENT. Section 50-06-31 of the North Dakota Century Code is amended and reenacted as follows:

50-06-31. Report to legislative council - Individuals committed to state hospital.

Before March first of each even-numbered year, the department ~~of human services~~ shall report to the legislative council on services provided by the department of corrections and rehabilitation relating to individuals at the state hospital who have been committed to the care and custody of the executive director of the department of human services.

SECTION 397. AMENDMENT. Section 50-06-32 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32. Autism spectrum disorder task force - Appointment - Duties - Annual reports.

1. The autism spectrum disorder task force consists of:

   a. (1) The state health officer, or the officer's designee;

      (2) The director of the department ~~of human services~~, or the director's designee;

      (3) The superintendent of public instruction, or the superintendent's designee; and

      (4) The executive director of the protection and advocacy project, or the director's designee; and

   b. The following members appointed by the governor:

      (1) A pediatrician with expertise in the area of autism spectrum disorder;

      (2) A psychologist with expertise in the area of autism spectrum disorder;

      (3) A college of education faculty member with expertise in the area of autism spectrum disorder;

      (4) A behavioral specialist;

      (5) A licensed teacher with expertise in the area of autism spectrum disorder;

      (6) An occupational therapist;

      (7) A representative of a health insurance company doing business in this state;

(8) A representative of a licensed residential care facility that provides care and services to individuals with autism spectrum disorder;

(9) A representative who is an enrolled member of a federally recognized Indian tribe;

(10) An adult self advocate with autism spectrum disorder;

(11) A parent of a child with autism spectrum disorder;

(12) A family member of an adult with autism spectrum disorder; and

(13) A member of the legislative assembly.

2. The director of the department ~~of human services~~, or the director's designee, shall serve as the chairman. The task force shall meet at the call of the chairman, at least quarterly.

3. The task force shall examine early intervention services, family support services that would enable an individual with autism spectrum disorder to remain in the least restrictive home-based or community setting, programs transitioning an individual with autism spectrum disorder from a school-based setting to adult day programs and workforce development programs, the cost of providing services, and the nature and extent of federal resources that can be directed to the provision of services for individuals with autism spectrum disorder.

4. The task force shall develop a state autism spectrum disorder plan and present the plan to the governor and the legislative council before July 1, 2010. Thereafter, the task force shall continue to review and periodically update or otherwise amend the state plan so that it best serves the needs of individuals with autism spectrum disorder. The task force shall provide an annual report to the governor and the legislative council regarding the status of the state autism spectrum disorder plan.

SECTION 398. AMENDMENT. Section 50-06-32.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-32.1. 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 day care; 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 399. AMENDMENT. Section 50-06-35 of the North Dakota Century Code is amended and reenacted as follows:

50-06-35. Department ~~of human services~~ food assistance contracts.

The department ~~of human services~~ shall contract with a statewide charitable food recovery and distribution organization to develop and implement new methods of delivering charitable food assistance services in underserved counties, to include a mobile food pantry program and prepacked food basket program; expand the recovery of surplus food from the retail and wholesale food industry for distribution to charitable feeding programs; provide training, technical assistance, and equipment grants to community food pantries and emergency meal programs; and develop a cross-referral system between charitable feeding programs and government assistance programs that help clients achieve self-sufficiency.

SECTION 400. AMENDMENT. Section 50-06-37 of the North Dakota Century Code is amended and reenacted as follows:

50-06-37. Developmental disabilities system reimbursement project.

The department ~~of human services~~, in conjunction with developmental disabilities community providers, shall maintain a prospective payment system based on a state-approved assessment.

1. The department shall maintain a steering committee consisting of no more than eighteen representatives from all interested providers which must include no more than two clients, no more than one family member of a client, a representative of the department, and a representative of the North Dakota protection and advocacy project.

2. The department may contract with a consultant to continuously improve, in collaboration with the steering committee, the payment system and the resource allocation model tying funding to the state-approved assessment.

3. The department shall conduct the standardized assessment of eligible individuals residing at the life skills and transition center.

4. Data must be analyzed by the steering committee, and the steering committee shall recommend to the department any rate adjustments, resource allocation

modifications, or process assumptions, including the state-approved assessment.

5. The department and the steering committee shall report development activities and status information to an interim legislative committee.

SECTION 401. AMENDMENT. Section 50-06-38 of the North Dakota Century Code is amended and reenacted as follows:

50-06-38. Review and limitation.

Intermediate care facility providers shall submit all facility construction or remodeling proposals to the department ~~of human services~~ prior to enactment of a contract for the completion of the project. The department ~~of human services~~ shall review all intermediate care facility construction or remodeling proposals and may limit allowable construction and remodeling costs to ensure the costs are reasonable and appropriate.

SECTION 402. AMENDMENT. Section 50-06-41 of the North Dakota Century Code is amended and reenacted as follows:

50-06-41. Behavioral health services quarterly report.

The department ~~of human services~~ shall publish a quarterly report of all behavioral health services provided by or supported by the department. The report must include each type of behavioral health service, the number of clients served for each service, and the amount of state and federal funds budgeted and spent for each service. Data must be identified for behavioral health services by human service region and by mental health services provided to children, mental health services provided to adults, and substance abuse services.

SECTION 403. AMENDMENT. Section 50-06-41.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-41.2. Community behavioral health program.

1. The department of <u>health and</u> human services shall establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions.

2. In developing the program, the department shall:

   a. Establish a referral and evaluation process for access to the program.

   b. Establish eligibility criteria that includes consideration of behavioral health condition severity.

   c. Establish discharge criteria and processes.

   d. Develop program oversight and evaluation processes that include outcome and provider reporting metrics.

   e. Establish a system through which the department:

      (1) Contracts with and pays behavioral health service providers.

(2) Supervises, supports, and monitors referral caseloads and the provision of services by contract behavioral health service providers.

(3) Requires contract behavioral health service providers to accept eligible referrals and to provide individualized care delivered through integrated multidisciplinary care teams.

(4) Provides payments to contract behavioral health service providers on a per-month per-referral basis based on a pay-for-performance model that includes consideration of identified outcomes and the level of services required.

[253] **SECTION 404. AMENDMENT.** Section 50-06-43.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.1. Children's cabinet - Membership - Duties. (Effective through July 31, 2025)

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.

2. The children's cabinet consists of the following members:

   a. The governor, or the governor's designee;

   b. The chief justice of the supreme court, or the chief justice's designee;

   c. The speaker of the house of representatives, or the speaker's designee;

   d. The president pro tempore of the senate, or the president pro tempore's designee;

   e. The superintendent of public instruction, or the superintendent's designee;

   f. The director of the committee on protection and advocacy, or the director's designee;

   g. A representative of the tribal nations in the state, who is appointed by the governor; and

   h. Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department ~~of human services~~ for travel and lodging at the same rate as provided for state officers and employees.

3. The chairman of legislative management, shall serve as the presiding officer of the cabinet. The cabinet shall meet at least quarterly. Additional meetings may be held at the discretion of the presiding officer.

4. The children's cabinet shall:

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[253] Section 50-06-43.1 was also amended by section 1 of House Bill No. 1076, chapter 362.

a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;

b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;

c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;

d. Seek to engage cooperation across public and private service providers;

e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;

f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;

g. Provide for the active participation of consumers and providers statewide on advisory committees; and

h. Receive information and recommendations from the department of health and human services, department of corrections and rehabilitation, and other state agencies.

5. The department ~~of human services~~ shall provide the children's cabinet with staffing and administrative services.

[254] **SECTION 405. AMENDMENT.** Subdivision e of subsection 1 of section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

e. The executive director of the department ~~of human services~~, or the executive director's designee;

SECTION 406. AMENDMENT. Subsection 1 of section 50-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the ~~North Dakota~~ department of health and human services.

SECTION 407. AMENDMENT. Section 50-06.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-06.1-15. Cooperation between agencies.

The office of vocational rehabilitation and other divisions of the department ~~of human services~~ shall work cooperatively to locate eligible clients and to identify and provide them with the services they require to lead a full and meaningful life.

SECTION 408. AMENDMENT. Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

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[254] Section 50-06-43.2 was also amended by section 37 of House Bill No. 1035, chapter 245, and section 1 of House Bill No. 1150, chapter 363, and was repealed by section 2 of House Bill No. 1150, chapter 363.

50-06.1-16. State rehabilitation council.

1. There is established a state rehabilitation council in accordance with section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].

2. The state rehabilitation council:

   a. Shall fulfill the duties outlined in section 105 of the Rehabilitation Act of 1973 [29 U.S.C. 725].

   b. Shall collaborate, coordinate, and improve employment outcomes for working-age adults with disabilities, including:

      (1) Reviewing and aligning policies, procedures, eligibility, and enrollment and planning for services for individuals, with the objective of increasing opportunities for community employment for North Dakotans with disabilities.

      (2) Developing cross-agency tools to document eligibility, order of selection, assessment, and planning for services for individuals with disabilities.

      (3) Identifying best practices, effective partnerships, sources of available federal funds, opportunities for shared services among existing providers, and means to expand model programs to increase community employment opportunities for individuals with disabilities.

      (4) Identifying and addressing areas where sufficient support is not currently available or where additional options are needed to assist individuals with disabilities to work in competitive employment in integrated settings.

      (5) Establishing interagency agreements to improve coordination of services and allow for data sharing as appropriate to assist individuals with disabilities.

      (6) Setting benchmarks for improving community employment outcomes and services for individuals with disabilities.

   3. The department ~~of human services~~ division of vocational rehabilitation shall provide the state rehabilitation council with administrative services.

SECTION 409. AMENDMENT. Subsection 8 of section 50-06.2-02 of the North Dakota Century Code is amended and reenacted as follows:

8. "State agency" means the department of <u>health and</u> human services.

SECTION 410. AMENDMENT. Subsection 2 of section 50-06.4-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of <u>health and</u> human services.

SECTION 411. AMENDMENT. Section 50-06.4-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.4-02. Department to be lead agency - Cooperation of other agencies - Joint meeting.

The department shall act as lead agency in the state for the purpose of coordinating services to individuals with brain injury. At least annually the department shall call a joint meeting of the adjutant general, ~~the state department of health,~~ the department of veterans' affairs, and the superintendent of public instruction to discuss the provision of services to individuals with brain injury. State agencies and political subdivision agencies shall cooperate with the department to permit the department to efficiently coordinate services to individuals with brain injury while avoiding duplication of services. Neither this chapter, nor any activity undertaken by the department under this chapter, may be construed as creating a right to any benefit or service not specifically required to be granted as a condition of the receipt of grants of federal funds.

[255] **SECTION 412. AMENDMENT.** Subsection 3 of section 50-06.4-10 of the North Dakota Century Code is amended and reenacted as follows:

3. Each of the following entities shall appoint a representative to serve as a nonvoting member of the council who serves at the pleasure of the appointing entity:

   a. Protection and advocacy project, one representative;

   b. ~~State department of health~~Department, one individual representing injury prevention and one representative representing emergency medical services and trauma~~;~~

   ~~c. Department of human services~~, one individual representing behavioral health, one individual representing Medicaid, and one individual representing vocational rehabilitation; and

   ~~d.~~c. Department of public instruction, one representative.

SECTION 413. AMENDMENT. Subsection 4 of section 50-06.5-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Designated state entity" means the vocational rehabilitation division of the department of health and human services as defined in the state plan for independent living.

SECTION 414. AMENDMENT. Subsection 12 of section 50-09-01 of the North Dakota Century Code is amended and reenacted as follows:

12. "State agency" means the ~~North Dakota~~ department of health and human services.

SECTION 415. AMENDMENT. Subsection 2 of section 50-10.1-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

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[255] Section 50-06.4-10 was also amended by section 1 of Senate Bill No. 2039, chapter 364.

SECTION 416. AMENDMENT. Subsection 4 of section 50-10.2-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

[256] **SECTION 417. AMENDMENT.** Subsection 4 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 418. AMENDMENT. Section 50-11-01.5 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.5. Fire prevention training.

Before initial licensure and each renewal under this chapter, each foster parent shall complete a course of instruction related to fire prevention and safety. The state fire marshal shall design the course in cooperation with the department of health and human services. The course must be available on videotape or any equivalent medium as designed by the department. The department of health and human services shall offer the course throughout the state.

SECTION 419. AMENDMENT. Section 50-11-01.6 of the North Dakota Century Code is amended and reenacted as follows:

50-11-01.6. Self-declaration form.

The department of health and human services shall prescribe self-declaration forms to be completed and signed by each foster parent before initial licensure and each renewal under this chapter. The self-declaration forms must include references to smoke detectors, fire extinguishers, fire escape plans, and inspections of appliances, electrical systems, and heating systems.

SECTION 420. AMENDMENT. Section 50-11-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.1. Reduction of number of children in foster care - Goals.

On or before October 1, 1982, and annually thereafter, the department of health and human services shall attempt to reduce the number of children receiving assistance under title IV-E of the Social Security Act, who have been in foster care for more than twenty-four months, by the following amounts:

1. For the year beginning October 1, 1982, one percent of the number of children, in foster care for more than twenty-four months, and receiving benefits under title IV-A of the Social Security Act from July 1, 1979, through June 30, 1980;

2. For the years beginning October 1, 1983, and ending September 30, 1990, one percent of the maximum number permitted in the previous year; and

3. For all subsequent years, one-half percent of the maximum number permitted in the previous year.

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[256] Section 50-11-00.1 was also amended by section 2 of House Bill No. 1091, chapter 355.

[257] **SECTION 421. AMENDMENT.** Subsection 3 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

[258] **SECTION 422. AMENDMENT.** Subsection 2 of section 50-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request of the department or its authorized agent, ~~the state department of health or~~ the state fire marshal, or the fire marshal's designee, shall inspect the premises for which a license or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.

SECTION 423. AMENDMENT. Subdivision a of subsection 3 of section 50-11.1-18 of the North Dakota Century Code is amended and reenacted as follows:

a. The department of health and human services;

SECTION 424. AMENDMENT. Section 50-11.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-01. Foster care parent grievance.

A foster parent who is duly licensed to care for a foster child may object to any decision made by the department of health and human services or human service zone which substantially affects the foster parent or the needs of the foster child. An objection may be made in the form of a grievance, which must be filed in the county of the foster care parent's residence with the human service zone. The human service zone shall notify foster parents of the grievance procedure and provide them with grievance procedure forms.

SECTION 425. AMENDMENT. Section 50-11.2-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.2-02. Grievance procedure.

The grievance procedure to be followed by the department of health and human services, human service zone, and foster parents is:

1. Any decision made by the department of health and human services or human service zone which substantially affects the licensed foster parent or the needs of a foster child must be sent in writing to the foster parents who have been given the responsibility of providing foster care for that child. Nothing herein may be construed to prohibit the department of health and human services or human service zone from immediately implementing a decision, when the best interests of the child require such immediate action, as long as notice is given to the foster parent as soon as possible.

2. A foster parent may object to any decision referred to in subsection 1. Upon the filing of a grievance by the foster care parents, the human service zone

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[257] Section 50-11.1-02 was also amended by section 4 of House Bill No. 1416, chapter 358, and section 1 of House Bill No. 1466, chapter 368.

[258] Section 50-11.1-07 was also amended by section 5 of House Bill No. 1416, chapter 358.

shall schedule an informal meeting to be held within ten days of the filing of the grievance. The needs and responsibilities of all interested parties must be discussed at this meeting in an attempt to maintain a continuing relationship which will serve the best interests of the foster child. A written resolution relating to the grievance should be agreed to and signed by both parties.

3. If no written resolution between the parties relating to the grievance is made at the informal meeting, the foster parents may request a formal hearing to be held at a conflict-free human service zone office. This meeting must be held within ten working days of the informal meeting unless both parties agree to an extension. The human service zone director or the director's designee shall provide for a record of this hearing. The human service zone director or the director's designee shall review all prior contact between the foster care parents and the department of health and human services or human service zone relating to the grievance. The human service zone director or the director's designee shall then make a final determination relating to the grievance. The human service zone director's or the director's designee's findings and conclusions must be sent to the human service zone and the foster care parents.

4. All decisions relating to a grievance under this chapter are final.

5. The department of health and human services shall adopt rules to carry out the purpose and intent of this section and these rules must be given to the foster parent upon licensing.

6. Denial or revocation of a foster care license may be appealed as provided in chapter 28-32.

7. Nothing herein may be construed to require a grievance proceeding under this chapter, when the department of health and human services or human service zone is acting to implement a specific placement decision issued by a court with competent jurisdiction.

[259] **SECTION 426. AMENDMENT.** Section 50-11.3-01 of the North Dakota Century Code is amended and reenacted as follows:

50-11.3-01. Criminal history record investigation required.

1. Before appointment as a legal guardian under chapter 27-20, the individual to be appointed legal guardian must be subject to an assessment that includes the result of a criminal history record investigation made under this section. In addition, any adult living in the household of the individual to be appointed legal guardian must be subject to a criminal history record investigation made under this section.

2. An individual to be appointed legal guardian or any adult living in that individual's household as described in subsection 1 shall secure, from a law enforcement agency or other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law. Upon a request made under this section, a law enforcement agency shall take fingerprints of any individual to be appointed legal guardian

[259] Section 50-11.3-01 was also amended by section 38 of House Bill No. 1035, chapter 245.

or any adult living in that individual's household as described in subsection 1 and may charge a reasonable fee to offset the cost of fingerprinting.

3. An individual to be appointed legal guardian or any adult living in that individual's household as described in subsection 1 shall assure that information obtained under subsection 2 is provided to the department of health and human services.

4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of health and human services shall submit those fingerprints and that information to the bureau of criminal investigation.

5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of health and human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department of health and human services. The bureau of criminal investigation may charge a reasonable fee to offset the cost of providing any criminal history record information and may require payment of any charge imposed by the federal bureau of criminal investigation for a nationwide background check.

6. The department of health and human services shall provide an individual to be appointed legal guardian or any adult living in that individual's household, who provided the department with information under subsection 2, with any information received under this section from the bureau of criminal investigation which the department of health and human services is not prevented by federal law from disclosing to the individual to be appointed legal guardian or any adult living in that individual's household.

7. The department of health and human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-12-03.2.

SECTION 427. AMENDMENT. Section 50-12-02 of the North Dakota Century Code is amended and reenacted as follows:

50-12-02. Child-placing agency licensed - Rules.

Every child-placing agency shall secure a license from the department of health and human services. The department shall adopt rules establishing the requirements for licensure as a child-placing agency.

SECTION 428. AMENDMENT. Subsection 2 of section 50-12-02.1 of the North Dakota Century Code is amended and reenacted as follows:

2. A child-placing agency that does not maintain an office in this state shall name on its license application at least one resident child-placing agency. Resident child-placing agencies named on the application shall certify their willingness to:

a. Receive service of process for papers to be served on the out-of-state child-placing agency;

b. Assist when requested by the department of health and human services in the supervision and visitation of children placed in either temporary or permanent homes by the out-of-state child-placing agency; and

c. Provide at the request of the department of health and human services all other facts, information, and reports to be made on behalf of the out-of-state child-placing agency.

SECTION 429. AMENDMENT. Section 50-12-03 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03. Requirements for licensure and employment - Term - Moral or religious conviction not bar to licensure or employment.

The department of health and human services shall issue licenses for the conduct of child-placing agencies upon application. A child-placing agency shall require a criminal history record investigation on the owner and each employee of a child-placing agency who has direct contact with families, with children, or with both. The department of health and human services shall consider any criminal history record information available about the owner at the time a licensing decision is made and about an employee prior to the owner or the employee having direct contact with families, with children, or with both. Licenses must be granted for a period not exceeding two years. Licenses must be issued to reputable and responsible applicants upon a showing that they, and their agents, are equipped properly by training and experience to find and select suitable temporary or permanent homes for children and to supervise the homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them will be properly safeguarded. The department of health and human services may not deny a license because of the applicant's objection to performing, assisting, counseling, recommending, facilitating, referring, or participating in a placement that violates the applicant's written religious or moral convictions or policies.

SECTION 430. AMENDMENT. Section 50-12-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03.1. Conviction not bar to licensure or employment - Exceptions.

Conviction of an offense does not disqualify a person from licensure or employment under this chapter unless the department of health and human services determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or employee of a child-placing agency, or that, following the person's conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 431. AMENDMENT. Section 50-12-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-12-03.2. Criminal history record investigation required.

1. A child-placing agency shall include, in any adoptive home study report, the results of a criminal history record investigation made under this section. If the results reveal a conviction of a crime described in chapter 50-11.3 or determined by the department to have a direct bearing upon the person's ability to provide a suitable home for placement of any child, or the department

determines, following conviction of any other offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1, the home study report must include a determination that a home provided by the prospective adoptive parent is not a suitable home for the placement of any child and a recommendation that the petition for adoption be denied. A child-placing agency shall consider any criminal history record information available when making a recommendation in a home study report.

2. A child-placing agency shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any prospective adoptive parent and any adult living in the prospective adoptive parent's household. Upon a request of a child-placing agency, a law enforcement agency shall take fingerprints of any prospective adoptive parent and any adult living in the prospective adoptive parent's household for purposes of this section. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of fingerprinting.

3. The child-placing agency shall assure that information obtained under subsection 2 is provided to the department of health and human services and shall arrange payment to the bureau of criminal investigation sufficient to defray the cost of securing criminal history record information under this section.

4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of health and human services shall submit those fingerprints and that information to the bureau of criminal investigation.

5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of health and human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.

6. The department of health and human services shall provide the child-placing agency with any information, received under this section from the bureau of criminal investigation, that the department of health and human services is not prevented by federal law from disclosing to the child-placing agency.

7. The department of health and human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.

8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-11.3-01.

SECTION 432. AMENDMENT. Section 50-12-05 of the North Dakota Century Code is amended and reenacted as follows:

50-12-05. Department may prescribe form of records - Make rules - Records open for inspection.

The department of health and human services may prescribe the forms for the registration and record of children placed by a child-placing agency. The department shall make such reasonable rules and regulations in connection with such placements as are necessary to carry out the purposes of this chapter. All records must be open to the inspection of the department.

SECTION 433. AMENDMENT. Subsection 2 of section 50-12-06 of the North Dakota Century Code is amended and reenacted as follows:

2. For the return of the child to the placing agency whenever in the opinion of the agency, or of the department of health and human services, the best interests of the child require the return.

SECTION 434. AMENDMENT. Subsection 2 of section 50-12-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Report to the department of health and human services:

   a. The name and address of each child to be placed in a foster or an adoptive home;

   b. The name and address of the proposed foster or adoptive parents; and

   c. Any other facts and information as requested by the department.

[260] **SECTION 435. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is amended and reenacted as follows:

50-12-08. Child must be placed in suitable home - Department may remove child.

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the department of health and human services is satisfied that a child has been placed in an unsuitable home, the department shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the department. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the department shall refer the child to the county social service board of the county in which the child has legal settlement. The county social service board shall make immediate arrangements, subject to the approval of the department, for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

SECTION 436. AMENDMENT. Section 50-12-10 of the North Dakota Century Code is amended and reenacted as follows:

50-12-10. Revocation of license - Grounds.

The department of health and human services may revoke the license of any child-placing agency upon a proper showing of any of the following:

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[260] Section 50-12-08 was also amended by section 15 of Senate Bill No. 2086, chapter 353.

1. The licensee has violated any requirements under this chapter.

2. The license was issued upon fraudulent or untrue representations.

3. The licensee has violated any of the rules and regulations of the department.

4. The licensee has been guilty of an offense determined by the department to have a direct bearing upon a person's ability to serve the public as a licensee, or the department determines, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 437. AMENDMENT. Section 50-12-11 of the North Dakota Century Code is amended and reenacted as follows:

50-12-11. Revocation of license - False reports.

If any child-placing agency licensed under the provisions of this chapter makes any false or misleading report to the department of health and human services, the license must be suspended immediately. Upon hearing before the department, if such false or misleading reports are found to have been made, the license forthwith must be revoked.

SECTION 438. AMENDMENT. Section 50-12-14.1 of the North Dakota Century Code is amended and reenacted as follows:

50-12-14.1. Conditions for placement of children in state - Consent of department required.

Any person undertaking to bring or to send a child into this state for placement in foster care, as a preliminary to a possible adoption, or for guardianship shall furnish the department of health and human services with written notice of the intention to send, bring, or place the child in the state and shall obtain prior written consent from the department for each child to be so placed. The notice must contain:

1. The name, date, and place of birth of the child;

2. The identity and address or addresses of the parent or legal guardian;

3. The name and address of the person, agency, or institution to or with which the child is proposed to be placed;

4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made; and

5. Any supporting or additional information as the department determines necessary under the circumstances.

This section does not apply to the sending or bringing of a child into this state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in this state.

SECTION 439. AMENDMENT. Section 50-12-16 of the North Dakota Century Code is amended and reenacted as follows:

50-12-16. Taking children from state for placement in family homes - Consent of department - Report.

No person, partnership, voluntary association, corporation, or limited liability company may take or send any child out of the state for placement in a family home in another state without first securing the consent of the department of health and human services so to do and without first reporting to the department:

1. The name and address of the child to be taken or sent;

2. The name and address of the family which is to receive the child; and

3. Such other information concerning the family and the child as the department may require.

This section does not apply to a parent who personally removes the parent's child from the state.

SECTION 440. AMENDMENT. Section 50-12-17 of the North Dakota Century Code is amended and reenacted as follows:

50-12-17. Licensure requirement - Registration requirement - Penalty.

A person may not place or cause to be placed any child in a family home for adoption without a license to do so from the department of health and human services except that a parent, upon giving written notice to the department, may place the parent's child in the home of the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian for adoption by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement. A person who willfully violates this chapter is guilty of a class C felony. For purposes of this section, "to place or cause to be placed" means to place a child for adoption; arrange or provide for short-term foster care for a child pending an adoptive placement; facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or advertise in any public medium that the person knows of a child who is available for adoption or is willing to accept a child for adoption or that the person knows of prospective adoptive parents of a child.

SECTION 441. AMENDMENT. Subsection 1 of section 50-19-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 442. AMENDMENT. Section 50-19-04 of the North Dakota Century Code is amended and reenacted as follows:

50-19-04. Inspection and report by ~~state~~the department ~~of health~~ and state fire marshal.

The department shall give notice to the ~~state department of health and~~ state fire marshal of each application for a license to operate a maternity home. ~~Upon receipt of the notice, the state~~The department ~~of health~~ and the state fire marshal shall inspect the facilities and premises of the applicant to determine compliance with health and fire safety standards, and the state fire marshal shall report ~~their~~the marshal's findings to the department.

SECTION 443. AMENDMENT. Section 50-19-10 of the North Dakota Century Code is amended and reenacted as follows:

50-19-10. Records of maternity home confidential.

Except as otherwise authorized by law, no agent of ~~the state department of health,~~ the state fire marshal, or the department, or the licensee, under this chapter, may disclose the contents of the records of a maternity home nor of the reports received from them, except:

1. In a judicial or administrative proceeding in response to an order of a court or administrative tribunal; or

2. For a law enforcement purpose to a law enforcement official or a health oversight agency for oversight activities authorized by law.

SECTION 444. AMENDMENT. Section 50-19-14 of the North Dakota Century Code is amended and reenacted as follows:

50-19-14. Cooperation of interested persons and agencies.

The licensee of a maternity home, ~~the state department of health and its agents,~~ the state fire marshal and the state fire marshal's designees, and the department and its agents shall cooperate in all measures and services for improving and safeguarding the health and social well-being of mothers and their infants who receive services in a maternity home.

SECTION 445. AMENDMENT. Section 50-21-02 of the North Dakota Century Code is amended and reenacted as follows:

50-21-02. Administration of revolving fund.

The revolving fund and loans made therefrom must be supervised and administered by the Bank of North Dakota. All applications for loans under the provisions of this chapter for the construction of nursing homes or combination nursing homes and basic care facilities must be made to the ~~state~~ department of health <u>and human services</u>, which department is authorized, subject to the approval of the North Dakota health council, to promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. All applications for the construction of basic care facilities must be made to the ~~state~~ department of health <u>and human services</u>, which department shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter. Applications approved by the ~~state~~ department of health <u>and human services</u> and the North Dakota health council must be forwarded to the Bank of North Dakota. Upon approval of such application by the president of the Bank of North Dakota, loans must be granted by the Bank of North Dakota from the revolving fund in accordance with the provisions of this chapter.

SECTION 446. AMENDMENT. Section 50-21-03 of the North Dakota Century Code is amended and reenacted as follows:

50-21-03. Amount of loan - Terms and conditions.

Loans in an amount not exceeding one-half of the cost of construction or reconstruction including the cost or value of real estate upon which the facility is located and in no event exceeding one hundred fifty thousand dollars to any one applicant shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction or reconstruction in this state of nursing homes, basic care facilities, or combination nursing homes and basic care facilities. Such loans must bear interest at the rate of seven percent per annum and must be repayable in the

manner prescribed by the president of the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of the loans, each nonprofit corporation shall execute a contract with the state to operate such basic care facility for a period of not less than twenty years and to operate and maintain the basic care facility in accordance with the standards prescribed for the licensing of such basic care facility by the ~~state~~ department of health and human services. Such contract must also require the nonprofit corporation to maintain facilities for not less than five persons referred to such basic care facility by any county social service board. Such contract must also provide that if the use of such basic care facility is discontinued or if it is diverted to other purposes, the full amount of the loan provided under this chapter immediately becomes due and payable. Loans may be made only to an applicant who is not receiving other loans or grants of funds from this state for such construction or reconstruction. Payments of interest and principal upon such loans must be made to the Bank of North Dakota and credited to the revolving fund.

SECTION 447. AMENDMENT. Section 50-21-04 of the North Dakota Century Code is amended and reenacted as follows:

50-21-04. Standards - Administration procedure.

The ~~state~~ department of health~~, subject to the approval of the state health council,~~ and human services shall establish standards of construction which must be followed by all applicants receiving loans of funds for the construction of nursing homes or combination nursing homes and basic care facilities. The ~~state~~ department of health and human services shall establish standards of construction which must be followed by all applicants for loans for the construction of basic care facilities. The health council, in the case of the construction of nursing homes or basic care facilities or combination nursing homes and basic care facilities, shall approve all building plans and specifications for any facilities to be constructed in whole or in part with loans of funds provided under the provisions of this chapter prior to the disbursement of any such funds. Administrative procedures established by the ~~state~~ department of health ~~with the approval of the health council~~and human services must, except to construction standards, be in general in accordance with the procedures established for the administration of the federal grant-in-aid program for similar purposes under the Hill-Burton Act, or federal acts supplemental thereto.

SECTION 448. AMENDMENT. Subsection 1 of section 50-24.1-00.1 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 449. AMENDMENT. Section 50-24.1-01.3 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-01.3. Department to comply with federal requirements - Interagency cooperation - Civil money penalty fund.

1. The department shall take any action necessary to comply with the requirements of section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], including establishing a process to enforce compliance by nursing facilities with requirements for participation in the medical assistance program that conforms to any federal regulations implementing that section.

2. ~~The state department of health and the department shall cooperate to achieve prompt and effective implementation of subsection 1.~~

~~3.~~ The state treasurer shall establish a fund for the receipt of any civil money penalties imposed under subsection 1. Any civil money penalty paid to the department under subsection 1 must be deposited in that fund and, subject to the limits of legislative appropriation, may be expended for the purpose allowed by the federal government.

~~4.~~3. This section may not be construed to create any right or authorize any activity not provided for in section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)] or its implementing federal regulations.

~~5.~~4. Before the establishment and assessment of civil money penalties permitted by section 1919(h) of the federal Social Security Act [42 U.S.C. 1396r(h)], the department is encouraged to submit a plan of alternative remedies in accordance with section 1919(h)(2)(B)(ii) of that Act.

SECTION 450. AMENDMENT. Subdivision a of subsection 1 of section 50-24.1-29 of the North Dakota Century Code is amended and reenacted as follows:

a. "Department" means the department of health and human services or its agent.

SECTION 451. AMENDMENT. Section 50-24.1-34 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-34. Processing of claims submitted on behalf of inmates.

The department of health and human services shall process claims submitted by enrolled medical providers on behalf of inmates at county jails. Each county shall pay the department for the paid amount for the claims processed and also a processing fee for each claim submission. The department may establish a processing fee that may not exceed fifty dollars and shall update the fee annually on July first. The processing fee must be based on the actual costs to the department of the claims processing operations divided by the annual volume of claims submitted. The department shall invoice each county for payment of the processing fee.

SECTION 452. AMENDMENT. Section 50-24.1-37 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-37. Medicaid expansion - Legislative management report. (Effective ~~July 1, 2019, through December 31, 2019 - Contingent repeal -~~ ~~See note~~~~)~~

~~1. The department of human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of the federal poverty line published by the federal office of management and budget applicable to the household size.~~

~~2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.~~

~~3. The department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.~~

~~4. The contract between the department and the private carrier must:~~

~~a. Provide a reimbursement methodology for all medications and dispensing fees which identifies the minimum amount paid to pharmacy providers for each medication. The reimbursement methodology, at a minimum, must:~~

~~(1) Be available on the department's website; and~~

~~(2) Encompass all types of pharmacy providers regardless of whether the pharmacy benefits are being paid through the private carrier or contractor or subcontractor of the private carrier under this section.~~

~~b. Provide full transparency of all costs and all rebates in aggregate.~~

~~c. Allow an individual to obtain medication from a pharmacy that provides mail order service; however, the contract may not require mail order to be the sole method of service and must allow for all contracted pharmacy providers to dispense any and all drugs included in the benefit plan and allowed under the pharmacy provider's license.~~

~~d. Ensure that pharmacy services obtained in jurisdictions other than this state and its three contiguous states are subject to prior authorization and reporting to the department for eligibility verification.~~

~~e. Ensure the payments to pharmacy providers do not include a required payback amount to the private carrier or one of the private carrier's contractors or subcontractors which is not representative of the amounts allowed under the reimbursement methodology provided in subdivision a.~~

~~5. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.~~

~~6. Provider reimbursement rate information received by the department under this section and any information provided to the department of human services or any audit firm by a pharmacy benefit manager under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.~~

~~Medicaid expansion - Legislative management report. (Effective January 1, 2020,~~ through July 31, 2021 - Contingent repeal - See note)

1. The department of health and human services shall expand medical assistance coverage as authorized by the federal Patient Protection and Affordable Care Act [Pub. L. 111-148], as amended by the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] to individuals under sixty-five years of age with income below one hundred thirty-eight percent of

the federal poverty line published by the federal office of management and budget applicable to the household size.

2. The department shall inform new enrollees in the medical assistance expansion program that benefits may be reduced or eliminated if federal participation decreases or is eliminated.

3. Except for pharmacy services, the department shall implement the expansion by bidding through private carriers or utilizing the health insurance exchange.

4. The contract between the department and the private carrier must provide the department with full access to provider reimbursement rates. The department shall consider provider reimbursement rate information in selecting a private carrier under this section. Before August first of each even-numbered year, the department shall submit a report to the legislative management regarding provider reimbursement rates under the medical assistance expansion program. This report may provide cumulative data and trend data but may not disclose identifiable provider reimbursement rates.

5. Provider reimbursement rate information received by the department under this section is confidential, except the department may use the reimbursement rate information to prepare the report to the legislative management as required under this section.

[261] **SECTION 453. AMENDMENT.** Section 50-24.1-38 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-38. Health-related services - Licensed community paramedics.

The department ~~of human services~~ shall adopt rules governing payments to licensed community paramedics, advanced emergency medical technicians, and emergency medical technicians for health-related services provided to recipients of medical assistance, subject to necessary limitations and exclusions. A physician or an advanced practice registered nurse must supervise any care provided by a licensed community paramedic, an advanced emergency medical technician, or emergency medical technician.

[262] **SECTION 454. AMENDMENT.** Subsection 2 of section 50-24.1-40 of the North Dakota Century Code is amended and reenacted as follows:

2. The department ~~of human services~~ shall facilitate care coordination agreements. Of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements, the department shall deposit sixty percent in the tribal health care coordination fund and forty percent in the general fund.

SECTION 455. AMENDMENT. Section 50-24.3-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-01. Targeted case management.

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[261] Section 50-24.1-38 was also amended by section 5 of Senate Bill No. 2133, chapter 207.

[262] Section 50-24.1-40 was also amended by section 1 of House Bill No. 1407, chapter 372.

The department of health and human services shall establish a targeted case management service for disabled and elderly individuals eligible for benefits under chapter 50-24.1 who are at risk of requiring long-term care services to ensure that an individual is informed of alternatives available to address the individual's long-term care needs.

SECTION 456. AMENDMENT. Section 50-24.3-03 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-03. ~~Department of human services -~~ Targeted case management - Powers and duties.

The department of health and human services has the following powers and duties which it may delegate to any entity that provides targeted case management services approved by the department:

1. To seek cooperation from other public and private entities in the community that offer services to individuals with disabilities or the elderly.

2. To provide information and education to the general public regarding availability of targeted case management.

3. To accept referrals from an interested party including individuals, families, human services program professionals, nursing facility personnel, and acute care facility personnel.

4. To assess the health and social needs of, and provide targeted case management to, referred individuals who wish to receive this service.

5. To identify available noninstitutional services to meet the needs of referred individuals.

6. To prepare an individual care plan for each individual receiving targeted case management services.

7. To inform referred individuals of the extent to which long-term care services are available, including institutional and community-based services, and of the individual's opportunity to choose, in consultation with an attending physician, family members, and other interested parties, among the appropriate alternatives that may be available.

8. To monitor the results of targeted case management and report to each legislative assembly on these results and the cost-effectiveness of these services.

SECTION 457. AMENDMENT. Section 50-24.3-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-24.3-03.1. ~~Department of human services -~~ Assessment services - Powers and duties.

The department of health and human services has the following powers and duties which it may delegate to any entity that provides assessment services approved by the department:

1. To seek cooperation from other public and private agencies in the community which offer services to disabled and elderly persons.

2. To provide information and education to the general public regarding availability of the assessment program.

3. To accept referrals from individuals, families, human services program professionals, nursing facility personnel, and acute care facility personnel.

4. To assess the health and social needs of referred individuals.

5. To identify available noninstitutional services to meet the needs of referred individuals.

6. To prepare recommendations for individuals receiving assessment program services as to the need for skilled nursing care or other care available in the community.

7. To inform referred individuals of the extent to which home and community-based services are available and of their opportunity to choose, in consultation with an attending physician and family member, among the appropriate alternatives that may be available.

[263] **SECTION 458. AMENDMENT.** Subsection 3 of section 50-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 459. AMENDMENT. Section 50-24.4-12 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-12. Avoiding detrimental effect on quality of care.

If the department learns that expenditures for direct resident care have been reduced in amounts large enough to indicate a possible detrimental effect on the quality of care, the ~~department shall notify the state department of health~~licensing division shall be notified.

[264] **SECTION 460. AMENDMENT.** Subsection 1 of section 50-24.4-19 of the North Dakota Century Code is amended and reenacted as follows:

1. Charging private-paying residents rates for similar services which exceed those rates which are approved by the department for medical assistance recipients, as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may charge private-paying residents a higher rate for a private room and charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the department ~~of human services~~. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not

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[263] Section 50-24.4-01 was also amended by section 1 of House Bill No. 1090, chapter 374.

[264] Section 50-24.4-19 was also amended by section 5 of House Bill No. 1090, chapter 374.

provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private-paying resident a rate in violation of this chapter is subject to an action by the state or any of its subdivisions or agencies for civil damages. A private-paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this chapter. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorney's fees or their equivalent.

SECTION 461. AMENDMENT. Subsection 4 of section 50-24.5-01 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the department of health and human services.

SECTION 462. AMENDMENT. Section 50-24.5-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-02.2. Basic care facility private room rates.

The department ~~of human services~~ shall allow a basic care facility to charge a higher rate for a private room used by a recipient of benefits under this chapter if the private room is not necessary to meet the resident's care needs; the resident, or a person acting on behalf of the resident, has requested the private room and the facility informs the person making the request, at the time of the request, of the amount of payment and that the payment must come from sources other than a resident's monthly income; and the payment does not exceed the amount charged to private pay residents.

SECTION 463. AMENDMENT. Section 50-24.5-10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.5-10. Compensation for top management personnel - Department to adopt emergency rules.

Notwithstanding the requirements of subsection 2 of section 28-32-03, the department ~~of human services~~ has the authority to create emergency rules related to the compensation for top management personnel of a basic care facility combined with a hospital.

SECTION 464. AMENDMENT. Subsection 3 of section 50-24.6-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 465. AMENDMENT. Subsection 3 of section 50-24.7-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 466. AMENDMENT. Subsection 3 of section 50-24.8-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

[265] **SECTION 467. AMENDMENT.** Subsection 9 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

9. "Department" means the department of health and human services or its designee.

[266] **SECTION 468. AMENDMENT.** Subsection 17 of section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

17. "State child protection team" means a multidisciplinary team consisting of the designee of the department and, where possible, of a physician, a representative of a child-placing agency, ~~a representative of the state department of health,~~ a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three persons.

[267] **SECTION 469. AMENDMENT.** Section 50-25.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.2. Child fatality review panel.

The state child protection team shall serve as a child fatality review panel. The department shall appoint a peace officer licensed in the state, a mental health professional, and any other person as appropriate to assist the panel in the performance of its duties. The department~~, in coordination with the state department of health,~~ shall adopt rules for the operation of the panel. Panel members are not entitled to compensation or reimbursement of expenses for service on the panel.

[268] **SECTION 470. AMENDMENT.** Subsection 10 of section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

10. The ~~state department of health, in coordination with the~~ department ~~of human services,~~ shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

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[265] Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 468 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2083, chapter 377.

[266] Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 467 of House Bill No. 1247, chapter 352, and section 1 of Senate Bill No. 2083, chapter 377.

[267] Section 50-25.1-04.2 was also amended by section 6 of Senate Bill No. 2083, chapter 377.

[268] Section 50-25.1-15 was also amended by section 41 of House Bill No. 1035, chapter 245, and section 21 of Senate Bill No. 2083, chapter 377.

SECTION 471. AMENDMENT. Subsection 5 of section 50-25.2-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 472. AMENDMENT. Section 50-27-01 of the North Dakota Century Code is amended and reenacted as follows:

50-27-01. Creation and administration of children's trust fund.

There is hereby created in the state treasury a special fund known as the children's trust fund. The children and family services division of the department of health and human services shall administer the fund. All moneys designated for the fund from whatever source derived must be deposited with the state treasurer in the children's trust fund. The state treasurer shall invest such funds in interest-bearing accounts as is designated by the children and family services division, and the interest earned must be deposited in the children's trust fund. The children and family services division shall designate the administrator of child protective services as executive secretary of the children's trust fund.

SECTION 473. AMENDMENT. Section 50-27-03 of the North Dakota Century Code is amended and reenacted as follows:

50-27-03. Authority of the children and family services division of the department of health and human services.

The children and family services division may:

1. Create such advisory committees as may be deemed necessary to assure public involvement in the planning, development, and administration of the children's trust fund.

2. Hire or arrange for appropriate staff, as deemed necessary, to administer and maintain properly the children's trust fund.

3. Develop, implement, and periodically review a written plan to be used in administering the funds expended from and retained in the children's trust fund. The written plan must include the types of activities to be funded, the nature of organizations preferred for funding, the criteria for eligible fund applicants, and the mechanisms for the monitoring and evaluating of funded activities.

4. Award grants from the children's trust fund in accordance with this chapter and any rules that have been adopted.

SECTION 474. AMENDMENT. Subsection 5 of section 50-28-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the department of health and human services.

SECTION 475. AMENDMENT. Subsection 3 of section 50-29-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 476. AMENDMENT. Subsection 2 of section 50-30-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 477. AMENDMENT. Subsection 1 of section 50-31-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

[269] **SECTION 478. AMENDMENT.** Subsection 2 of section 50-32-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Department" means the department of health and human services.

SECTION 479. AMENDMENT. Section 50-32-02.1 of the North Dakota Century Code is amended and reenacted as follows:

50-32-02.1. Continuation of existing licenses.

1. An assisted living facility that possessed a valid license issued by the department ~~of human services~~ before August 1, 2005, may not be subsequently denied a license by the department ~~of human services~~ merely due to failure to meet the requirements of sections 23-09-01, 50-32-01, and 50-32-02 provided that the assisted living facility meets all other licensing requirements.

2. If there is a change in ownership of an assisted living facility that possessed a valid license issued before August 1, 2005, the department ~~of human services~~ shall allow a continuance of the exception to the licensure requirements under subsection 1 for the new owner. The continuance provided under this subsection applies to the first change in ownership after July 31, 2005, and does not apply to any subsequent change in ownership.

[270] **SECTION 480. AMENDMENT.** Subsection 7 of section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

7. "Department" means the department of health and human services.

[271] **SECTION 481. AMENDMENT.** Subsection 1 of section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Department" means the department of health and human services.

SECTION 482. AMENDMENT. Subsection 3 of section 52-01-03 of the North Dakota Century Code is amended and reenacted as follows:

3. Job service North Dakota may provide workforce safety and insurance, the labor commissioner, the driver's license division of the department of transportation, the department of health and human services, the department of commerce, the state tax commissioner, and the information technology department for purposes of the statewide longitudinal data system with

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[269] Section 50-32-01 was also amended by section 3 of Senate Bill No. 2226, chapter 199.

[270] Section 50-33-01 was also amended by section 16 of Senate Bill No. 2086, chapter 353.

[271] Section 50-35-01 was also amended by section 18 of Senate Bill No. 2086, chapter 353.

information obtained pursuant to the administration of the unemployment insurance program, and may enter into interagency agreements with those entities for the exchange of information that will enhance the administration of the unemployment insurance program. Any information furnished pursuant to this subsection or pursuant to interagency agreements authorized by this subsection is to be used only for governmental purposes.

[272] **SECTION 483. AMENDMENT.** Subsection 5 of section 53-12.1-12 of the North Dakota Century Code is amended and reenacted as follows:

5. If two or more claimant agencies have delinquent accounts for the same player, the director shall apportion the prize equally among them. However, a setoff to the department of health and human services for child support payments has priority over all other setoffs.

SECTION 484. AMENDMENT. Subsection 1 of section 54-06-04 of the North Dakota Century Code is amended and reenacted as follows:

1. The following executive and administrative officers and departments shall submit to the governor and the secretary of state reports covering their operations for the two preceding fiscal years, except as otherwise provided by law, not later than the first day of December each year after the regular session of the legislative assembly:

   a. Secretary of state.

   b. State auditor.

   c. Insurance commissioner.

   d. Attorney general.

   e. Agriculture commissioner.

   f. Superintendent of public instruction.

   g. State tax commissioner.

   h. Public service commission.

   i. Department of corrections and rehabilitation.

   j. Department of transportation.

   k. ~~State department of health.~~

   ~~l.~~ Department of health and human services.

   ~~m.~~l. Workforce safety and insurance.

   ~~n.~~m. Office of management and budget.

   ~~o.~~n. State treasurer.

[272] Section 53-12.1-12 was also amended by section 7 of Senate Bill No. 2283, chapter 175.

~~p.~~o. Labor commissioner.

~~q.~~p. Department of financial institutions.

~~r.~~q. Game and fish department.

~~s.~~r. Industrial commission.

~~t.~~s. Job service North Dakota.

~~u.~~t. Board of university and school lands.

~~v.~~u. Department of environmental quality.

[273] **SECTION 485. AMENDMENT.** Subsection 3 of section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of health and human services, ~~state department of health,~~ department of environmental quality, and the state hospital.

SECTION 486. AMENDMENT. Section 54-23.3-10 of the North Dakota Century Code is amended and reenacted as follows:

54-23.3-10. Community behavioral health program - Reports to legislative management and governor.

1. The department of corrections and rehabilitation shall establish and implement a community behavioral health program to provide comprehensive community-based services for individuals who have serious behavioral health conditions, as a term and condition of parole under chapter 12-59, and as a sentencing alternative under section 12.1-32-02.

2. In developing the program under this section, the department of corrections and rehabilitation shall collaborate with the department of health and human services to:

   a. Establish a referral and evaluation process for access to the program.

   b. Establish eligibility criteria that includes consideration of recidivism risk and behavioral health condition severity.

   c. Establish discharge criteria and processes, with a goal of establishing a seamless transition to postprogram services to decrease recidivism.

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[273] Section 54-12-08 was also amended by section 18 of House Bill No. 1009, chapter 9.

d. Develop program oversight, auditing, and evaluation processes that must include:

(1) Oversight of case management services through the department of health and human services;

(2) Outcome and provider reporting metrics; and

(3) Annual reports to the legislative management and the governor on the status of the program.

e. Establish a system through which:

(1) The department of health and human services:

(a) Contracts with and pays behavioral health service providers; and

(b) Supervises, supports, and monitors referral caseloads and the provision of services by contract behavioral health service providers.

(2) Contract behavioral health service providers accept all eligible referrals, provide individualized care delivered through integrated multidisciplinary care teams, and continue services on an ongoing basis until discharge criteria are met.

(3) Contract behavioral health service providers receive payments on a per-month per-referral basis. The payment schedule must be based on a pay-for-performance model that includes consideration of identified outcomes and the level of services required.

(4) Contract behavioral health service providers bill third-parties for services and direct payment to the general fund.

3. The department of health and human services may adopt rules as necessary to implement this program.

SECTION 487. AMENDMENT. Subsection 1 of section 54-23.3-12 of the North Dakota Century Code is amended and reenacted as follows:

1. The department of corrections and rehabilitation, with contracts through the department of health and human services and through the implementation of the community behavioral health program, shall allow faith-based organizations to provide services to individuals who need addiction treatment services.

SECTION 488. AMENDMENT. Subsection 3 of section 54-38-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Department" means the department of health and human services.

SECTION 489. AMENDMENT. Paragraph 2 of subdivision b of subsection 1 of section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

(2) General fund appropriations to the department of health and human services for direct care programs.

SECTION 490. AMENDMENT. Section 54-44.3-30 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-30. Agencies subject to merit system.

All personnel employed by the department of health and human services, the regional offices of that department, job service North Dakota, North Dakota human resource management services, ~~the state department of health,~~ department of environmental quality, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system in order to obtain federal grants-in-aid are covered by the merit system provided in this chapter. Merit system coverage must also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the office of management and budget. Other agencies, departments, or divisions and positions must be placed under a merit system in the manner and to the extent required by law.

SECTION 491. AMENDMENT. Section 54-44.3-31 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-31. Political subdivision may request to be exempted from state merit system.

A political subdivision subject to the merit system under this chapter may file a request with the division and the executive director of the department of health and human services to be exempted from the merit system. The request must describe a plan and policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The division and the executive director of the department of health and human services shall authorize the political subdivision plan within sixty days of receiving a request under this section if the plan and policies meet federal requirements. If the division and the executive director of the department of health and human services determine that the proposed plan and policies fail to meet the federal requirements, the division and the executive director shall deny the request and notify the requester of the specific reasons for the denial.

SECTION 492. AMENDMENT. Section 54-44.3-32 of the North Dakota Century Code is amended and reenacted as follows:

54-44.3-32. Political subdivision merit system compliance.

The division and the department of health and human services shall develop oversight and audit procedures for political subdivision merit systems to assure compliance with federal merit system principles. If the division and the department of health and human services determine that a political subdivision has failed to maintain compliance with federal merit system principles, the division and the department shall notify the political subdivision of the noncompliance and order the political subdivision to take corrective action. If a political subdivision does not take the necessary corrective action to comply with federal merit system principles, the division and the department of health and human services shall revoke the political subdivision's exemption from the state merit system and return the political subdivision to the state merit system. The political subdivision is responsible for any penalty assessed by a federal authority for a noncompliant political subdivision merit system.

SECTION 493. AMENDMENT. Subsection 3 of section 54-44.8-03 of the North Dakota Century Code is amended and reenacted as follows:

3. The department of health and human services shall furnish specialized telecommunications equipment to meet the needs of individuals who are communications impaired and who might be otherwise disadvantaged in their ability to obtain such equipment. The department of health and human services shall determine eligibility and may provide the specialized telecommunications equipment to individuals determined eligible within the limits of funding made available to the department of health and human services through gifts and grants received under section 54-44.8-06 and from funding made available by the information technology department from the surcharge collected pursuant to section 54-44.8-08, which are appropriated.

SECTION 494. AMENDMENT. Section 54-44.8-06 of the North Dakota Century Code is amended and reenacted as follows:

54-44.8-06. Gifts and grants.

The department of health and human services may accept contributions and gifts and may apply for and accept grants, in money or otherwise, to the program. Monetary contributions, gifts, and grants must be deposited in the state treasury to be credited to the department of health and human services operating account.

SECTION 495. AMENDMENT. Section 54-46-13 of the North Dakota Century Code is amended and reenacted as follows:

54-46-13. Rules for state and human service zone records - Administrator to adopt.

The administrator shall adopt rules in accordance with chapter 28-32 for state and human service zone records. The rules adopted by the administrator must be consistent with records retention requirements imposed by federal law with respect to those records. The administrator, prior to adoption, amendment, or repeal of rules concerning state and human service zone records, shall consult with the executive director of the department of health and human services.

SECTION 496. AMENDMENT. Subsection 1 of section 54-59-25 of the North Dakota Century Code is amended and reenacted as follows:

1. The health information technology advisory committee consists of the state chief information officer or the chief information officer's designee, the state health officer or the state health officer's designee, the governor or the governor's designee, the executive director of the department of health and human services or the executive director's designee, the chairman of the house human services committee and the chairman of the senate human services committee or if either or both of them are unwilling or unable to serve then the chairman of the legislative management shall appoint a replacement who is a member of the same legislative chamber as the individual being replaced, and individuals appointed by the governor to represent a broad range of public and private health information technology stakeholders. A committee member who is not an ex officio member, designee of an ex officio member, state employee, or legislator is entitled to mileage and expenses as provided by law for state officers and employees, to be paid by the health information technology office. A committee member who is an ex officio member, designee of an ex officio member, state employee, or legislator is

entitled to receive that member's regular salary and receive mileage and expenses, to be paid by the employing agency.

SECTION 497. AMENDMENT. Subdivision i of subsection 2 of section 54-59-26 of the North Dakota Century Code is amended and reenacted as follows:

i. Consult and coordinate with the ~~state~~ department of health and ~~the department of~~ human services to facilitate the collection of health information from health care providers and state agencies for public health purposes, including identifiable health information that may be used by state agencies, departments, or institutions to comply with applicable state or federal laws.

SECTION 498. AMENDMENT. Subdivision g of subsection 1 of section 54-59-33 of the North Dakota Century Code is amended and reenacted as follows:

g. The executive director of the department of health and human services or the director's designee;

SECTION 499. AMENDMENT. Subdivision a of subsection 1 of section 54-60-19 of the North Dakota Century Code is amended and reenacted as follows:

a. Consult with partners in the state's system for workforce development, workforce training, and talent attraction, including job service North Dakota, the department of career and technical education, the superintendent of public instruction, the state board of higher education, the department of health and human services, and other divisions of the department of commerce.

SECTION 500. AMENDMENT. Section 57-38-01.16 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.16. Income tax credit for employment of individuals with developmental disabilities or chronically mentally ill persons.

A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to an employee with a developmental disability or a chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each employee with a developmental disability or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract.

The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter.

SECTION 501. AMENDMENT. Subsection 1 of section 57-38.3-02 of the North Dakota Century Code is amended and reenacted as follows:

1. "Claimant agency" means the department of health and human services, job service North Dakota, workforce safety and insurance, state institutions of higher education, the North Dakota student loan service center, the insurance commissioner, the North Dakota guaranteed student loan program, the industrial commission acting as the state housing finance agency under

chapter 54-17, a housing authority created under section 23-11-02, or the state court administrator on behalf of the state courts for purposes of court-ordered fines, fees, or costs due the state. On or before September first of each year, the state housing finance agency shall conduct an election by mail among housing authorities of the state and certify to the tax commissioner which housing authority received the greatest number of votes and is capable of compliance with the duties of a claimant agency under section 57-38.3-05. During the ensuing calendar year, the housing authority certified as selected under this subsection shall act as the claimant agency for all housing authorities for the purposes of submitting debtor information to the tax commissioner for fund transfers and for providing notice to the debtor as required by section 57-38.3-05.

SECTION 502. AMENDMENT. Subsection 3 of section 57-38.3-04 of the North Dakota Century Code is amended and reenacted as follows:

3. A claim made by any child support unit of the department of health and human services has priority in setting off any refund. Other claims rank by date of certification under section 57-38.3-05 in the office of the commissioner with the claim earlier certified having priority.

[274] **SECTION 503. AMENDMENT.** Subsection 24 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

24. Gross receipts from all sales when made to an eligible facility or emergency medical services provider for the use or benefit of its patient or occupant. For the purposes of this subsection:

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

    b. "Emergency medical services provider" means an emergency medical services operation licensed by the ~~state~~ department of health and human services under chapter 23-27.

[275] **SECTION 504. AMENDMENT.** Subdivision f of subsection 4 of section 57-40.6-10 of the North Dakota Century Code is amended and reenacted as follows:

f. Dispatch the emergency medical service that has been determined to be the quickest to arrive to the scene of medical emergencies regardless of city, county, or district boundaries. The ~~state~~ department of health and human services shall provide public safety answering points with the physical locations of the emergency medical services necessary for the implementation of this subdivision.

SECTION 505. AMENDMENT. Section 57-63-03 of the North Dakota Century Code is amended and reenacted as follows:

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[274] Section 57-39.2-04 was also amended by section 1 of House Bill No. 1351, chapter 472, section 1 of Senate Bill No. 2152, chapter 471, and section 4 of Senate Bill No. 2226, chapter 199.

[275] Section 57-40.6-10 was also amended by section 5 of House Bill No. 1206, chapter 479, and section 6 of House Bill No. 1206, chapter 479.

57-63-03. Basis of assessment.

Every year beginning July first, each intermediate care facility for individuals with intellectual disabilities must be assessed a quarterly rate per licensed bed as of the first day of each quarter. The quarterly rate may not exceed a rate calculated by the department of health and human services as an annual aggregate of gross revenues as of December thirty-first of the preceding year for all intermediate care facilities for individuals with intellectual disabilities, multiplied by one and one-half percent, and divided by licensed beds as of December thirty-first of the preceding year.

SECTION 506. AMENDMENT. Subdivision n of subsection 2 of section 59-09-02 of the North Dakota Century Code is amended and reenacted as follows:

n. A trust managed by a nonprofit association for disabled individuals under 42 U.S.C. 1396p(d)(4), as in effect on the effective date of chapters 59-09, 59-10, 59-11, 59-12, 59-13, 59-14, 59-15, 59-16, 59-17, 59-18, and 59-19 and under the rules adopted by the department of health and human services.

[276] **SECTION 507. AMENDMENT.** Section 61-38-03 of the North Dakota Century Code is amended and reenacted as follows:

61-38-03. Permits - Certification from ~~state~~ department of health and human services required. (Contingent effective date - See note)

The state engineer may not issue a permit under this chapter without a certification from the ~~state~~ department of health and human services that the permitted activity will not adversely affect water quality.

[277] **SECTION 508. AMENDMENT.** Paragraph 3 of subdivision a of subsection 16 of section 65-01-02 of the North Dakota Century Code is amended and reenacted as follows:

(3) Human service zone general assistance workers, except those who are engaged in repaying to human service zones or the department of health and human services moneys the human service zones or the department of health and human services have been compelled by statute to expend for general assistance.

SECTION 509. AMENDMENT. Section 65-05.1-06.3 of the North Dakota Century Code is amended and reenacted as follows:

65-05.1-06.3. Rehabilitation services pilot programs - Reports.

The organization may implement a system of pilot programs to allow the organization to assess alternative methods of providing rehabilitation services. A pilot program may address one or more of the organization's comprehensive rehabilitation services, including vocational, medical, psychological, economic, and social rehabilitation services. The goal of a pilot program must be to improve the outcome of the rehabilitation services offered by the organization to assist the injured employee in making adjustments necessitated from the employee's injury and to improve the

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[276] Section 61-38-03 was also amended by section 214 of House Bill No. 1353, chapter 488.

[277] Section 65-01-02 was also amended by section 1 of House Bill No. 1084, chapter 500, and section 1 of Senate Bill No. 2148, chapter 501.

effectiveness of vocational rehabilitation services in returning an employee to substantial gainful employment. Notwithstanding laws to the contrary, a pilot program may address a broad range of approaches, including collaborative efforts between the organization and the injured employee through which there are variances from the rehabilitation services hierarchy; return-to-work trial periods during which cash benefits are suspended; intensive job search assistance; recognition of and focused services for injured employees who are at risk; and coordination of services of public and private entities. If a pilot program utilizes coordination of services of other state agencies, such as job service North Dakota, department of health and human services, North Dakota university system, or department of public instruction, the organization shall consult with the state agency in establishing the relevant portions of the pilot program and the state agency shall cooperate with the organization in implementing the pilot program. The organization shall provide status reports on current pilot programs in accordance with section 65-01-19.

SECTION 510. LEGISLATIVE INTENT. It is the intent of the sixty-seventh legislative assembly that:

1. Effective September 1, 2022, the state department of health merge into the department of human services and both agencies be called the department of health and human services;

2. Effective September 1, 2022, the state department of health, including the state health officer, fall under the authority of the executive director of the department of human services, now known as the executive director of the department of health and human services;

3. During the 2021-23 biennium, the executive director of the former department of human services review and reorganize the structure of the former department of human services to incorporate the former state department of health and to find efficiencies in the newly formed department of health and human services;

4. The newly formed department of health and human services is not required to reduce the full-time equivalent positions of the former state department of health and department of human services;

5. The office of management and budget transfer the state department of health's appropriation into the department of human services appropriation for the period beginning September 1, 2022, and ending June 30, 2023;

6. Section 1 of Senate Bill No. 2004, as approved by the sixty-seventh legislative assembly, shall transfer into subdivisions 1 and 2 of section 1 of House Bill No. 1012, as approved by the sixty-seventh legislative assembly, for the period beginning September 1, 2022, and ending June 30, 2023;

7. The combined budget of the department of human services and state department of health be referred to the budget of the department of health and human services; and

8. Department of health and human services is to be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the state department of health.

SECTION 511. LEGISLATIVE MANAGEMENT REPORT - MERGER OF STATE DEPARTMENT OF HEALTH INTO DEPARTMENT OF HUMAN SERVICES. During

the 2021-22 interim, the state health officer and the executive director of the department of human services, and then the executive director of the department of health and human services, shall provide periodic reports to the legislative management regarding the status of the merger of the state department of health into the department of human services. The reports must include information regarding any agency structural changes identified, any efficiencies identified with the merger, and whether legislation is required to implement identified structural changes or efficiencies.

SECTION 512. APPLICATION. Upon the effective date of this Act, the state department of health and the department of human services, and then the department of health and human services, shall begin the process of identifying efficiencies and unification of services and administration which will result from the merger of the state department of health into the department of human services.

SECTION 513. EFFECTIVE DATE. Sections 1 through 509 of this Act become effective on September 1, 2022.

Approved April 27, 2021

Filed April 28, 2021

CHAPTER 353

SENATE BILL NO. 2086

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

AN ACT to create and enact a new section to chapter 50-01.1 of the North Dakota Century Code, relating to gifts and donations received by human service zones; to amend and reenact sections 11-16-01, 11-16-06, 11-23-01, 14-09-06.3, 14-09-06.4, 14-15-09, 14-15-11, 50-01.1-01, 50-01.1-04, 50-01.1-08, 50-01.2-01, 50-01.2-05, 50-06-05.8, 50-12-08, 50-33-01, 50-33-02, 50-35-01, 50-35-02, 50-35-03, 50-35-04, 50-35-05, and 50-35-07 of the North Dakota Century Code, relating to the operation and financing of human service zones; to repeal chapter 50-11.2 of the North Dakota Century Code, relating to foster care parent grievance; to provide for legislative management reports; to provide for a legislative management study; to provide for the transfer of employees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[278] **SECTION 1. AMENDMENT.** Section 11-16-01 of the North Dakota Century Code is amended and reenacted as follows:

11-16-01. Duties of the state's attorney.

1. The state's attorney is the public prosecutor, and shall:

~~1.~~ a. Attend the district court and conduct on behalf of the state all prosecutions for public offenses.

~~2.~~ b. Institute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of public offenses when the state's attorney has information that such offenses have been committed, and for that purpose, when the state's attorney is not engaged in criminal proceedings in the district court, the state's attorney shall attend upon the magistrates in cases of arrests when required by them except in cases of assault and battery and petit larceny.

~~3.~~ c. Attend before, and give advice to, the grand jury whenever cases are presented to it for consideration.

~~4.~~ d. Draw all indictments and informations.

~~5.~~ e. Defend all suits brought against the state or against the county.

~~6.~~ f. Prosecute all bonds forfeited in the courts of record of the county and prosecute all actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or to the county.

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[278] Section 11-16-01 was also amended by section 1 of House Bill No. 1035, chapter 245, and section 9 of House Bill No. 1247, chapter 352.

~~7.~~ g. Deliver duplicate receipts for money or property received in the state's attorney's official capacity and file copies thereof with the county auditor.

~~8.~~ h. On the first Monday of January, April, July, and October in each year, file with the county auditor an account, verified by the state's attorney's oath, of all money received by the state's attorney in an official capacity in the preceding three months, and at the same time, pay it over to the county treasurer.

~~9.~~ i. Give, when required and without fee, the state's attorney's opinion in writing to the county, district, township, and school district officers on matters relating to the duties of their respective offices.

~~10.~~ j. Keep a register of all official business in which must be entered a note of each action, whether civil or criminal, prosecuted officially, and of the proceedings therein.

~~11.~~ k. Act as legal adviser of the board of county commissioners, attend the meetings thereof when required, and oppose all claims and actions presented against the county which are unjust or illegal.

~~12.~~ l. Institute an action in the name of the county to recover any money paid upon the order of the board of county commissioners without authority of law as salary, fee, or for any other purpose, or any money paid on a warrant drawn by any officer to that officer's own order or in favor of any other person without authorization by the board of county commissioners or by law.

~~13.~~ m. Institute an action in the name of the county to restrain the payment of any money described in any order or warrant of the kind described in subsection 13 when the state's attorney secures knowledge of such order or warrant before the money is paid thereon.

~~14.~~ n. Assist the district court in behalf of the recipient of payments for child support or spousal support combined with child support in all proceedings instituted to enforce compliance with a decree or order of the court requiring such payments.

~~15.~~ o. Institute proceedings under chapter 25-03.1 if there is probable cause to believe that the subject of a petition for involuntary commitment is a person requiring treatment.

~~16.~~ p. Institute and defend proceedings under sections 14-09-12 and 14-09-19 and chapters 14-15, 27-20, 27-20.1, and 50-01 upon consultation with the human service zone director or the executive director of the department of human services.

~~17.~~ q. Act as the legal advisor and represent a human service zone as set forth in a plan approved under section 50-01.1-03. The state's attorney within the human service zone, by way of agreement, shall designate a singular state's attorney's office, within or outside the human service zone, to act as legal advisor of the human service zone. The host county state's attorney shall serve as the legal advisor if no agreement is reached. The agreement may not limit a state's attorney's individual discretion in court filings and representation.

~~18.~~ r. Act as the legal advisor and represent the human service zone regarding employer actions, including grievances and appeals, taken against the human service zone team member. The state's attorney of the county by which the human service zone team member is employed shall act as the legal advisor of the human service zone, unless a different agreement is established by the affected state's attorney.

2. The state's attorney ~~shall~~may not require any order of the board of county commissioners to institute an action under subdivision l or m of subsection ~~12 or 13~~1.

SECTION 2. AMENDMENT. Section 11-16-06 of the North Dakota Century Code is amended and reenacted as follows:

11-16-06. Failure of state's attorney to perform duty - Power of court - Appointment of acting state's attorney.

If it shall appear, by affidavit or otherwise, to the satisfaction of a judge of the district court of the judicial district in which the county is situated, that the county has no state's attorney, or that the state's attorney is absent or unable to attend to the state's attorney's duties, or that the state's attorney has refused or neglected to perform any of the duties prescribed in ~~subsections 2 through 6~~subdivisions b through f of subsection 1 of section 11-16-01, or to institute any civil suit to which the state or the county is a party after the matter has been properly brought to the attention of such state's attorney, and that it is necessary that some act be performed, the judge shall:

1. Request the attorney general or an assistant attorney general to take charge of such prosecution or proceeding; or

2. Appoint an attorney to take charge of such prosecution or proceeding and fix the attorney's fee therefor by an order entered upon the minutes of the court, and the attorney so appointed shall be vested with the powers of the state's attorney for the purposes of that action, but for no other purpose, and shall be the only person authorized to proceed in such action. The fee specified in the order shall be allowed by the board of county commissioners and, if so ordered by the court, the amount of such fee shall be deducted from the salary of the state's attorney.

[279] **SECTION 3. AMENDMENT.** Section 11-23-01 of the North Dakota Century Code is amended and reenacted as follows:

11-23-01. Officers required to furnish commissioners with departmental budget.

1. Every officer in charge of any institution, office, or undertaking supported wholly or in part by the county shall file with the board of county commissioners a departmental budget that is prescribed by the state auditor. The departmental budget must include an itemized statement of the estimated amount of money that will be required for the maintenance, operation, or improvement of the institution, office, or undertaking for the ensuing year. The board of county commissioners may require additional information to clarify the departmental budget.

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[279] Section 11-23-01 was also amended by section 13 of House Bill No. 1247, chapter 352.

2. a. The departmental budget submitted by the human service zone may not exceed an amount determined by the department of human services and the human service zone director pursuant to section 50-35-04 and must include the county's cost allocation of indirect costs based on ~~a formula~~an amount established by the department of human services.

   b. The county share of the human service zone's indirect costs must be funded entirely from the county's general fund.

   c. The department of human services shall develop a process to review a request from a human service zone for any proposed increase in staff. As part of its review process, the department of human services shall review pertinent factors, which may include caseload information. If the department of human services approves a request for a proposed increase in staff, the human service zone budget may be increased by the amount determined necessary by the department of human services to fund the approved additional staff. The human service zone director shall submit the proposed increase in staff to the human service zone board for review. The human service zone director shall work with the department to achieve equitable compensation and salary increases for all human service zone team members within the human service zone. The human service zone director shall notify appropriate host county staff of all staffing changes for administrative purposes.

3. For purposes of this section, "host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

SECTION 4. AMENDMENT. Section 14-09-06.3 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.3. Custody investigations and reports - Costs.

1. In contested proceedings dealing with parental rights and responsibilities the court, upon the request of either party, or, upon its own motion, may order an investigation and report concerning parenting rights and responsibilities regarding the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the human service zone, public health officer, school officials, and any other public agency or private practitioner the court deems qualified to make the investigation.

2. The investigator may consult any person who may have information about the child and any potential arrangements for parenting rights and responsibilities, and upon order of the court may refer the child to any professional personnel for diagnosis.

3. The court shall mail the investigator's report to counsel and to any party not represented by counsel at least thirty days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom the investigator has consulted for cross-examination at the hearing. A party may not waive the party's right of cross-examination before the hearing.

4. The court shall enter an order for the costs of any such investigation against either or both parties, except that if the parties are indigent the expenses must be borne by the ~~human service zone~~county where the child resided at the time the action was commenced or if a modification of parental rights and responsibilities, at the time the motion to modify is served.

SECTION 5. AMENDMENT. Section 14-09-06.4 of the North Dakota Century Code is amended and reenacted as follows:

14-09-06.4. Appointment of guardian ad litem or investigator for child in proceedings involving parental rights and responsibilities - Immunity.

In any action for an annulment, divorce, legal separation, or other action affecting marriage, when either party has reason for special concern as to the future of the minor child, and in any action when the parenting rights and responsibilities concerning the child is contested, either party to the action may petition the court for the appointment of a guardian ad litem to represent the child concerning parenting rights and responsibilities. The court may appoint a guardian ad litem or investigator on its own motion. If appointed, a guardian ad litem shall serve as an advocate of the child's best interests. If appointed, the investigator shall provide those services as prescribed by the supreme court. The court may direct either or both parties to pay the guardian ad litem or investigator fee established by the court. If neither party is able to pay the fee, the court may direct the fee to be paid, in whole or in part, by the ~~human service zone~~county where the child resided at the time the action was commenced. The court may direct either or both parties to reimburse the ~~human service zone~~county, in whole or in part, for such payment. Any guardian ad litem or investigator appointed under this section who acts in good faith in making a report to the court is immune from any civil liability resulting from the report. For the purpose of determining good faith, the good faith of the guardian ad litem or investigator is a disputable presumption.

SECTION 6. AMENDMENT. Section 14-15-09 of the North Dakota Century Code is amended and reenacted as follows:

14-15-09. Petition for adoption.

1. A petition for adoption must be signed and verified by the petitioner, filed with the clerk of the court, and state:

   a. The date and place of birth of the individual to be adopted, if known.

   b. The name to be used for the individual to be adopted.

   c. The date petitioner acquired custody or date of placement of the minor and the name of the individual placing the minor.

   d. The full name, age, place, and duration of residence of the petitioner.

   e. The marital status of the petitioner, including the date and place of marriage, if married.

   f. That the petitioner has facilities and resources, including those available under a subsidy agreement, suitable to provide for the nurture and care of the minor to be adopted, and that it is the desire of the petitioner to establish the relationship of parent and child with the individual to be adopted.

g. A description and estimate of value of any property of the individual to be adopted.

h. The name of any individual whose consent to the adoption is required, but who has not consented, and facts or circumstances which excuse the lack of the individual's consent normally required to the adoption.

i. The department ~~and a human service zone~~ as ~~respondents~~respondent.

j. The human service zone as respondent if the minor to be adopted is in the custody of the human service zone.

k. That the petitioner's expenses were reasonable as verified by the court. Reasonable fees may be charged for professional services and living expenses if reflected in a report of agreements and disbursements filed under this chapter and approved by the court. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption. Reasonable fees may include:

(1) Preplacement counseling, adoption assessment, placement of the child, foster care, or other preadoption services, which must be paid directly to the provider of the services;

(2) Legal fees relating to the petition for relinquishment or adoption, that must be paid directly to the provider of the services;

(3) Medical expenses relating to prenatal care and the birth of the child, that are not already covered by health insurance;

(4) Expenses for transportation, meals, and lodging incurred for placement of the child or in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement; and

(5) Living expenses of the birth mother which are needed to maintain an adequate standard of living, which the birth mother is unable to otherwise maintain because of loss of income or other support resulting from the pregnancy.

(a) The payments may cover expenses incurred during the pregnancy-related incapacity but not for a period longer than six weeks following the delivery, unless the court determines within the six-week period that the birth mother is unable to be employed due to physical limitations relating to the birth of the child.

(b) Living expenses do not include expenses for lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.

2. A certified copy of the birth certificate or verification of birth record of the individual to be adopted, if available, and the required consents and relinquishments must be filed with the clerk.

3. Any individual filing a petition shall pay to the clerk of court a filing fee as prescribed in subsection 1 of section 27-05.2-03.

[280] **SECTION 7. AMENDMENT.** Section 14-15-11 of the North Dakota Century Code is amended and reenacted as follows:

14-15-11. Notice of petition - Investigation and hearing.

1. a. After the filing of a petition to adopt a minor, the court shall fix a time and place for hearing the petition. At least twenty days before the date of hearing, notice of the filing of the petition and of the time and place of hearing must be given by the petitioner to the department and <u>if the minor to be adopted is in the custody of the human service zone to the</u> human service zone; any agency or individual whose consent to the adoption is required by this chapter but who has not consented; an individual whose consent is dispensed with upon any ground mentioned in subdivisions a, b, f, h, i, and j of subsection 1 of section 14-15-06 but who has not consented; and any individual identified by the court as a biological parent or a possible biological parent of the minor, upon making inquiry to the extent necessary and appropriate, as in proceedings under section 27-20-45, unless the individual has relinquished parental rights or the individual's parental rights have been previously terminated by a court. The notice to the department and <u>if the minor to be adopted is in the custody of the human service zone to the</u> human service zone must be accompanied by a copy of the petition.

   b. Notice of the filing of a petition to adopt an adult must be given by the petitioner at least twenty days before the date of the hearing to each living parent of the adult to be adopted.

2. An investigation must be made by a licensed child-placing agency to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.

3. A written report of the investigation must be filed with the court by the investigator before the petition is heard.

4. The report of the investigation must contain a review of the child's history; a preplacement adoption assessment of the petitioner, including a criminal history record investigation of the petitioner; and a postplacement evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

5. An investigation and report is not required in cases in which a stepparent is the petitioner or the individual to be adopted is an adult. The department and human service zone, when required to consent to the adoption, may give consent without making the investigation. If the petitioner is a relative other than a stepparent of the minor, the minor has lived with the petitioner for at least nine months, no allegations of abuse or neglect have been filed against the petitioner or any member of the petitioner's household, and the court is satisfied that the proposed adoptive home is appropriate for the minor, the court may waive the investigation and report required under this section.

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[280] Section 14-15-11 was also amended by section 7 of House Bill No. 1035, chapter 245.

6. The department and human service zone, when required to consent to the adoption, may request the licensed child-placing agency to conduct further investigation and to make a written report thereof as a supplemental report to the court.

7. After the filing of a petition to adopt an adult, the court by order shall direct that a copy of the petition and a notice of the time and place of the hearing be given to any individual whose consent to the adoption is required but who has not consented and to each living parent of the adult to be adopted. The court may order an appropriate investigation to assist it in determining whether the adoption is in the best interest of the individuals involved.

8. Notice must be given in the manner appropriate under the North Dakota Rules of Civil Procedure for the service of process in a civil action in this state or in any manner the court by order directs. Proof of the giving of the notice must be filed with the court before the petition is heard.

[281] **SECTION 8. AMENDMENT.** Section 50-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-01. Definitions.

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

1. "Department" means the department of human services.

2. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.

3. "Host county" means the county within the human service zone in which the human service zone administrative office is located and in which the human service zone team members are employed.

~~3.~~4. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~4.~~5. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.

~~5.~~6. "Human service zone team member" means a county employee who is responsible for administering or delivering human services under the direction of the human service zone director.

~~6.~~7. "Human services" means:

a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, locally administered economic assistance programs, medical service programs,

[281] Section 50-01.1-01 was also amended by section 379 of House Bill No. 1247, chapter 352.

and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.

c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.

~~7.~~8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. ~~These~~Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

~~8.~~9. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone office and include:

a. Temporary assistance for needy families;

b. Employment and training programs;

c. Child care assistance programs;

d. Medical assistance, including early periodic screening, diagnosis, and treatment;

e. Supplemental nutrition assistance programs, including employment and training programs;

f. Refugee assistance programs;

g. Basic care services;

h. Energy assistance programs; and

i. Information and referral.

SECTION 9. AMENDMENT. Section 50-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-04. Plan - Financing - Human service zone board.

1. A plan for the creation of a human service zone must describe the method of operation of the human service zone office, its administration, its location and the location of any ancillary offices, the disbursements from public funds, and the accountability for funds and manner of reporting receipts and disbursements. The plan must provide for the distribution of property owned by each of the county agencies affected by the consolidation and for the

method of resolution of any disagreement between the boards of county commissioners involved in the human service zone or between the governing board and one or more boards of county commissioners. The plan must also require the participating counties to participate in the indirect cost allocation plan. The plan, once approved, may be continued for a definite term or until rescinded, terminated, or modified by the department through a process developed by the department.

2. The human service zone director shall prepare a proposed budget for the human service zone at the time and in the manner as requested by the department and shall submit the department-approved proposed budget to the board of county commissioners of each county in the human service zone for review. The board of county commissioners may not take any action to amend or modify the amount approved by the department. The board of county commissioners may make recommendations to the human service zone director and the department to amend or modify the amount proposed or budgeted. The amount budgeted must be sufficient to defray the anticipated expenses of administration and the delivery of human services. Within ten days following review of the proposed budget by the boards of county commissioners, the human service zone director shall certify the budget to the respective county auditors of the counties in the district. Each board of county commissioners also shall budget and approve amounts sufficient to defray that county's anticipated indirect costs of the human service zone. Indirect costs of the human service zone may not become direct costs without written approval of the department. The amounts budgeted, reviewed, and approved by the several boards of county commissioners or the department, or both must be periodically deposited with the treasurer of the host county in which the human service zone office is located and must be placed in a special human service zone human services fund. The human service zone's income must be deposited into the human service zone human services fund by the treasurer of the host county. The human service zone board shall establish procedures for the review and approval of all claims against the human service zone human services fund. The human service zone director or designee shall approve or ratify all claims against the human service zone human services fund. The county treasurer of the host county, shall pay approved or ratified claims from the human service zone human services fund. Unexpended human service zone human services funds remaining at the end of a fiscal year may be carried over to the next fiscal year pursuant to section 50-35-05. The department may recalculate and adjust each human service zone's ~~formula~~ payment ~~biannually~~ based on pertinent factors, which include actual expenditures over the prior or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload.

SECTION 10. AMENDMENT. Section 50-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

50-01.1-08. Standards of administration - Action upon failure to administer.

1. The department shall adopt standards for administration for human services and shall provide training for the implementation of those standards. Each human service zone shall provide for administration of human services that meet those standards.

2. The department shall develop a system of progressive discipline to address performance issues within the human service zone. The system shall reserve

the most serious actions for severe or chronic failure to meet the standards adopted under subsection 1.

3. The department shall provide ongoing performance notifications to the human service zone board and human service zone director related to the overall compliance with the standards of administration.

4. If a human service zone fails to provide for administration of human services that meet the standards adopted under subsection 1, the department may take any of the following actions:

   a. Provide training to the persons responsible for administration.

   b. Require the human service zone to prepare and implement a corrective action plan.

   c. Terminate or modify a human service zone, agreement, or plan which may include requiring the reconstituting of the human service zone board or rehiring of a human service zone director as part of a new or modified agreement or plan.

   d. Recalculate and adjust the human service zone's ~~formula~~ payments.

   e. Recommend disciplinary action to the human service zone director or the human service zone board.

SECTION 11. A new section to chapter 50-01.1 of the North Dakota Century Code is created and enacted as follows:

Human service zones accepting gifts and donations.

A human service zone shall secure, hold, and administer for the purpose for which the human service zone is established any property and any funds donated to the human service zone either by will or deed, or otherwise, or through court order or otherwise available to the human service zone, and to administer the funds or property in accordance with the instructions in the instrument creating the funds or property or in accordance with the instructions in the court order or otherwise. Property and funds received by a human service zone under this section are not considered income to the human service zone.

SECTION 12. AMENDMENT. Section 50-01.2-01 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-01. Human service zone board - Members - Qualifications.

The board of county commissioners of each county within the human service zone shall appoint the appointed members of the human service zone board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. Appointed members of the human service zone board must consist of local elected officials and other key community partners. ~~Each~~If a human service zone consists of two or more counties, each county must be represented on the human service zone board by ~~at least~~only one county commissioner of that county. If a human service zone consists of a single county, the county must be represented on the human service zone board by no more than two county commissioners of that county and the human service zone board must have at least five appointed members. Appointed members shall elect a vice presiding officer

and appoint a secretary, and other officers as the human service zone board determines necessary. The human service zone director shall serve as presiding officer of the human service zone board as a nonappointed member.

SECTION 13. AMENDMENT. Section 50-01.2-05 of the North Dakota Century Code is amended and reenacted as follows:

50-01.2-05. Actions and proceedings - Duty of state's attorney.

Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance or general assistance must be brought by or against the county in its corporate name ~~or~~, human service zone, or department. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01. The department may institute and conduct or defend any and all actions or proceedings that may be instituted under section 50-01-21.

SECTION 14. AMENDMENT. Section 50-06-05.8 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.8. Department to assume costs of human services.

The department shall pay each human service zone's expenses for administering human services for calendar years after December 31, 2019, based on the ~~formula~~ payment amount calculated for each human service zone under chapter 50-35. The executive director of the department shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county or human service zone, or for a new service or program based on federal or state law.

[282] **SECTION 15. AMENDMENT.** Section 50-12-08 of the North Dakota Century Code is amended and reenacted as follows:

50-12-08. Child must be placed in suitable home - ~~Department~~Human service zone may remove child.

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the ~~department of~~ human ~~services~~service zone is satisfied that a child has been placed in an unsuitable home, the ~~department~~human service zone shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the ~~department~~human service zone. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the ~~department shall refer the child to the county social service board of the county in which the child has legal settlement. The county social service board~~human service zone shall make immediate arrangements~~, subject to the approval of the department,~~ for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

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[282] Section 50-12-08 was also amended by section 435 of House Bill No. 1247, chapter 352.

[283] **SECTION 16. AMENDMENT.** Section 50-33-01 of the North Dakota Century Code is amended and reenacted as follows:

50-33-01. Definitions.

For the purposes of this chapter:

1. "Allowable activities" means paid work, job search, attending job training or an education program, any activity in the job opportunity and basic skills program, transportation time related to the activities, temporary illness or incapacity of a current recipient, and temporary illness of the child.

2. "Approved relative" means an individual provider related to a child in that provider's care by marriage, blood, or court decree as a grandparent, step-grandparent, great grandparent, step-great grandparent, aunt, step-aunt, uncle, step-uncle, sibling, or step-sibling, who has been approved to care for specific children in the provider's own home, but does not mean a sibling provider who resides in the home of a child in that provider's care.

3. "Caretaker" means a child's biological or adoptive parent, the spouse of the child's biological or adoptive parent, or an individual acting in the stead of a child's parent at the request of the parent or another with authority to make the request, but does not mean a provider.

4. "Child care assistance unit" means all members of the caretaker's immediate household, including a child through the month of that child's nineteenth birthday, and any parent or stepparent of a child, including an acknowledged or adjudicated father of one or more children in the household, but does not mean any other person who is not acting in the stead of a parent, a child who is nineteen years of age or older, a child for whom the household receives foster care payments, or a minor parent of a child in the household unless the minor parent also requires child care or is incapable of caring for the child.

5. "Child care center" has the meaning provided in chapter 50-11.1.

6. ~~"County agency" means any county social services office.~~

~~7.~~ "Department" means the department of human services.

~~8.~~7. "Family child care" has the meaning provided in chapter 50-11.1.

~~9.~~8. "Group child care" has the meaning provided in chapter 50-11.1.

9. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

10. "Provider" means an individual who is eighteen years of age or older, licensed as a provider in a family child care, group child care, or child care center, with a self-declaration as a provider of early childhood services who requires no license, registered as a child care provider by a tribal entity, or an approved relative, who meets criteria established by the jurisdiction with authority to regulate child care services.

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[283] Section 50-33-01 was also amended by section 480 of House Bill No. 1247, chapter 352.

11. "Recipient" means an individual who is receiving child care assistance.

12. "Tribal entity" means an organization authorized by the government of an Indian tribe within North Dakota to license, register, or otherwise recognize a child care provider operating within the jurisdiction of that Indian tribe.

13. "Work":

    a. Means any paid employment and any self-employment providing commensurate income; and

    b. Does not mean any unpaid activity except:

        (1) With respect to a caretaker who is involved in job opportunity and basic skills or tribal native employment works required by temporary assistance for needy families, any approved activity for the program; and

        (2) When a state has been determined to have a major disaster, activity by an individual who is residing in the disaster area and involved in unpaid work activities, including the cleaning, repair, restoration, and rebuilding of homes, businesses, and schools.

SECTION 17. AMENDMENT. Section 50-33-02 of the North Dakota Century Code is amended and reenacted as follows:

50-33-02. Child care assistance - Application for benefits - Applicant's duty to establish eligibility - Decisions - Rules.

1. An individual desiring child care assistance or an individual seeking assistance on behalf of another individual may apply for child care assistance. An applicant shall submit a request for child care assistance in writing to a ~~county agency~~human service zone on a form prescribed by the department. The applicant shall complete, sign, and date the application. Eligibility begins on the first day of the month in which a signed and dated application is received by the ~~county agency~~human service zone. Eligibility may begin on the first day of the month prior to the month in which a signed and dated application is received by the ~~county agency~~human service zone, if the applicant requests child care assistance for that month and demonstrates eligibility in that month.

2. The applicant shall provide information sufficient to establish the eligibility of each individual for whom assistance is requested, including the age, verification of relative relationship, citizenship or resident alien status of the children, verification of participation in an allowable activity, and financial eligibility.

3. An eligibility decision must be made within thirty days on child care assistance applications whenever possible. The ~~county agency~~human service zone shall notify the applicant following a determination of eligibility or ineligibility.

4. The department shall establish rules for the administration of the child care assistance program, including rules on income requirements, appeals of eligibility determinations for child care assistance, closure of a child care assistance case, and a sliding scale fee schedule for child care assistance

benefits and to establish and enforce standards against program fraud and abuse.

[284] **SECTION 18. AMENDMENT.** Section 50-35-01 of the North Dakota Century Code is amended and reenacted as follows:

50-35-01. Definitions.

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

1. "Department" means the department of human services.

2. "Director" means the executive director of the department or the executive director's designee.

3. "Direct costs" means costs that are charged directly to the human service zone human service fund. Direct costs are costs related directly to human service zone team members or human service zone services, including compensation, fringe benefits, and operating costs that are not identified by the department as an indirect cost.

4. "Economic assistance" means those primary economic assistance programs that need to be accessible to all citizens of the state through a human service zone, including:

   a. Temporary assistance for needy families;

   b. Employment and training programs;

   c. Child care assistance programs;

   d. Medical assistance, including early periodic screening, diagnosis, and treatment;

   e. Supplemental nutrition assistance programs, including employment and training programs;

   f. Refugee assistance programs;

   g. Basic care services;

   h. Energy assistance programs; and

   i. Information and referral.

~~4.~~5. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~5.~~6. "Human service zone director" means a human service zone team member who oversees the human service zone's operation and budget and serves as presiding officer of the human service zone board.

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[284] Section 50-35-01 was also amended by section 481 of House Bill No. 1247, chapter 352.

~~6.~~7. "Human services" means:

a. A service or assistance provided to an individual or an individual's family in need of services or assistance, including child welfare services, economic assistance programs, medical service programs, and aging service programs, to assist the individual or the individual's family in achieving and maintaining basic self-sufficiency, including physical health, mental health, education, welfare, food and nutrition, and housing.

b. A service or assistance provided, administered, or supervised by the department in accordance with chapter 50-06.

c. Licensing duties as administered or supervised by the department or delegated by the department to a human service zone.

~~7.~~8. "Indirect costs" means salaries, benefits, and operating costs incurred in providing those goods and services to support human services that are generally available for the common benefit of multiple county agencies which are not identified by the department as a direct cost. ~~These~~Indirect costs include legal representation; facilities and related costs, such as utilities and maintenance; administrative support, including payroll, accounting, banking, and coordination; information technology support and equipment; and miscellaneous goods and services, such as transportation, supplies, insurance coverage, phone, and mail services.

SECTION 19. AMENDMENT. Section 50-35-02 of the North Dakota Century Code is amended and reenacted as follows:

50-35-02. State-paid human services - Application - Study - Report to legislative management.

1. The department shall administer a statewide program for state funding of staffing and administrative costs related to the administration of human services.

2. Payments must be distributed to human service zones and the department pursuant to ~~the formula in~~ section 50-35-04, with the first ~~formula~~ payment distributions commencing in January 2020.

3. Human service zones shall cooperate with the department to adopt administrative and operational cost-savings methodologies and determine options for consolidations. Human service zones shall implement the administrative and operational cost-savings methodologies and consolidations.

4. During the ~~2019-20~~2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall ~~consider options~~develop a process for allowing a human service zone to opt in to state employment. The ~~study~~process must identify under what conditions and factors a transition to state employment may or may not be desirable for a human service zone and the department; outline the governance process for choosing to opt in to state employment, including a description of the role of the human service zone board, county commissions, and the department; and include a template and potential timeline for any zone choosing to make the transition to state employment. Before August 1, 2022, the department shall report to the legislative management the process developed for allowing a

human service zone to opt in to state employment. The transition to state employment is contingent on the approval from the legislative assembly.

5. During the 2021-22 interim, the department, with assistance from the North Dakota association of counties and human service zone directors, shall study indirect costs. The study must identify a plan defining the process to calculate payment for indirect costs. The department shall provide regular updates to the legislative management on the progress of the study. Before August 1, 2022, the department shall report to the legislative management the process developed to calculate payment for indirect costs.

SECTION 20. AMENDMENT. Section 50-35-03 of the North Dakota Century Code is amended and reenacted as follows:

50-35-03. ~~Formula payments~~Payments - Distributions by the director.

1. The director shall calculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for each calendar year. The director shall notify each human service zone of the estimated amount of that zone's ~~formula~~ payment ~~for calendar year 2020, before December 16, 2019, and~~ for calendar year 2021 and the following years thereafter, before ~~June second~~July first of the previous year. The director may amend and modify each human service zone's ~~formula~~ payment. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification.

2. The director shall distribute fifty percent of the amount of each human service zone's ~~formula~~ payment determined under subsection 1, within the limits of legislative appropriation, before January eleventh.

3. By June first of each year, ~~excluding calendar year 2019,~~ the director shall recalculate the total ~~formula~~ payment for each human service zone pursuant to section 50-35-04 for the current calendar year.

4. ~~For payments disbursed after calendar year 2020, the~~The director shall subtract from a human service zone's June fifteenth disbursement any amount exceeding the limitation under section 50-35-05.

5. The director shall calculate the total ~~formula~~ payment for the department pursuant to section 50-35-04.

SECTION 21. AMENDMENT. Section 50-35-04 of the North Dakota Century Code is amended and reenacted as follows:

50-35-04. Calculation of ~~formula~~ payment - Expenditures.

1. The director shall calculate, in collaboration with the human service zone director or designee, the total ~~formula~~ payment for each human service zone. The calculation must be based on the human service zone's most recently available data on historical cost and income, and may include:

   a. Other factors outlined in subsection 3;

   b. The human service zone director's proposed budget for the human service zone which may include expansion of scope of human services to include kinship care services and payments and services in response to the

federal Family First Prevention Services Act as part of the Bipartisan Budget Act of 2018 [Pub. L. 115-123];

c. Compensation equity and salary increases. The department may limit future salary increases for human service zone team members ~~who received a salary increase from the county commissioners or county social service board for calendar year 2018 or 2019 which was above~~to the salary increase provided by the legislative assembly for state employees ~~or who receive a wage above equitable compensation~~; and

d. Current and future duties of and services offered by the human service zone and department.

2. The director shall authorize expenditures from the human service finance fund to reimburse the department for the department's costs of providing human services that historically have been provided by a county, human service zone, or a new service or program based on federal or state law. The department may authorize expenditures from the human service finance fund to reimburse the department for transitional costs incurred for implementing the statewide program for state funding.

3. The director may recalculate and adjust each human service zone's ~~formula~~ payment ~~biannually~~ based on pertinent factors, which include actual expenditures over the previous or current payment period, current costs, offered services, need, income, performance of duties directed or assigned and supervised by the department, and caseload. If the director amends and modifies a human service zone's ~~formula~~ payment, the human service zone director must be notified within thirty days of amendment or modification. The spending authority of the human service zone must be increased or decreased based on the approved, adjusted, or modified ~~formula~~ payment.

4. The director, during the period between January 1, ~~2020~~2021, and December 31, ~~2021~~2023, shall calculate payment for indirect costs ~~according to a formula established by the department, during the period between January 1, 2020, and December 31, 2021~~. Indirect costs of the human service zone may not become direct costs without written approval of the department. The total payment by the department for reimbursement of indirect costs incurred to support human services may not be less than the prorated amount paid to counties for this purpose in state fiscal year 2018 as identified in the indirect cost plan, unless a cost reduction or cost-savings is achieved by the county.

5. Direct costs must be applied consistently within all human service zones and may not be included in indirect costs.

6. Indirect costs must be applied consistently within all counties as it relates to human service zones and may not be included in direct costs.

SECTION 22. AMENDMENT. Section 50-35-05 of the North Dakota Century Code is amended and reenacted as follows:

50-35-05. Human service zone human services fund - Establishment - Fund balance limitations.

1. Each human service zone in this state shall maintain a fund to be known as the human service zone human services fund. All expenditures by the human

service zone for human services must be paid from the human service zone human services fund. If, due to unforeseen or other extenuating circumstances, a human service zone's ~~formula~~ distribution payment~~, the county's cost allocation of indirect costs,~~ and balance of moneys carried over pursuant to subsection 2 are not sufficient to meet the expenses of that human service zone, the director may approve a transfer from the human service finance fund to the human service zone human services fund.

2. The balance of moneys in the human service zone human services fund on January first of each year, after calendar year 2020, may not exceed five hundred thousand dollars for a human service zone that had annual expenditures of two million dollars or greater in calendar year 2020 or ~~one~~two hundred fifty thousand dollars for a human service zone that had annual expenditures of less than two million dollars in calendar year 2020. The balance of moneys carried over must be used for the administration of human services within that human service zone as approved by the human service zone director and may not be used for the county's cost allocation of indirect costs. The human service zone human services fund is not subject to any other charges and is exempt from section 21-02-08.

SECTION 23. AMENDMENT. Section 50-35-07 of the North Dakota Century Code is amended and reenacted as follows:

50-35-07. Human service finance fund.

The human service finance fund is a special fund in the state treasury. Moneys in the fund may be used, subject to legislative appropriation, for the provision of ~~formula~~ payments to human service zones and payments to the department pursuant to this chapter.

SECTION 24. REPEAL. Chapter 50-11.2 of the North Dakota Century Code is repealed.

SECTION 25. LEGISLATIVE MANAGEMENT STUDY - DEPARTMENT OF HUMAN SERVICES AND HUMAN SERVICE ZONES EMPLOYEE COMPENSATION.

1. During the 2021-22 interim, the legislative management shall study issues related to the department of human services and human service zones employee compensation. The study must include consideration of the following issues:

   a. Total state employee and human service zone team members compensation, including wages and salaries, annual leave, pay grades, classification, disaster or emergency services volunteers' leave, employee assistance program benefits, family and medical leave, funeral leave, holidays, hours of work, administrative leave, jury and witness leave, leave without pay, the merit system, military leave, overtime compensation, retirement benefits, health insurance benefits, severance pay, sick leave, benefits for temporary employees, and time off to vote.

   b. Health insurance benefits, including the availability of health savings accounts, self-insurance, healthy lifestyle incentives, and the appropriateness of the human service zones' current health insurance benefits.

c. Compensation equity between the department of human services, other state agencies, human service zones, and the market; within human service zones; within the department of human services; and between human service zones.

d. The feasibility and desirability of implementing compensation equity.

2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 26. TRANSFER OF EMPLOYEES - HEALTH INSURANCE COVERAGE.

1. Sixteen full-time equivalent foster care licensing positions of a human service zone become full-time equivalent positions of the department of human services upon notice of transfer to the human service zone director or county commissioners.

2. An employee who becomes a state employee under this section is entitled to receive a salary in an amount not less than the salary received as an employee of the host county.

3. Each year of county or host county employment of an employee who is transferred under this section will be considered a year of state employment for purposes of section 54-06-14.

4. Before the transfer of the full-time equivalent position from the host county to the department of human services, the host county shall pay the employer's share of any premium that is necessary to continue any existing health insurance coverage for an employee who is transferred under this section for one month after the effective date of this transfer.

5. Any equipment, including technology-related equipment, furnishings, and supplies in the control and custody of a county or human service zone on the effective date of an employment transfer from the host county to the department of human services under this section, must be transferred to the control and custody of the department of human services if requested.

6. A position added to the department of human services under this section would be position transfers from the human service zone and may not result in:

   a. A net addition of positions delivering human services programs, services, or functions under the appropriation provided in House Bill No. 1012, as approved by the sixty-seventh legislative assembly.

   b. An increase in human service zone team members delivering human services programs, services, or functions.

SECTION 27. EFFECTIVE DATE. Section 12 of this Act becomes effective on January 1, 2022.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 354

SENATE BILL NO. 2135

(Senators Lee, Dever, Hogan)
(Representatives Keiser, J. Nelson, Weisz)

AN ACT to provide for a department of human services report to the legislative management regarding department quality.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPORT TO THE LEGISLATIVE MANAGEMENT - DEPARTMENT OF HUMAN SERVICES QUALITY STRATEGY REPORT. Before July 1, 2022, the department of human services shall make a report to the legislative management regarding the department's quality strategy, including quality data, verification the department shared the report with stakeholders such as the state department of health and North Dakota health information network, and recommendations for improvement.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 355

HOUSE BILL NO. 1091

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

AN ACT to create and enact a new section to chapter 50-11 of the North Dakota Century Code, relating to the use of an automated clearinghouse to facilitate payment; to amend and reenact subsection 1 of section 50-06-01.4, subsection 8 of section 50-11-00.1, and sections 50-11-02 and 50-11-03.2 of the North Dakota Century Code, relating to shelter care services, foster care for children, foster care approval and licensing of facilities, and the use of public funds; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[285] **SECTION 1. AMENDMENT.** Subsection 1 of section 50-06-01.4 of the North Dakota Century Code is amended and reenacted as follows:

1. The department includes the state hospital, the regional human service centers, a vocational rehabilitation unit, and other units or offices and administrative and fiscal support services as the executive director determines necessary. The department must be structured to promote efficient and effective operations and, consistent with fulfilling its prescribed statutory duties, shall act as the official agency of the state in the discharge of the following functions not otherwise by law made the responsibility of another state agency:

   a. Administration of programs for children and families, including adoption services and the licensure of child-placing agencies, foster care services and the licensure of foster care arrangements, <u>certification of shelter care services,</u> child protection services, children's trust fund, licensure of early childhood programs, refugee services, in-home community-based services, quality control, and administration of the interstate compacts on the placement of children and juveniles.

   b. Administration of programs for individuals with developmental disabilities, including licensure of facilities and services, and the design and implementation of a community-based service system for persons in need of habilitation.

   c. Administration of aging service programs, including nutrition, transportation, advocacy, social, ombudsman, recreation, and related services funded under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], home and community-based services, licensure of adult foster care homes, and the committee on aging.

   d. Administration of behavioral health programs, including:

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[285] Section 50-06-01.4 was also amended by section 383 of House Bill No. 1247, chapter 352.

(1) A policy division responsible for reviewing and identifying service needs and activities in the state's behavioral health system in an effort to ensure health and safety, access to services, and quality of services; establishing quality assurance standards for the licensure of substance use disorder program services and facilities; and providing policy leadership in partnership with public and private entities; and

(2) A service delivery division responsible for providing chronic disease management, regional intervention services, and twenty-four-hour crisis services for individuals with behavioral health disorders.

e. Administration of economic assistance programs, including temporary assistance for needy families, the supplemental nutrition assistance program, home energy assistance, child care assistance, refugee assistance, work experience, work incentive, and quality control.

f. Administration of medical service programs, including medical assistance for children's health insurance program, Medicaid waivers, early and periodic screening, diagnosis and treatment, utilization control, autism services, and claims processing.

g. Administration of general assistance.

h. Administration of child support.

[286] **SECTION 2. AMENDMENT.** Subsection 8 of section 50-11-00.1 of the North Dakota Century Code is amended and reenacted as follows:

8. "Foster care for children" means the provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a <u>licensed or approved</u> family foster home <u>for children</u>, supervised independent living program, or qualified residential treatment program.

SECTION 3. AMENDMENT. Section 50-11-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11-02. License granted - Term - Conditions.

1. The department shall grant a license for the operation of a facility receiving persons for foster care, for a period of not more than two years, to reputable and responsible persons upon showing that:

   a. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all persons who may be received;

   b. The persons in active charge of the facility are properly qualified to carry on efficiently the duties required of them;

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[286] Section 50-11-00.1 was also amended by section 417 of House Bill No. 1247, chapter 352.

c. The facility is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all persons cared for in the facility; ~~and~~

d. The facility will be maintained according to the standards prescribed for its conduct by the rules of the department;

e. The applicant has not had a previous facility license denied within two years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant; and

f. The applicant has not had a previous facility license revoked within five years of the date of the current application, unless waived by the department after the department considers the health and safety of children and the licensing history of the applicant.

2. Before licensing or approving a facility providing foster care for children or adults, the department shall seek a criminal history record when required by this chapter. The department shall consider any criminal history record information available at the time a licensing or approval decision is made.

3. The department shall determine, in accordance with rules of the department, whether a license may be issued to a facility that houses or employs any individual who has a criminal record.

SECTION 4. AMENDMENT. Section 50-11-03.2 of the North Dakota Century Code is amended and reenacted as follows:

50-11-03.2. Use of public funds.

Public funds for the purchase of foster care for children or adults may be used only in facilities licensed or approved by the department. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a license or approval issued by the department. This section does not apply to any home or institution under the management and control of the state. Nonfederal funds may be used to reimburse the costs of shelter care placements for no more than seven days if the shelter care services are certified by the department. If the entity has diligently pursued other placement, the department may grant an extension for the health and safety of the child or due to unforeseeable circumstances.

SECTION 5. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Automated clearinghouse payments.

The department shall provide payment to family foster home for children, supervised independent living program, and qualified residential treatment program for children providers using an automated clearinghouse to provide for electronic fund transfers. To receive payment, family foster home for children, supervised independent living program, and qualified residential treatment program for children providers and applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearinghouse. No other forms of payment are permitted, unless approved by the department.

SECTION 6. APPLICATION. The department of human services shall stagger implementation of section 5 of this Act so it applies:

1. On January 1, 2022, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers first certified on or after January 1, 2022; and

2. On January 1, 2023, to foster home for children, supervised independent living program, and qualified residential treatment program for children providers in existence on December 31, 2021.

Approved March 9, 2021

Filed March 10, 2021

CHAPTER 356

SENATE BILL NO. 2089

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

AN ACT to amend and reenact subsection 17 of section 50-06-05.1 of the North Dakota Century Code, relating to financing of welfare programs and housing stabilization supports and rental assistance; to repeal sections 1-02-35 and 50-06-14 of the North Dakota Century Code, relating to obsolete effective date language and financing of welfare programs; to provide a statement of legislative intent; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[287] **SECTION 1. AMENDMENT.** Subsection 17 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

17. To administer, allocate, and distribute any funds made available for the making of direct cash assistance payments, housing ~~assistance payments~~stabilization supports, and rental ~~subsidies under any rental~~ assistance ~~programs initiated by the federal government not otherwise by law made the responsibility of another state agency possessing statewide jurisdiction~~and to promote cooperation and working agreements with public agencies and including the housing finance agency and department of commerce, and private human services agencies.

SECTION 2. REPEAL. Sections 1-02-35 and 50-06-14 of the North Dakota Century Code are repealed.

SECTION 3. LEGISLATIVE INTENT - AUTISM SPECTRUM DISORDER VOUCHER PROGRAM. The department of human services shall adopt rules to seek additional flexibility for the administration of the autism spectrum disorder voucher program to ensure families can be served within available appropriations for the program. The administrative code changes should consider changes that include reducing the amount of approved voucher funds available to each household and the amount of time during which a household may use approved voucher funds.

SECTION 4. LEGISLATIVE MANAGEMENT STUDY - AUTISM SPECTRUM DISORDER WAIVER AND VOUCHER PROGRAMS AND TASK FORCE. During the 2021-22 interim, the legislative management shall consider studying the autism spectrum disorder waiver and voucher programs and other programs designed to provide services to children who are impacted by autism spectrum disorder and the elimination of the autism spectrum disorder task force. The study may include consideration of the structure of the programs and whether there are any gaps and unmet needs, including contracting with a private, nonprofit entity that does not provide autism spectrum disorder services to facilitate and provide support services to the autism spectrum disorder task force. The legislative management shall report its

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[287] Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 3 of House Bill No. 1416, chapter 358, and section 1 of Senate Bill No. 2311, chapter 357.

finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 5. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

CHAPTER 357

SENATE BILL NO. 2311

(Senators Heckaman, K. Roers)
(Representatives Buffalo, Devlin, Vigesaa)

AN ACT to amend and reenact subsection 28 of section 50-06-05.1 of the North Dakota Century Code, relating to behavioral health resources for schools; to provide an expiration date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[288] **SECTION 1. AMENDMENT.** Subsection 28 of section 50-06-05.1 of the North Dakota Century Code is amended and reenacted as follows:

28. To provide resources on mental health awareness and suicide prevention to the behavioral health resource coordinator at each public school and to the designated individual at a nonpublic school. The resources must include information on identifying warning signs, risk factors, and the availability of resources in the community, and also must include an evidence-based, online virtual mental health and suicide prevention simulation-based training program that incorporates hands-on practice, contextual learning, and personalized feedback through interactive role-playing. The provisions of chapter 54-44.4 do not apply to the online virtual mental health and suicide prevention simulation-based training program under this subsection.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 2025, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

[288] Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 3 of House Bill No. 1416, chapter 358, and section 1 of Senate Bill No. 2089, chapter 356.

CHAPTER 358

HOUSE BILL NO. 1416

(Representatives Weisz, Devlin, J. Nelson, Westlind)
(Senators Hogan, Lee, K. Roers)

AN ACT to create and enact a new subsection to section 50-06-05.1 and sections 50-11.1-21, 50-11.1-22, 50-11.1-23, and 50-11.1-24 of the North Dakota Century Code, relating to the four-year old program approval and the North Dakota early childhood council; to amend and reenact sections 15.1-09-58 and 15.1-37-05, subdivision d of subsection 6 of section 50-11.1-02, subsection 2 of section 50-11.1-07, and section 50-11.1-10 of the North Dakota Century Code, relating to four-year old program approval; and to repeal sections 15.1-37-01, 15.1-37-02, 15.1-37-03, 15.1-37-04, and 15.1-37-07 of the North Dakota Century Code, relating to early childhood education programs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-09-58 of the North Dakota Century Code is amended and reenacted as follows:

15.1-09-58. ~~Early childhood education~~Four-year old program - Authorization - Support.

The board of a school district may establish ~~an early childhood education~~a four-year old program and, provided the program is approved by the ~~superintendent of public instruction~~department of human services in accordance with ~~chapter 15.1-37~~section 50-11.1-21, may support that program with:

1. Local tax revenues, other than those necessary to support the district's kindergarten program and the provision of elementary and high school educational services;

2. State moneys specifically appropriated for the program;

3. Federal funds specifically appropriated or approved for the program; and

4. Gifts, grants, and donations specifically given for the program.

[289] **SECTION 2. AMENDMENT.** Section 15.1-37-05 of the North Dakota Century Code is amended and reenacted as follows:

15.1-37-05. Early childhood education providers - Coalition - Eligibility.

1. The superintendent of a school district shall invite all public and private providers of early childhood education services within the district to meet~~, in order~~ to:

[289] Section 15.1-37-05 was also amended by section 5 of House Bill No. 1466, chapter 368.

a. Initiate the identification of all available options for cost-effectively maximizing the provision of early childhood education services within the district;

b. Address the coordinated utilization of facilities, personnel, and transportation, for the provision of early childhood education services within the district; and

c. (1) Form a coalition of early childhood education service providers; and

(2) Provide for the selection of a coalition governing board.

2. The board of the school district in which the coalition of service providers is located shall provide advice and guidance to the coalition in all matters pertaining to this section through section 15.1-37-08.

3. Any early childhood service provider who agrees to participate in the coalition or on its governing board may submit an application to the department of commerce for a grant under this section, provided the governing board certifies to the department that the provider:

a. Is a participating member in the coalition or on the governing board.

b. Operates an early childhood education program that:

(1) Is approved in accordance with section ~~15.1-37-01~~50-11.1-21; and

(2) Incorporates within its curriculum at least ten hours of research-based parental involvement.

c. Has documented the provider's willingness to admit children of all learning abilities into the early childhood education program.

[290] **SECTION 3.** A new subsection to section 50-06-05.1 of the North Dakota Century Code is created and enacted as follows:

To act on behalf of the department of public instruction to administer part B, section 619 of the Individuals with Disabilities Education Act [Pub. L. 108-446; 229 Stat. 2647; 20 U.S.C. 1411 et seq.].

[291] **SECTION 4. AMENDMENT.** Subdivision d of subsection 6 of section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the ~~superintendent of public instruction~~department.

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[290] Section 50-06-05.1 was also amended by section 36 of House Bill No. 1035, chapter 245, section 1 of Senate Bill No. 2089, chapter 356, and section 1 of Senate Bill No. 2311, chapter 357.

[291] Section 50-11.1-02 was also amended by section 421 of House Bill No. 1247, chapter 352, and section 1 of House Bill No. 1466, chapter 368.

[292] **SECTION 5. AMENDMENT.** Subsection 2 of section 50-11.1-07 of the North Dakota Century Code is amended and reenacted as follows:

2. Upon request of the department or its authorized agent, the state department of health or the state fire marshal, or the fire marshal's designee, shall inspect the premises for which a license, four-year old program approval, or self-declaration is applied or issued and shall report the findings to the department or the department's authorized agent.

SECTION 6. AMENDMENT. Section 50-11.1-10 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-10. Denial or revocation of license, four-year old program approval, self-declaration, or registration document - Administrative hearing.

Before the department may deny any application for a license, four-year old program approval, self-declaration, or registration document under this chapter or before the department may revoke any license, four-year old program approval, self-declaration, or registration document, the department shall provide a written notice to the applicant, licensee, or holder of the four-year old program approval, self-declaration, or registration document of the reasons for the denial or revocation. The applicant, licensee, holder of a four-year old program approval or self-declaration, or registrant may request an administrative hearing appealing the denial or revocation in the manner provided in chapter 28-32. The applicant, licensee, holder of a self-declaration, or registrant shall make a request for hearing to the department within ten days after receipt of the notice of denial or revocation from the department.

SECTION 7. Section 50-11.1-21 of the North Dakota Century Code is created and enacted as follows:

50-11.1-21. Four-year old program - Approval.

1. Any person or school district operating or seeking to operate a four-year old program may request approval for a two-year period of the four-year old program from the department. The department shall approve a four-year old program if the program:

   a. Is taught by individuals licensed to teach in early childhood education by the education standards and practices board or approved to teach in early childhood education by the education standards and practices board;

   b. Follows four-year old program requirements approved by the department;

   c. Is in compliance with all municipal and state health, fire, and safety requirements;

   d. Limits enrollment to children who have reached the age of four years old before August first in the year of enrollment;

   e. Submits a nonrefundable fee of fifty dollars at the time the application is filed. All fees collected under this section must be paid to the department

[292] Section 50-11.1-07 was also amended by section 422 of House Bill No. 1247, chapter 352.

and must be used to defray the cost of investigating, inspecting, and evaluating applications for approval; and

f. Is in compliance with this chapter.

2. In determining the state aid payments to which a school district is entitled, the superintendent of public instruction may not count a student enrolled in a regular four-year old program.

3. The department may investigate and inspect a four-year old program applicant or four-year old program and the conditions of the premises and the qualifications of current and prospective staff. The department may use the findings of the investigation and inspection to determine approval.

4. The department may revoke the four-year old program upon proper showing that:

a. Any applicable conditions as prerequisites for the issuance of the approval no longer exist.

b. The program is no longer in compliance with the minimum standards prescribed by the department.

c. The program approval was issued upon fraudulent or untrue presentation.

d. The program has violated any rules of the department.

5. If an action to revoke a four-year old program approval is appealed, the provider may continue the operation of the program pending the final administrative determination or until the approval expires, whichever occurs first.

SECTION 8. Section 50-11.1-22 of the North Dakota Century Code is created and enacted as follows:

50-11.1-22. North Dakota early childhood council - Membership - Terms.

1. The North Dakota early childhood council consists of:

a. A chairman appointed by the governor;

b. The superintendent of public instruction, or the superintendent's designee;

c. The state health officer, or the officer's designee;

d. The director of the department, or the director's designee;

e. The North Dakota head start - state collaboration administrator, or the administrator's designee;

f. The commissioner of higher education, or the commissioner's designee;

g. The commissioner of commerce, or the commissioner's designee;

h. The chairman of the senate education committee, or the chairman's designee;

i. The chairman of the house of representatives education committee, or the chairman's designee;

j. The chairman of the senate human services committee, or the chairman's designee;

k. The chairman of the house of representatives human services committee, or the chairman's designee; and

l. The following individuals appointed by the governor:

(1) The superintendent of a school district having at least one thousand students in average daily membership;

(2) The superintendent of a school district having fewer than one thousand students in average daily membership;

(3) The superintendent of a school district headquartered on a reservation or including reservation land within its boundaries;

(4) An individual representing a non-religious-based provider of a four-year old program;

(5) An individual representing a religious-based provider of a four-year old program;

(6) An individual representing a center-based licensed child care provider;

(7) An individual representing a home-based licensed child care provider;

(8) An individual representing a reservation-based head start program;

(9) An elected member of a school board;

(10) The parent of a child not yet enrolled in elementary school;

(11) The parent of a child with disabilities not yet enrolled in elementary school; and

(12) An individual representing children with disabilities.

2. The term of each member enumerated in subdivision l of subsection 1 is three years and begins on July first. The terms must be staggered by lot so four of the terms expire each year.

3. If at any time during a member's term the member ceases to possess the qualifications required by this section, the member's seat is deemed vacant and the governor shall appoint another qualified individual to serve for the remainder of the term.

4. A member may not serve more than two consecutive terms. If an individual is appointed to complete a vacancy, that service is not counted as a term, for purposes of this section, unless the duration of that service exceeds one year.

5. The council shall meet at least twice each year, at the call of the chairman.

SECTION 9. Section 50-11.1-23 of the North Dakota Century Code is created and enacted as follows:

50-11.1-23. North Dakota early childhood council - Duties - Reports.

The North Dakota early childhood council shall:

1. Review the availability and provision of early childhood services in this state;

2. Identify opportunities for public and private sector collaboration in the provision of early childhood services in this state;

3. Identify ways to assist with the recruitment and retention of individuals interested in working as providers of early childhood services, including training and continuing education or professional development opportunities;

4. Seek the advice and guidance of individuals uniquely familiar with the nature, scope, and associated challenges of providing early childhood services in geographically and socioeconomically diverse settings, and develop recommendations pertaining to the short-term and longer-term improvement and expansion of early childhood services in this state; and

5. Provide a biennial report regarding the council's findings and recommendations to the governor and the legislative assembly.

SECTION 10. Section 50-11.1-24 of the North Dakota Century Code is created and enacted as follows:

50-11.1-24. North Dakota early childhood council members - Reimbursements for expenses.

Each member of the North Dakota early childhood council is entitled to receive reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the council. In addition, each member of the legislative assembly who serves on the council is entitled to receive compensation in the amount provided per day for members of the legislative management under section 54-35-10 for attending meetings or performing duties as directed by the council.

[293] **SECTION 11. REPEAL.** Sections 15.1-37-01, 15.1-37-02, 15.1-37-03, 15.1-37-04, and 15.1-37-07 of the North Dakota Century Code are repealed.

Approved April 8, 2021

Filed April 9, 2021

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[293] Section 15.1-37-02 was amended by section 75 of House Bill No. 1247, chapter 352.

CHAPTER 359

HOUSE BILL NO. 1066

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

AN ACT to amend and reenact section 50-06-05.2 of the North Dakota Century Code, relating to the accreditation of the regional human service centers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-05.2. Regional human service centers - Licensure. (Effective through July 31, 2021)

Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. Services provided by regional human service centers must include those services formerly provided by mental health and retardation service units and area social service centers. The regional human service centers are subject to licensing by the department. The department shall adopt rules and standards for the licensing and operation of the regional human service centers. No human service center may operate without a license issued hereunder. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers.

Regional human service centers - Licensure. (Effective after July 31, 2021) Human services must be delivered through regional human service centers in the areas designated by the governor's executive order 1978-12 dated October 5, 1978. The department shall request appropriations and resources sufficient for accreditation and to ensure maintenance of the accreditation for the regional human service centers ~~must be accredited~~, including associated facilities, by the council on accreditation or by a similar national accrediting body ~~and~~accepted by the department. The regional human service centers are subject to licensing by the department. The department may use the accreditation as a basis for licensing in lieu of adopted rules for the operation of the regional human service centers. The department shall adopt rules for the operation of the regional human service centers. A human service center may not operate without a license issued in accordance with this section. Regional human service centers are authorized to receive federal and other funds available to finance, in whole or in part, the services and operations of the centers.

Approved March 8, 2021

Filed March 9, 2021

CHAPTER 360

SENATE BILL NO. 2161

(Senators Lee, Hogan, K. Roers)
(Representatives Dobervich, Weisz, Westlind)

AN ACT to create and enact a new section to chapter 50-06 of the North Dakota Century Code, relating to a mental health program registry; to provide for a legislative management study; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-06 of the North Dakota Century Code is created and enacted as follows:

Mental health program registry.

The department shall establish and maintain a registry of mental health programs in the state. A mental health program shall provide the information and documentation necessary to the department at least annually in the form and manner prescribed by the department. The department shall make the registry available to the public on the department's website.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - EXPANDED BEHAVIORAL HEALTH SERVICES. During the 2021-22 interim, the legislative management shall consider studying the implementation of expanded behavioral health services, including section 1915(i) waiver implementation, capacity and utilization of the state hospital, a behavioral health bed management system, and implementation of the recommendations of the 2018 North Dakota behavioral health system study conducted by the human services research institute. The legislative management shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-eighth legislative assembly.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 28, 2021

Filed April 29, 2021

CHAPTER 361

HOUSE BILL NO. 1402

(Representatives Mitskog, Schreiber-Beck)
(Senator Luick)

AN ACT to amend and reenact section 50-06-42 of the North Dakota Century Code, relating to the substance use disorder treatment voucher system; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[294] **SECTION 1. AMENDMENT.** Section 50-06-42 of the North Dakota Century Code is amended and reenacted as follows:

50-06-42. Substance use disorder treatment voucher system.

1. The department shall establish and administer, within the limits of legislative appropriations, a voucher system to address underserved areas and gaps in the state's substance abuse treatment system and to assist in the payment of addiction treatment services provided by licensed substance abuse treatment programs, excluding regional human service centers, and hospital- or medical clinic-based programs for medical management of withdrawal. An out-of-state licensed substance abuse treatment program located within a bordering state may participate in the voucher program to serve an underserved area of this state pursuant to the rules adopted by the department. The department shall develop rules to include processes and requirements for an out-of-state provider to receive reimbursement only for outpatient and community-based services upon a provider completing an assessment of need and receiving approval from the department.

2. Services eligible for the voucher program include only those levels of care recognized by the American society of addiction medicine, with particular emphasis given to underserved areas and programs. The department shall ensure that a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers collects and reports process and outcome measures.

3. The department shall develop requirements and provide training and technical assistance to a licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers. A licensed substance abuse treatment program, hospital, and medical clinic program accepting vouchers shall provide evidence-based services.

SECTION 2. EFFECTIVE DATE. This Act is effective on July 1, 2022.

Approved March 22, 2021

Filed March 23, 2021

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[294] Section 50-06-42 was also amended by section 25 of House Bill No. 1012, chapter 12.

CHAPTER 362

HOUSE BILL NO. 1076

(Representatives Devlin, Beltz, Rohr, M. Ruby, Weisz)
(Senators Heckaman, Lee)

AN ACT to amend and reenact section 50-06-43.1 of the North Dakota Century Code, relating to the children's cabinet; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[295] **SECTION 1. AMENDMENT.** Section 50-06-43.1 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.1. Children's cabinet - Membership - Duties. ~~(Effective through July 31, 2025)~~

1. The children's cabinet is created to assess, guide, and coordinate the care for children across the state's branches of government and the tribal nations.

2. The children's cabinet consists of the following members:

   a. The governor, or the governor's designee;

   b. The chief justice of the supreme court, or the chief justice's designee;

   c. The speaker of the house of representatives, or the speaker's designee;

   d. The president pro tempore of the senate, or the president pro tempore's designee;

   e. The superintendent of public instruction, or the superintendent's designee;

   f. The director of the committee on protection and advocacy, or the director's designee;

   g. A representative of the tribal nations in the state, who is appointed by the governor; and

   h. Four individuals representing parents, private service providers, or other community interests, who are appointed by the governor to serve a term of two years, at the pleasure of the governor, and who are entitled to reimbursement from the department of human services for travel and lodging at the same rate as provided for state officers and employees.

3. The chairman of legislative management, <u>or a member of the legislative assembly appointed by the chairman of the legislative management,</u> shall serve as the presiding officer of the cabinet. The cabinet shall meet at least

[295] Section 50-06-43.1 was also amended by section 404 of House Bill No. 1247, chapter 352.

quarterly. Additional meetings may be held at the discretion of the presiding officer.

4. The children's cabinet shall:

   a. Coordinate broad-based leadership across programs, agencies, branches of government, and tribal nations to meet the needs of children;

   b. Develop strategies to address gaps or needs regarding early care and education, medical and behavioral health, community, child welfare, and juvenile justice;

   c. Develop strategies to provide for the full continuum of care in the delivery of services, including promotion, prevention, early identification and intervention, service delivery, and recovery;

   d. Seek to engage cooperation across public and private service providers;

   e. Provide a comprehensive vision for how and where children are best served, attending to children in a respectful and relevant manner;

   f. Seek strategies to provide services to children without consideration of prior engagement with juvenile services;

   g. Provide for the active participation of consumers and providers statewide on advisory committees; and

   h. Receive information and recommendations from the department of human services, department of corrections and rehabilitation, and other state agencies.

5. The department of human services shall provide the children's cabinet with staffing and administrative services.

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

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 363

HOUSE BILL NO. 1150

(Representatives Weisz, Devlin, J. Nelson)
(Senator Lee)

AN ACT to amend and reenact section 50-06-43.2 of the North Dakota Century Code, relating to the commission on juvenile justice; to repeal section 50-06-43.2 of the North Dakota Century Code, relating to the commission on juvenile justice; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[296] **SECTION 1. AMENDMENT.** Section 50-06-43.2 of the North Dakota Century Code is amended and reenacted as follows:

50-06-43.2. Commission on juvenile justice - Reports.

1. The commission on juvenile justice is composed of:

   a. Three members of the house of representatives, two of whom must be selected by the majority leader of the house of representatives and one of whom must be selected by the minority leader of the house of representatives;

   b. Three members of the senate, two of whom must be selected by the majority leader of the senate and one of whom must be selected by the minority leader of the senate;

   c. The governor, or the governor's designee;

   d. The superintendent of public instruction, or the superintendent's designee;

   e. The executive director of the department of human services, or the executive director's designee;

   f. The director of the department of corrections and rehabilitation's division of juvenile services, or the director's designee;

   g. The executive director of the Indian affairs commission, or the executive director's designee;

   h. A director of juvenile court services, appointed by the chief justice of the supreme court;

   i. A representative from the commission on legal counsel for indigents; and

   j. The following members appointed by the governor:

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[296] Section 50-06-43.2 was also amended by section 37 of House Bill No. 1035, chapter 245, and section 405 of House Bill No. 1247, chapter 352, and was repealed by section 2 of House Bill No. 1150, chapter 363.

(1) A state's attorney;

(2) A representative of a children's advocacy center; and

(3) A representative of ~~a city police department~~local law enforcement.

2. The ~~governor~~chairman of the legislative management shall designate one of the members of the commission to serve as the presiding officer. The governor's appointees serve at the pleasure of the governor. Excluding ex officio members, the term of a commission member is two years.

3. The commission shall meet at least four times per year at the times and locations designated by the presiding officer. The office of the governor shall provide staffing for the commission.

4. The commission shall:

   a. Review chapter 27-20;

   b. Gather information concerning issues of child welfare, including education, abuse, and neglect;

   c. Receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations, in furtherance of the commission's duties;

   d. Advise effective intervention, resources, and services for children;

   e. Report to ~~and be subject to the oversight of~~ the children's cabinet; and

   f. Annually submit to the governor and the legislative management a report with the commission's findings and recommendations which may include a legislative strategy to implement the recommendations.

5. A member of the commission who is not a state employee is entitled to reimbursement for mileage and expenses as provided by law for state officers and employees to be paid by the department of corrections and rehabilitation. A state employee who is a member of the commission is entitled to receive that employee's regular salary and is entitled to reimbursement for mileage and expenses to be paid by the employing agency. A member of the commission who is a member of the legislative assembly is entitled to receive per diem compensation at the rate provided under section 54-35-10 for each day performing official duties of the commission. The legislative council shall pay the per diem compensation and reimbursement for travel and expenses as provided by law for any member of the commission who is a member of the legislative assembly.

[297] **SECTION 2. REPEAL.** Section 50-06-43.2 of the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. Section 2 of this Act becomes effective August 1, 2025.

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[297] Section 50-06-43.2 was amended by section 37 of House Bill No. 1035, chapter 245, section 1 of House Bill No. 1150, chapter 363, and section 405 of House Bill No. 1247, chapter 352.

Approved March 17, 2021

Filed March 18, 2021

CHAPTER 364

SENATE BILL NO. 2039

(Senator Anderson)
(Representative D. Anderson)

AN ACT to amend and reenact subsection 1 of section 50-06.4-10 of the North Dakota Century Code, relating to membership of the brain injury advisory council; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[298] **SECTION 1. AMENDMENT.** Subsection 1 of section 50-06.4-10 of the North Dakota Century Code is amended and reenacted as follows:

1. The governor shall appoint at least five, but no more than nine, voting members to serve on the brain injury advisory council ~~as follows~~. The governor may make appointments under this subsection so a majority of the total voting members appointed under subsections 1 and 2 are brain injury survivors and family members of brain injury survivors. The members appointed by the governor must consist of the following:

   a. ~~One~~At least one brain injury survivor, nominated by the council;

   b. ~~One~~At least one family member of a brain injury survivor, nominated by the council;

   c. At least one service provider who provides services to brain injury survivors, nominated by the council, who may be a brain injury survivor or a family member of a brain injury survivor;

   d. An individual representing the Indian affairs commission, nominated by the Indian affairs commission, who may be a brain injury survivor or a family member of a brain injury survivor; and

   e. At least one individual representing a religious, charitable, fraternal, civic, educational, legal, veteran, welfare, or professional group or organization, who may be a brain injury survivor or a family member of a brain injury survivor.

SECTION 2. APPLICATION. The governor shall implement this Act with brain injury advisory council appointments effective September 1, 2021. This Act does not require the governor to increase the membership of the council.

Approved March 17, 2021

Filed March 18, 2021

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[298] Section 50-06.4-10 was also amended by section 412 of House Bill No. 1247, chapter 352.

CHAPTER 365

SENATE BILL NO. 2088

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

AN ACT to create and enact a new subsection to section 50-28-02 of the North Dakota Century Code, relating to the use of an automated clearing house to facilitate payment to adoptive parents, to amend and reenact section 50-09-02.2 of the North Dakota Century Code, relating to adoption assistance; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-09-02.2 of the North Dakota Century Code is amended and reenacted as follows:

50-09-02.2. Assistance for adopted children with special needs.

1. Assistance provided under this chapter or chapter 50-24.1 after adoption to a child with special needs must be provided without regard to the income or resources of the adopting parents. Except as provided in this section, such assistance continues until ~~the~~:

   a. The adopted child ~~becomes eighteen years of age,~~ is emancipated~~,~~ or dies; ~~the~~

   b. The adopted child has attained the age of eighteen or up to the date the individual attains the age of twenty-one, as elected by the state agency under section 475(8)(B) of the federal Social Security Act [42 U.S.C. 675 (8)(B)];

   c. The adoption is terminated; ~~or a~~

   d. A determination of ineligibility is made by the ~~human service zone or~~ state agency~~, whichever occurs earlier. If sufficient funds are available, the human service zone or state agency may continue assistance for an adopted child until the child reaches twenty-one years of age if the human service zone or state agency determines that the adopted child is a student regularly attending a secondary, postsecondary, or career and technical education school in pursuance of a course of study leading to a diploma, degree, or gainful employment.~~;

   e. The state agency determines the adoptive parents are no longer legally responsible for support of the child who has not attained eighteen years of age, as the adoptive parent's parental rights have been terminated or the child is emancipated, marries, or enlists in the military; or

   f. The state agency determines the adoptive parents are no longer providing support to the child.

2. Assistance provided to an adopted child must continue regardless of the residence of the adopting parents. The state agency ~~or human service zone~~ may require, as a condition of receiving assistance under this chapter or chapter 50-24.1, that the adopting parents enter a contract or agreement regarding the type of assistance to be received; the amount of assistance; the identity of the physical, mental, or emotional condition for which medical assistance is received; or any conditions for continued receipt of assistance. A child with special needs is a child legally available for adoptive placement whose custody has been awarded to ~~the state agency or a human service zone~~a public agency authorized by law to receive and provide care for the child and who is seven years of age or older; under eighteen years of age with a physical, emotional, or mental disability or has been diagnosed by a licensed physician, physician assistant, or advanced practice registered nurse to be at high risk for such a disability; a member of a minority; or a member of a sibling group. Once an adoption assistance agreement is signed with the adoptive parent, the state agency shall obtain the concurrence of the adoptive parent if any changes in the payment amount are made, unless the assistance is discontinued under subsection 1.

SECTION 2. A new subsection to section 50-28-02 of the North Dakota Century Code is created and enacted as follows:

The department shall provide adoption assistance payments to adoptive parents using an automated clearing house to provide for electronic fund transfers. To receive payment, adoptive parents shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearing house. No other forms of adoptive assistance payments are permitted, unless approved by the department.

SECTION 3. APPLICATION. The department of human services shall stagger the implementation of section 2 of this Act so the section applies:

1. On January 1, 2022, to adoption assistance agreements entered between the department of human services and the adoptive parent on or after January 1, 2022; and

2. On January 1, 2023, to adoption assistance agreements entered between the department of human services and the adoptive parent on or before December 31, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 366

HOUSE BILL NO. 1343

(Representatives Vetter, Devlin, Fegley, Paur, Richter, Rohr, M. Ruby, Vigesaa, Westlind)
(Senators Clemens, O. Larsen, K. Roers)

AN ACT to amend and reenact subsection 1 of section 50-10.2-02 of the North Dakota Century Code, relating to rights of health care facility residents to use electronic communication.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 50-10.2-02 of the North Dakota Century Code is amended and reenacted as follows:

1. All facilities shall, upon a resident's admission, provide in hand to the resident and a member of the resident's immediate family or any existing legal guardian of the resident a statement of the resident's rights while living in the facility. Within thirty days after admission, the statement must be orally explained to the resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident, and thereafter annually so long as the resident remains in the facility. The statement must include rights, responsibilities of both the resident and the facility, and rules governing resident conduct. Facilities shall treat residents in accordance with provisions of the statement. The statement must include provisions ensuring each resident the following minimum rights:

    a. The right to civil and religious liberties, including knowledge of available choices, the right to independent personal decisions without infringement, and the right to encouragement and assistance from the staff of the facility to promote the fullest possible exercise of these rights.

    b. The right to have private meetings, associations, and communications with any person of the resident's choice within the facility.

    c. The right of each resident, the resident's immediate family, any existing legal guardian of the resident, friends, facility staff, and other persons to present complaints on the behalf of the resident to the facility's staff, the facility's administrator, governmental officials, or to any other person, without fear of reprisal, interference, coercion, discrimination, or restraint. The facility shall adopt a grievance process and make the process known to each resident and, if the resident is unable to understand, to the resident's immediate family member or members and any existing legal guardian of the resident. An individual making a complaint in good faith is immune from any civil liability that otherwise might result from making the complaint.

    d. The right to send and receive unopened personal mail <u>and electronic mail</u> and the right of access to and use of telephones <u>and electronic devices</u> for private conversations.

e. The right to assured private visits by one's spouse, or if both are residents of the same facility, the right to share a room, within the capacity of the facility, unless sharing a room is not medically advisable as documented in the medical records by the attending physician.

f. The right to manage one's own financial affairs if not under legal guardianship, or to delegate that responsibility in writing to the administrator or manager of the facility, but only to the extent of funds held in trust by the facility for the resident. If such a trust is established, then a written quarterly accounting of any transactions made on behalf of the resident must be furnished along with an explanation by the facility to the resident or the person legally responsible for the resident.

g. The right to be fully informed in writing prior to or at the time of admission and during one's stay, of services provided and the charges for those services, including ancillary charges. Residents, or their legal guardians, must be informed at least thirty days prior to any change in the costs or availability of the services. No facility may demand or receive any advance payment or gratuity to assure admission.

h. The right to be adequately informed of one's medical condition and proposed treatment and to participate in the planning of all medical treatment, including the right to refuse medication and treatment, to be discharged from the facility upon written request, and to be notified by the resident's attending physician of the medical consequences of any such actions.

i. The right to have privacy in treatment and in caring for personal needs, to use personal belongings, to have security in storing and using personal possessions, and to have confidentiality in the treatment of personal and medical records. The resident has the right to view, and authorize release of, any personal or medical records.

j. The right to be treated courteously, fairly, and with the fullest measure of dignity.

k. The right to be free from mental and physical abuse and the right to be free from physical or chemical restraint except in documented emergencies or when necessary to protect the resident from injury to self or to others. In such cases, the restraint must be authorized and documented by a physician for a limited period of time and, if the restraint is a chemical one, it must be administered by a licensed nurse or physician. Except as provided in this subdivision, drugs or physical restraints may not be used or threatened to be used for the purposes of punishment, for the convenience of staff, for behavior conditioning, as a substitute for rehabilitation or treatment, or for any other purpose not part of an approved treatment plan.

l. The right not to be transferred or discharged except for:

(1) Medical reasons;

(2) The resident's welfare or that of other residents;

(3) Nonpayment of one's rent or fees; or

(4) A temporary transfer during times of remodeling.

m. The right to receive at least a thirty-day written advance notice of any transfer or discharge when the resident is being discharged to another facility or the resident's own home, or when the resident is being transferred or discharged because of a change in the resident's level of care; however, advance notice of transfer or discharge may be less than thirty days if the resident has urgent medical needs that require a more immediate transfer or discharge, or a more immediate transfer or discharge is required to protect the health and safety of residents and staff within the facility.

n. The right to refuse to perform services on behalf of the facility, unless agreed to by the resident or legal guardian and established in the plan of care.

o. The right to a claim for relief against a facility for any violation of rights guaranteed under this chapter.

p. The right to have each facility display a notice that the following information is available for public review and make the information available on request:

(1) A complete copy of every inspection report, deficiency report, and plan of correction the facility received during the previous two years.

(2) The facility's grievance process.

(3) A copy of the statement of ownership, board membership, and partners.

(4) A statement of ownership setting forth any conflict of interest in the operation of the facility.

q. The right to a pharmacist of the resident's choice irrespective of the type of medication distribution system used by the facility.

r. The right to not be discriminated against by a facility in the admissions process or in the provision of appropriate care on the basis of the resident's source of payment to the facility. Any applicant for admission to a facility who is denied admission must be given the reason for the denial in writing upon request.

s. The right of residents and their families to organize, maintain, and participate in resident advisory and family councils.

t. The right of residents receiving services performed by a provider from outside the facility to be informed, on request, of the identity of the provider.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 367

SENATE BILL NO. 2145

(Senators K. Roers, Mathern, Patten)
(Representatives Keiser, Rohr, Westlind)

AN ACT to create and enact chapter 50-10.3 and a new section to chapter 50-11 of the North Dakota Century Code, relating to access to long-term care facilities and unaccompanied undocumented children; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 50-10.3 of the North Dakota Century Code is created and enacted as follows:

50-10.3-01. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

1. "Declaration of disaster or emergency" means a disaster or emergency declared by the governor under chapter 37-17.1.

2. "Department" means the department of human services.

3. "Essential caregiver" means an individual identified by a resident of a long-term care facility or by the resident's designated decisionmaker to provide in-person physical, spiritual, or emotional support to the resident.

4. "Long-term care facility" means a skilled nursing facility, basic care facility, or swing-bed hospital approved to furnish long-term services.

50-10.3-02. Scope.

This chapter does not supersede federal authority regarding long-term care facilities or prevent the department or state department of health from taking necessary actions to render the state eligible for federal funds or reimbursement services provided in long-term care facilities.

50-10.3-03. Access to long-term care facilities for essential caregivers.

1. The department, working jointly with the state department of health, the state long-term care ombudsman, residents and tenants, families of residents and tenants, and long-term care facility representatives, shall establish basic protocols to allow a resident of a long-term care facility or the resident's designated decisionmaker designate one or more individuals as the resident's essential caregivers, including during a declaration of disaster or emergency.

   a. If a declaration of disaster or emergency results in restricted access to a long-term care facility, the department shall review and update the protocols every thirty days during the period of restriction, including an assessment of the need for continuation of the restriction.

b. An essential caregiver shall meet the necessary qualifications to enter the long-term care facility to provide in-person physical, spiritual, or emotional support to a resident of a long-term care facility in accordance with the protocols established under this section.

2. The protocols must include:

a. Safety measures for an essential caregiver which may include restrictions on travel, enhanced testing for communicable diseases, and the necessary safety equipment required to protect the health and safety of the residents of the long-term care facility; and

b. Procedures to replace an essential caregiver due to necessary circumstances, including illness or death of the essential caregiver.

50-10.3-04. Additional safety requirements for residents of long-term care facilities.

A long-term care facility may establish additional safety requirements to protect the residents. The facility may require an essential caregiver to provide personal protective equipment for the essential caregiver and undergo any related training or assume the cost of the personal protective equipment and any related training provided by the facility to allow the essential caregiver to provide in-person physical, spiritual, or emotional support to a resident of the long-term care facility.

50-10.3-05. Suspension of access for essential caregivers.

If a long-term care facility suspends access to the long-term care facility for an essential caregiver who violates the protocols established under section 50-10.3-03, the long-term care facility shall allow the resident, or the resident's designated decisionmaker, to immediately designate a replacement essential caregiver.

50-10.3-06. Liability.

A long-term care facility, facility employee, or facility contractor that, in good faith, implements or complies with this chapter may not be held civilly liable for damages, including punitive damages, for any act or omission related to the implementation of this chapter. This section does not apply to any act or omission that constitutes gross negligence or willful or wanton misconduct.

SECTION 2. A new section to chapter 50-11 of the North Dakota Century Code is created and enacted as follows:

Unaccompanied undocumented children.

A person may not arrange for or promote care provided in a facility for unaccompanied undocumented children unless the facility has a license or approval issued by the department.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 30, 2021

Filed May 3, 2021

CHAPTER 368

HOUSE BILL NO. 1466

(Representatives Weisz, Rohr, Westlind)
(Senators Dever, Lee)

AN ACT to create and enact three new sections to chapter 50-11.1 of the North Dakota Century Code, relating to establishing four-year old program grants; to amend and reenact section 50-11.1-02 of the North Dakota Century Code, relating to the definition of four-year old program; to suspend sections 15.1-37-05, 15.1-37-06, and 15.1-37-08 of the North Dakota Century Code, relating to early childhood education grants; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[299] **SECTION 1. AMENDMENT.** Section 50-11.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-02. Definitions.

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

1. "Authorized agent" means the human service zone, unless another entity is designated by the department.

2. "Child care center" means an early childhood program licensed to provide early childhood services to nineteen or more children.

3. "Department" means the department of human services.

4. "Drop-in care" means the care of children on a one-time, occasional, or unscheduled basis to meet the short-term needs of families.

5. "Early childhood program" means any program licensed under this chapter where early childhood services are provided for at least two hours a day for three or more days a week.

6. "Early childhood services" means the care, supervision, education, or guidance of a child or children, which is provided in exchange for money, goods, or other services. Early childhood services does not include:

   a. Substitute parental child care provided pursuant to chapter 50-11.

   b. Child care provided in any educational facility, whether public or private, in grade one or above.

   c. Child care provided in a kindergarten which has been established pursuant to chapter 15.1-22 or a nonpublic elementary school program approved pursuant to section 15.1-06-06.1.

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[299] Section 50-11.1-02 was also amended by section 421 of House Bill No. 1247, chapter 352, and section 4 of House Bill No. 1416, chapter 358.

d. Child care, preschool, and prekindergarten services provided to children under six years of age in any educational facility through a program approved by the superintendent of public instruction.

e. Child care provided in facilities operated in connection with a church, business, or organization where children are cared for during periods of time not exceeding four continuous hours while the child's parent is attending church services or is engaged in other activities, on the premises.

f. Schools or classes for religious instruction conducted by religious orders during the summer months for not more than two weeks, Sunday schools, weekly catechism, or other classes for religious instruction.

g. Summer resident or day camps for children which serve no children under six years of age for more than two weeks.

h. Sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult.

i. Head start and early head start programs that are federally funded and meet federal head start performance standards.

j. Child care provided in a medical facility by medical personnel to children who are ill.

7. "Family child care" means a private residence licensed to provide early childhood services for no more than seven children at any one time, except that the term includes a residence licensed to provide early childhood services to two additional school-age children.

8. "Four-year old program" means an approved child care program operated by a public or private educational entity or an early childhood program designed to serve four-year olds.

9. "Group child care" means a child care program licensed to provide early childhood services for thirty or fewer children.

~~9.~~10. "Household member" means an adult living in the private residence out of which a program is operated, regardless of whether the adult is living there permanently or temporarily.

~~10.~~11. "Human service zone" means a county or consolidated group of counties administering human services within a designated area in accordance with an agreement or plan approved by the department.

~~11.~~12. "In-home provider" means any person who provides early childhood services to children in the children's home.

~~12.~~13. "Licensed" means an early childhood program has the rights, authority, or permission granted by the department to operate and provide early childhood services.

~~13.~~14. "Multiple licensed program" means an early childhood program licensed to provide more than one type of early childhood services.

~~14.~~15. "Owner" or "operator" means the person who has legal responsibility for the early childhood program and premises.

~~15.~~16. "Parent" means an individual with the legal relationship of father or mother to a child or an individual who legally stands in place of a father or mother, including a legal guardian or custodian.

~~16.~~17. "Premises" means the indoor and outdoor areas approved for providing early childhood services.

~~17.~~18. "Preschool" means a program licensed to offer early childhood services, which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day.

~~18.~~19. "Public approval" means a nonlicensed early childhood program operated by a government entity that has self-certified that the program complies with this chapter.

~~19.~~20. "Registrant" means the holder of an in-home provider registration document issued by the department in accordance with this chapter.

~~20.~~21. "Registration" means the process whereby the department maintains a record of all in-home providers who have stated that they have complied or will comply with the prescribed standards and adopted rules.

~~21.~~22. "Registration document" means a written instrument issued by the department to publicly document that the registrant has complied with this chapter and the applicable rules and standards as prescribed by the department.

~~22.~~23. "School-age child care" means a child care program licensed to provide early childhood services on a regular basis for nineteen or more children aged five years through eleven years.

~~23.~~24. "School-age children" means children served under this chapter who are at least five years but less than twelve years of age.

~~24.~~25. "Self-declaration" means voluntary documentation of an individual providing early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

~~25.~~26. "Staff member" means an individual:

a. Who is an employee of an early childhood program or of an early childhood services provider under a self-declaration;

b. Whose activities involve the care, supervision, or guidance of children of an early childhood program; or

c. Who may have unsupervised access to children under the care, supervision, or guidance of an early childhood program or early childhood services provider under a self-declaration.

[300] **SECTION 2.** A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Early childhood grant for best in class four-year old experiences.

1. A four-year old program deemed eligible under section 3 of this Act may submit an application for the best in class four-year old experiences grant. An approved program is eligible for an annual award of one hundred twenty thousand dollars per approved group size. The grant award must be matched with no less than twenty thousand dollars in other funds. The department shall assign a program support coach to each approved program. An approved program:

   a. Shall utilize the assigned support coach and utilize the sliding fee scale for parent fees, as established by the department.

   b. May use grant funds to support the provision of quality early childhood experiences, including expenditures related to staffing, training, equipment, and supplies.

   c. May not use grant funds for construction or rehabilitation. An approved program must enter a grant agreement with the department.

2. The department may not collect equipment or supplies purchased with grant funds from the approved program after successful completion of the term of the grant.

SECTION 3. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Eligibility for best in class four-year old experiences grant.

1. A four-year old program may submit, in the form and manner prescribed by the department, an application to the department for a grant under section 2 of this Act, if the provider certifies to the department the provider:

   a. Operates a four-year old program in this state;

   b. Operates a four-year old program for children who have reached four years of age before August first in the year of enrollment;

   c. Operates a four-year old program that has a duration of at least four hundred hours over a period of at least thirty-two consecutive weeks;

   d. Incorporates within the four-year old program at least ten hours of research-based family engagement;

   e. Has been determined to meet the standards and expectations of no less than step three in the North Dakota early childhood quality improvement system;

   f. Is willing to admit children of all learning abilities into the four-year old program;

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[300] Section 50-11.1-22 was amended by section 29 of House Bill No. 1012, chapter 12.

g. Is willing to admit children who receive assistance from the child care assistance program into the four-year old program; and

h. Is willing to operate in compliance with the grant requirements, including:

(1) Maintaining the recommended group size for number of children served in the four-year old program;

(2) Complying with requirements related to qualifications, training, and professional development of staff delivering services in the four-year old program; and

(3) Adhering to expectations established by the department related to four-year old program monitoring and oversight.

2. The department may distribute grants under this section to approved four-year old programs, including four-year old programs operated as early childhood programs by educational facilities or federally funded head start programs or in connection with a church, business, or organization that operates a four-year old program.

3. The department may recapture grant funds distributed to an approved four-year old program found by the department to be out of compliance with requirements established for the best in class four-year old experiences grant program.

SECTION 4. A new section to chapter 50-11.1 of the North Dakota Century Code is created and enacted as follows:

Grant program data collection - Requirements.

The state agency with approval authority over four-year old programs, with the advice and consent of the department, shall implement a uniform system for the accounting, budgeting, and reporting of data by any four-year old program provider to whom or to which grants are distributed under section 3 of this Act. Grants may be withheld or forfeited, in whole or in part, if information required in accordance with this section is not submitted at the time or in the manner requested by the state agency with approval authority over four-year old programs. A grant recipient shall consent to provide information needed to comply with data collection requirements. The state agency with approval authority over four-year old programs shall disclose the requested information to the department.

SECTION 5. SUSPENSION. Sections 15.1-37-05, 15.1-37-06, and 15.1-37-08 of the North Dakota Century Code are suspended.

SECTION 6. EXPIRATION DATE. This Act is effective through June 30, 2025, and after that date is ineffective.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 369

HOUSE BILL NO. 1347

(Representatives Bosch, J. Nelson)
(Senators Davison, Lee)

AN ACT to amend and reenact section 50-11.1-13.1 of the North Dakota Century Code, relating to a penalty for the provision of early childhood services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-11.1-13.1 of the North Dakota Century Code is amended and reenacted as follows:

50-11.1-13.1. Penalty for provision of services - When applicable.

1. An individual who provides early childhood services to any child, other than a child who is a member of that individual's household, is guilty of a class B misdemeanor if:

   a. Those services are provided after that individual is required to register as a sexual offender;

   b. The department has denied that individual's application for licensure, or self-declaration, or registration to provide early childhood services or has revoked that individual's license, self-declaration, or registration document to provide early childhood services following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that individual; ~~or~~

   c. The individual allows another individual to be in the presence of the child receiving early childhood services if that other individual is required to register as a sexual offender or has had an application for licensure, self-declaration, or registration to provide early childhood services denied or revoked by the department following a finding that services are required under chapter 50-25.1 and that finding has become final or has not been contested by that other individual; or

   d. The individual has been found guilty of, pled guilty to, or pled no contest to:

      (1) An offense described under chapter 12.1-16, 12.1-18, 12.1-27.2, or 12.1-41; section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-03, 12.1-17-04, 12.1-17-06, 12.1-17-07.1, 12.1-17-12, 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07, 12.1-21-01, 12.1-22-01, 12.1-29-01, 12.1-29-02, 12.1-31-05, or 14-09-22; or subdivision b of subsection 2 of section 12.1-22-02.

      (2) An offense under the laws of another jurisdiction which requires proof of substantially similar elements as the elements required for conviction under any offense identified in paragraph 1.

2. An individual is not guilty of a class B misdemeanor under paragraphs b and c of subsection 1 if the department has made a determination that the individual is able to provide care that is free of abuse and neglect, in spite of a finding that services are required under chapter 50-25.1, which has become final or has not been contested.

3. An individual is not guilty of a class B misdemeanor under subdivision d of subsection 1 in the case of a misdemeanor offense described under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, or an equivalent offense in another jurisdiction which requires proof of substantially similar elements as required for conviction for offenses under sections 12.1-17-01, 12.1-17-03, 12.1-17-06, or 12.1-17-07.1, if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent conviction.

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 370

HOUSE BILL NO. 1288

(Representatives Hanson, Dobervich, Rohr, Strinden, Westlind)
(Senators Dever, K. Roers)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to Medicaid coverage of continuous glucose monitoring devices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Continuous glucose monitoring devices.

Medical assistance coverage, including Medicaid Expansion, must include coverage of a continuous glucose monitoring device for a covered individual.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 371

SENATE BILL NO. 2085

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

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to the use of an automated clearing house to facilitate payment to medical assistance providers and provider applicants; to amend and reenact sections 50-24.1-26 and 50-24.1-32 of the North Dakota Century Code, relating to Medicaid waivers to provide in-home services and medical assistance and advanced practice registered nurses; to repeal section 50-24.1-06 of the North Dakota Century Code, relating to medical assistance remedial eye care; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-24.1-26 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-26. Medicaid waivers - In-home services.

The department shall administer Medicaid waivers to provide in-home services to children with extraordinary medical needs and to children up to the age of ~~fourteen~~sixteen diagnosed with an autism spectrum disorder who would otherwise meet institutional level of care. The department may prioritize applicants for the waiver for children with extraordinary medical needs by degree of need.

SECTION 2. AMENDMENT. Section 50-24.1-32 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-32. Medical assistance - Services provided by physician assistants and advanced practice registered ~~nurse practitioners~~nurses.

The medical assistance program must recognize physician assistants and advanced practice registered ~~nurse practitioners~~nurses with the roles of nurse practitioner or certified nurse midwife as primary care providers with the same rights and responsibilities given primary care physicians under the medical assistance program. Any care provided by the physician assistant or advanced practice registered ~~nurse practitioner~~nurse with the roles of nurse practitioner or certified nurse midwife as a primary care provider under the medical assistance program must be within the scope of the physician assistant's or advanced practice registered ~~nurse practitioner's~~nurse's respective license.

SECTION 3. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Automated clearing house payments to medical assistance providers and provider applicants.

The department shall provide payment to medical assistance providers and may provide payments to provider applicants using an automated clearing house to provide for electronic fund transfers. To receive payment, medical assistance

providers and provider applicants shall provide sufficient documentation to enable the department to provide electronic funds transfers through an automated clearing house. No other forms of payment are permitted.

SECTION 4. REPEAL. Section 50-24.1-06 of the North Dakota Century Code is repealed.

SECTION 5. APPLICATION. The department of human services shall stagger implementation of section 3 of this Act so the section applies:

1. On January 1, 2022, to agreements entered between the department of human services and the individual on or after January 1, 2022; and

2. On January 1, 2023, to agreements entered between the department of human services and the individual on or before December 31, 2021.

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 372

HOUSE BILL NO. 1407

(Representatives Louser, Brandenburg, Jones, Monson, J. Nelson, Vigesaa)
(Senator Kannianen)

AN ACT to amend and reenact section 50-24.1-40 of the North Dakota Century Code, relating to medical assistance tribal health care coordination agreements; to repeal section 50-24.1-40 of the North Dakota Century Code, relating to medical assistance tribal health care coordination agreements; to provide for legislative management and legislative council reports; to provide a continuing appropriation; and to provide a contingent effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[301] **SECTION 1. AMENDMENT.** Section 50-24.1-40 of the North Dakota Century Code is amended and reenacted as follows:

50-24.1-40. Medical assistance - Tribal health care coordination agreements - Continuing appropriation - Report to legislative management.

1. As used in this section:

   a. "Care coordination agreement" means an agreement between a health care provider and tribal health care organization which will result in one hundred percent federal funding for eligible medical assistance provided to an American Indian.

   b. "Tribal health care organization" means Indian health services or a tribal entity providing health care under the federal Indian Self-Determination and Education Assistance Act of 1975 [Pub. L. 93-638; 88 Stat. 2203; 25 U.S.C. 5301 et seq.].

2. The department of human services shall facilitate care coordination agreements. Of any federal funding received in excess of the state's regular share of federal medical assistance funding which results from care coordination agreements, the department shall deposit ~~sixty~~eighty percent in the tribal health care coordination fund and ~~forty~~twenty percent in the general fund.

3. There is created in the state treasury a tribal health care coordination fund.

   a. Moneys in the fund are appropriated to the department on a continuing basis for distribution to a tribal government in accordance with an agreement between the department and a tribal government. The agreement between the department and a tribal government must require the tribe to:

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[301] Section 50-24.1-40 was also amended by section 454 of House Bill No. 1247, chapter 352.

(1) Use the money distributed under this section for ~~health-related~~ purposes related to the ten essential services of public heath identified by the federal centers for disease control and prevention and the development or enhancement of community health representative programs or services; however, through June 30, 2025, no more than fifty percent, and thereafter, no more than thirty-five percent, may be used for capital construction. ~~Health-related purposes may include population health programs or services, marketing or education related to health-related programs or services, or developing or enhancing community health representative programs or services. Health-related purposes may not include capital construction, stipends to individuals for services, or services that are covered by Indian health services, Medicaid, or other third-party payers, or state-funded programs.~~

(2) Submit to the department annual reports detailing the use of the money distributed under this section.

(3) Submit to the department every two years an audit report, conducted by an independent licensed certified public accountant, of the tribal government use of the money distributed under this section. A tribal government may use money distributed under this section to pay for this audit report. At the discretion of a tribal government, an audit may be conducted more often than every two years.

b. The distribution of moneys from the fund to a tribal government must be in proportion to the federal funding received from care coordination agreement requests for services originating from within that tribal nation.

c. At least annually, upon completion of any auditing and verification actions of the department, the department shall distribute moneys from the fund to the tribal government.

d. If a tribal government fails to file with the department a timely annual report or audit report, the department shall withhold distribution of moneys from the fund to the tribal government until the report is filed.

e. If an audit report or the department's review of the annual report finds a tribal government used moneys distributed from the fund for a purpose inconsistent with this section, the department shall withhold future distributions to that tribal government in an amount equal to the money used improperly. The department shall distribute money withheld from a tribal government under this subdivision if a future audit report indicates moneys distributed from the fund are used for purposes consistent with this section.

4. Before August of each even-numbered year, the department shall compile and summarize the annual reports and audit reports from the participating tribal governments data and provide the legislative management with a biennial report on the fund ~~and tribal government use of money distributed from the fund~~. Each participating tribe shall compile data and provide the legislative management with a biennial report on the tribe's use of money distributed from the fund.

SECTION 2. REPEAL. Section 50-24.1-40 of the North Dakota Century Code is repealed.

SECTION 3. DEPARTMENT OF HUMAN SERVICES - REPORT TO LEGISLATIVE COUNCIL. On January 2, 2023, the executive director of the department of human services shall certify to the legislative council whether any care coordination agreements have been facilitated under section 50-24.1-40 by December 31, 2022. If no care coordination agreements have been facilitated, the executive director also shall certify this status to the secretary of state.

SECTION 4. CONTINGENT EFFECTIVE DATE. Section 2 of this Act becomes effective on January 3, 2023, if the executive director of the department of human services certifies to the secretary of state and to the legislative council that by December 31, 2022, no care coordination agreements have been facilitated under section 50-24.1-40.

Approved April 21, 2021

Filed April 22, 2021

CHAPTER 373

SENATE BILL NO. 2224

(Senators Dever, Heckaman, Lee, Mathern, K. Roers)

AN ACT to create and enact a new section to chapter 50-24.1 of the North Dakota Century Code, relating to medical assistance coverage of metabolic supplements.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 50-24.1 of the North Dakota Century Code is created and enacted as follows:

Medical assistance benefits - Metabolic supplements.

Medical assistance coverage must include coverage of a metabolic supplement if:

1. The metabolic supplement has been identified and agreed to be covered through an agreement between the department and the state department of health;

2. The metabolic supplement is part of a standard recommendation for treatment;

3. A suitable metabolic supplement that is a covered outpatient drug is not available;

4. The individual is under nineteen years of age; and

5. Payment is made at a rate determined by the department.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 374

HOUSE BILL NO. 1090

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

AN ACT to amend and reenact sections 50-24.4-01, 50-24.4-08, 50-24.4-10, 50-24.4-15, and 50-24.4-19 of the North Dakota Century Code, relating to nursing home rates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[302] **SECTION 1. AMENDMENT.** Section 50-24.4-01 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-01. Definitions.

For the purposes of this chapter:

1. "Actual allowable historical operating cost per diem" means the per diem operating costs allowed by the department for the most recent reporting year.

2. "Actual resident day" means a billable, countable day as defined by the department.

3. "Department" means the department of human services.

4. ~~"Depreciable equipment" means the standard movable resident care equipment and support service equipment generally used in long-term care facilities.~~

~~5.~~ "Direct care costs" means the cost category for allowable nursing and therapy costs.

5. "Fair rental value" means the depreciated replacement value of the building, fixed equipment, moveable equipment, and land based on the facility's effective age. The calculation of the fair rental value of the building and fixed equipment must include a location factor, annual depreciation, and an annual replacement cost inflation factor.

6. "Fair rental value rate" means the per diem rate calculated using the fair rental value and rental rate.

~~6.~~7. "Final rate" means the rate established after any adjustment by the department, including adjustments resulting from cost report reviews and audits.

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[302] Section 50-24.4-01 was also amended by section 458 of House Bill No. 1247, chapter 352.

~~7.~~8. "Fringe benefits" means workforce safety and insurance, group health or dental insurance, group life insurance, retirement benefits or plans, and uniform allowances, and medical services furnished at nursing home expense.

~~8.~~9. "General and administrative costs" means all allowable costs for administering the facility, including salaries of administrators, assistant administrators, accounting personnel, data processing personnel, security personnel, and all clerical personnel; board of directors' fees; business office functions and supplies; travel, except as necessary for training programs for dietitians, nursing personnel, and direct resident care related personnel required to maintain licensure, certification, or professional standards requirements; telephone and telegraph; advertising; membership dues and subscriptions; postage; insurance, except as included as a fringe benefit; professional services such as legal, accounting, and data processing services; central or home office costs; management fees; management consultants; employee training, for any top management personnel and for other than direct resident care related personnel; and business meetings and seminars.

~~9.~~10. "Historical operating costs" means the allowable operating costs incurred by the facility during the reporting year immediately preceding the rate year for which the payment rate becomes effective, after the department has reviewed those costs and determined them to be allowable costs under the medical assistance program, and after the department has applied appropriate limitations such as the limit on administrative costs.

~~10.~~11. "Indirect care costs" means the cost category for allowable administration, plant, housekeeping, medical records, chaplain, pharmacy, and dietary, exclusive of food costs.

~~11.~~12. "Managed care organization" means a Medicaid managed care organization as that term is defined in section 1903(m) of the Social Security Act [42 U.S.C. 1396b(m)].

13. "Margin cap" means a percentage of the price limit which represents the maximum per diem amount a nursing home may receive if the facility has historical operating costs below the price limit.

~~12.~~14. "Nursing home" means a facility, not owned or administered by the state government, defined in section 43-34-01 or a facility owned or administered by the state, which agrees to accept a rate established under this chapter.

~~13.~~15. "Operating costs" means the day-to-day costs of operating the facility in compliance with licensure and certification standards.

~~14.~~16. "Other direct care costs" means the cost category for allowable activities, social services, laundry, and food costs.

~~15.~~17. "Payment rate" means the rate determined under section 50-24.4-06.

~~16.~~18. "Payroll taxes" means the employer's share of Federal Insurance Contributions Act taxes, governmentally required retirement contributions, and state and federal unemployment compensation taxes.

~~17.~~19. "Private-paying resident" means a nursing home resident on whose behalf the nursing home is not receiving medical assistance payments and whose

payment rate is not established by any governmental entity with ratesetting authority, including the veterans' administration or Medicare, or whose payment rate is not negotiated by any managed care organization contracting with a facility to provide services for the resident.

~~18.~~20. "Rate year" means the fiscal year for which a payment rate determined under this chapter is effective, from January first to the next December thirty-first.

~~19. "Real estate" means improvements to real property and attached fixtures used directly for resident care.~~

~~20.~~21. "Reporting year" means the period from July first to June thirtieth, immediately preceding the rate year, for which the nursing home submits reports required under this chapter.

~~21.~~22. "Top management personnel" means owners, board members, corporate officers, general, regional, and district managers, administrators, nursing home administrators, and other persons performing functions ordinarily performed by such personnel.

SECTION 2. AMENDMENT. Section 50-24.4-08 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-08. Notice of increases to private-paying residents.

No increase in nursing home rates for private-paying residents is effective unless the nursing home notifies the resident or person responsible for payment of the increase in writing thirty days before the increase takes effect. A nursing home may adjust its rates without giving the notice required by this section when the purpose of the rate adjustment is to reflect a necessary change in the category of care provided to a resident. ~~If the department fails to set rates at least forty days prior to the beginning of a rate year, the time required for giving notice is decreased by the number of days by which the department was late in setting the rates, except when a facility fails to file a cost report by October first.~~

SECTION 3. AMENDMENT. Section 50-24.4-10 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-10. Operating costs.

1. The department shall establish procedures for determining per diem reimbursement for operating costs.

2. The department shall analyze and evaluate each nursing home's cost report of allowable operating costs incurred by the nursing home during the reporting year immediately preceding the rate year for which the payment rate becomes effective.

3. The department shall establish price limits on actual allowable historical operating cost per diems, increased by the market basket for skilled nursing facility before productivity assessment, based on cost reports of allowable operating costs taking into consideration relevant factors including resident needs, nursing hours necessary to meet resident needs, size of the nursing home, and the costs that must be incurred for the care of residents in an efficiently and economically operated nursing home. For the rate year beginning ~~2006~~2022, the department shall establish price limits for cost

categories using the June 30, ~~2003~~2021, cost report year as the base period. The price limits ~~may not fall below~~must be established using the same percentage of the median ~~of the most recent cost report.~~used to establish the limits for the June 30, 2020, base period. ~~Until a new base period is established, the department shall adjust the limits annually by the inflation rate for nursing home services used to develop the legislative appropriation for the department.~~ In determining allowable historical operating cost per diems for purposes of setting price limits ~~and nursing home payment rates~~, the department shall divide the allowable historical operating costs by the actual number of resident days, except that when a nursing home is occupied at less than ninety percent of licensed capacity days, the department may establish procedures to adjust the computation of the indirect care cost per diem to an imputed occupancy level at or below ninety percent. To encourage the development of home and community-based services as an alternative to nursing home care, the department may waive the imputed occupancy level requirements for a nursing home that the department determines to be providing significant home and community-based services in coordination with home and community-based service providers to avoid duplicating existing services. ~~The department shall establish efficiency incentives for indirect care costs. The department may establish efficiency incentives for different operating cost categories. The department shall consider establishing efficiency incentives in care-related cost categories.~~

4. ~~Each nursing home shall receive an operating cost payment rate equal to the sum of the nursing home's operating cost payment rates for each operating cost category. The operating cost payment rate for an operating cost category must be the lesser of the nursing home's historical operating cost in the category increased by the inflation rate for nursing home services used to develop the legislative appropriation for the department for the operating cost category plus an efficiency incentive established pursuant to subsection 3 or the limit for the operating cost category increased by the same inflation rate. If a nursing home's actual historic operating costs are greater than the prospective payment rate for that rate year, there may be no retroactive cost settle-up.~~ In establishing payment rates for one or more operating cost categories, the department may establish separate rates for different classes of residents based on their relative care needs.

5. ~~The efficiency incentives to be established by the department pursuant to subsection 3 for a facility with an actual rate below the limit rate for indirect care costs must include the lesser of two dollars and sixty cents per resident day or the amount determined by multiplying seventy percent times the difference between the actual rate, exclusive of inflation rates, and the limit rate, exclusive of current inflation rates. The efficiency incentive must be included as a part of the indirect care cost rate~~The department shall include in the ratesetting system for nursing homes those costs associated with computer software and any related technology, including cloud-based services. These expenses are allowed as a direct passthrough.

6. ~~Each nursing home must receive an operating margin of at least three percent based upon the lesser of the actual direct care and other direct care costs and the limit rate prior to inflation. The operating margin will then be added to the rate for direct care and other direct care cost categories.~~

~~7.~~ A new base period must be established ~~at least every four years beginning~~ with the cost report period June 30, ~~2006~~2023.

7. The margin cap used for the rate year beginning 2022 price limits must be no less than three and forty-six hundredths percent.

8. The market basket for skilled nursing facility before productivity adjustment is the preferred index to adjust historical operating costs when a new base period is established and to adjust the price rate in subsequent years until a new base rate period is established.

9. For the rate years beginning 2022 and 2023, the department shall inform the nursing home of the operating rate using historical operating costs and the operating rate using price limits. The nursing home shall inform the department if the nursing home wants to accept the operating rate using historical operating costs as the established rate.

SECTION 4. AMENDMENT. Section 50-24.4-15 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-15. Property-related costs.

1. The department shall include in the ratesetting system for nursing homes a fair rental value payment mechanism for the use of real and personal property ~~which provides for depreciation and related interest costs. The property cost payment mechanism must:~~

   ~~a. Recognize the valuation basis of assets acquired in a bona fide transaction as an ongoing operation after July 1, 1985, limited to the lowest of:~~

   ~~(1) Purchase price paid by the purchaser;~~

   ~~(2) Fair market value at the time of sale; or~~

   ~~(3) Seller's cost basis, increased by one-half of the increase in the consumer price index for all urban consumers (United States city average) from the date of acquisition by the seller to the date of acquisition by the buyer, less accumulated depreciation.~~

   ~~b. Recognize depreciation on land improvements, buildings, and fixed equipment acquired, as an ongoing operation over the estimated useful remaining life of the asset as determined by a qualified appraiser.~~

   ~~c. Recognize depreciation on movable equipment acquired as an ongoing operation after August 1, 1995, over a composite remaining useful life.~~

   ~~d. Provide for an interest expense limitation determined by the department and established by rule.~~

   ~~e. Establish.~~

2. The department shall establish a per bed property cost limitation considering single and double occupancy construction. The double room limit effective July 1, 2015, is one hundred fifty-six thousand seven hundred eighty-three dollars and the single room limit is two hundred thirty-five thousand one hundred seventy-six dollars.

f. ~~Recognize increased lease costs of a nursing home operator to the extent the lessor has incurred increased costs related to the ownership of the facility, the increased costs are charged to the lessee, and the increased costs would be allowable had they been incurred directly by the lessee.~~

g. ~~Recognize any mandated costs, fees, or other moneys paid to the attorney general through transactions under sections 10-33-144 through 10-33-149.~~

2. ~~For rate years beginning after December 31, 2003, the limitations of paragraph 3 of subdivision a of subsection 1 do not apply to the valuation basis of assets purchased between July 1, 1985, and July 1, 2000. The provisions of this subsection may not be applied retroactively to any rate year before July 1, 2005.~~ The per bed property cost limitation must apply to construction or renovation projects currently in process or which have approved financing in place on or before December 31, 2021. The nursing home must have agency approval of the project by December 31, 2022. The nursing home shall notify the department within thirty days of receiving financial approval for any construction or renovation projects that financing is in place on or before December 31, 2022.

3. ~~For rate years beginning after December 31, 2007, the limitations of subdivision e of subsection 1 do not apply to the valuation basis of assets acquired as a result of a natural disaster before December 31, 2006. The provisions of this subsection may not be applied retroactively to any rate year before January 1, 2008.~~The maximum allowable movable equipment replacement value per licensed bed must be fifteen thousand dollars when calculating the fair rental value.

4. ~~The department shall include in the ratesetting system for nursing homes those costs associated with computer software and any related technology, including cloud-based services. These expenses are allowed as a direct passthrough.~~The maximum allowable square footage per licensed bed must be nine hundred fifty square feet [88.26 square meters] when calculating the fair rental value.

5. The maximum allowable rental rate must be eight percent when calculating the fair rental value rate.

6. Effective with the 2023 rate year, the property rate component of the payment rate, exclusive of startup and passthrough costs, must be the greater of the rate calculated using allowable property-related costs or the fair rental value rate. If the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be phased in over a four-year period.

7. Effective with the 2023 rate year, if the fair rental value rate is greater than the rate calculated using allowable property-related costs, the increase must be reserved until a major renovation or construction is placed in service.

8. Effective with the 2023 rate year and subsequent rate years, if the fair rental value rate is less than the rate calculated using allowable property-related costs, the department shall inform the nursing home of the property rate using allowable property-related costs and the fair rental value. Before the start of each rate year, the nursing home shall inform the department if the nursing

home wants to accept the property rate using allowable property-related costs as the established rate. The allowable property-related costs must be calculated using only the allowable depreciation on capital assets and interest on debt as of June 30, 2022, for all rate years. Once the fair rental value rate is equal to or greater than the rate calculated using allowable property-related costs, or the nursing home does not inform the department the nursing home wants to accept the property rate using allowable property-related costs, the department no longer need inform the nursing home of the property rate using allowable property-related costs and the rate must be calculated using the fair rental value methodology.

[303] **SECTION 5. AMENDMENT.** Section 50-24.4-19 of the North Dakota Century Code is amended and reenacted as follows:

50-24.4-19. Prohibited practices.

A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

1. Charging private-paying residents rates for similar services which exceed those rates which are approved by the department for medical assistance recipients, as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may charge private-paying residents a higher rate for a private room and charge for special services which are not included in the daily rate if medical assistance residents are charged separately at the same rate for the same services in addition to the daily rate paid by the department of human services. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private-paying resident a rate in violation of this chapter is subject to an action by the state or any of its subdivisions or agencies for civil damages. A private-paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this chapter. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorney's fees or their equivalent.

2. Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit ~~in excess of one hundred dollars~~, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home.

3. Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home.

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[303] Section 50-24.4-19 was also amended by section 460 of House Bill No. 1247, chapter 352.

4. Providing differential treatment on the basis of status with regard to public assistance.

5. Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance. Admissions discrimination shall include, but is not limited to:

   a. Basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs.

   b. Engaging in preferential selection from waiting lists based on an applicant's ability to pay privately.

   The collection and use by a nursing home of financial information of any applicant pursuant to a preadmission screening program does not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this chapter.

6. Requiring any vendor of medical care, who is reimbursed by medical assistance under a separate fee schedule, to pay any portion of the vendor's fee to the nursing home except as payment for the fair market value of renting or leasing space or equipment of the nursing home or purchasing support services, if those agreements are disclosed to the department.

7. Refusing, for more than twenty-four hours, to accept a resident returning to the resident's same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

8. Violating any of the rights of health care facility residents enumerated in section 50-10.2-02.

9. Charging a managed care organization a rate that is less than the rate approved by the department for a medical assistance recipient in the same classification.

Approved March 31, 2021

Filed April 1, 2021

CHAPTER 375

SENATE BILL NO. 2087

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

AN ACT to amend and reenact subsection 3 of section 50-24.6-04 of the North Dakota Century Code, relating to the medical assistance prior authorization program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 50-24.6-04 of the North Dakota Century Code is amended and reenacted as follows:

3. a. For individuals twenty-one years of age and older, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, ~~in the aggregate, or~~ generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, <u>or medications that are considered line extension drugs,</u> the department may not prior authorize the following medication classes:

   (1) Antipsychotics;

   (2) Antidepressants;

   (3) Anticonvulsants;

   (4) Antiretrovirals, for the treatment of human immunodeficiency virus;

   (5) Antineoplastic agents, for the treatment of cancer; and

   (6) Stimulant medication used for the treatment of attention deficit disorder and attention deficit hyperactivity disorder, except an individual who prescribes this medication at a rate two times higher than the rate of the top ten prescribers excluding the top prescriber may be subject to prior authorization.

   b. For individuals under twenty-one years of age, except for quantity limits that may be no less than the pharmaceutical manufacturer's package insert, brand name drugs with a generic equivalent drug for which the cost to the state postrebate is less than the brand name drugs, ~~in the aggregate, or~~ generic drugs with a brand name equivalent drug for which the cost to the state postrebate is less than the generic drug, <u>or medications that are considered line extension drugs,</u> the department may not prior authorize the following medication classes:

   (1) Antipsychotics;

   (2) Antidepressants;

(3) Anticonvulsants;

(4) Antiretrovirals, for the treatment of human immunodeficiency virus;

(5) Antineoplastic agents, for the treatment of cancer; and

(6) Stimulant medication used for the treatment of attention deficit hyperactivity disorder.

c. The restrictions of subdivision b do not apply for individuals under twenty-one years of age, who have five or more concurrent prescriptions for psychotropic medications.

d. Prior authorization for individuals under twenty-one years of age is required for five or more concurrent prescriptions for antipsychotics, antidepressants, anticonvulsants, benzodiazepines, mood stabilizers, sedative, hypnotics, or medications used for the treatment of attention deficit hyperactivity disorder. The department shall grant authorization to exceed the limits after a prescriber requesting authorization consults with a board certified pediatric psychiatrist approved by the department.

e. The restrictions of this subsection do not apply if prior authorization is required by the centers for Medicare and Medicaid services.

f. As used in this subsection, "line extension drug" means a new formulation of a drug. The term does not include an abuse-deterrent formulation of a drug.

Approved March 23, 2021

Filed March 24, 2021

CHAPTER 376

HOUSE BILL NO. 1326

(Representatives Weisz, J. Nelson)
(Senator Lee)

AN ACT to provide for exemption of federal coronavirus stimulus funds for the service payments for elderly and disabled and the basic care programs; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. SERVICE PAYMENTS FOR ELDERLY AND DISABLED AND BASIC CARE PROGRAMS - FEDERAL CORONAVIRUS STIMULUS FUNDS. During the 2019-21 and 2021-23 bienniums, under the service payments for elderly and disabled program, Medicaid waiver for the aged and disabled program, and aid to vulnerable, aged, blind, and disabled program, coronavirus stimulus funds received under federal law, including the federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 [Pub. L. 116-260] or any other law authorizing stimulus funds as a result of the federal coronavirus pandemic emergency declaration, are not countable income or a resource.

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

Approved April 16, 2021

Filed April 16, 2021

CHAPTER 377

SENATE BILL NO. 2083

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

AN ACT to amend and reenact sections 50-25.1-02, 50-25.1-03, 50-25.1-03.1, 50-25.1-04, 50-25.1-04.1, 50-25.1-04.2, 50-25.1-04.3, 50-25.1-05, 50-25.1-05.1, 50-25.1-05.2, 50-25.1-05.3, 50-25.1-05.4, 50-25.1-05.5, 50-25.1-05.6, 50-25.1-06, 50-25.1-07, 50-25.1-09.1, 50-25.1-11, 50-25.1-13, 50-25.1-14, 50-25.1-15, 50-25.1-16, 50-25.1-18, 50-25.1-19, 50-25.1-20, 50-25.1-21, 50-25.1-22, and 50-25.1-23 of the North Dakota Century Code, relating to child abuse and neglect; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[304] **SECTION 1. AMENDMENT.** Section 50-25.1-02 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-02. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "A person responsible for the child's welfare" means an individual who has responsibility for the care or supervision of a child and who is the child's parent, an adult family member of the child, any member of the child's household, the child's guardian, or the child's foster parent; or an employee of, or any person providing care for the child in, a ~~public or private school or~~ child care setting. For the purpose of institutional child abuse or neglect, "A person responsible for the child's welfare" means an institution that has responsibility for the care or supervision of a child.

2. "Abuse of alcohol", "alcohol abuse", or "abused alcohol" means alcohol use disorder as defined in the current edition of the "Diagnostic and Statistical Manual of Mental Disorders" published by the American psychiatric association or a maladaptive use of alcohol with negative medical, sociological, occupational, or familial effects.

3. "Abused child" means an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22 caused by a person responsible for the child's welfare, and ~~"~~includes a sexually abused child~~" means an individual under the age of eighteen years who is subjected by a person responsible for the child's welfare, or by any individual, including a juvenile, who acts~~ who is suffering from or was subjected to any act in violation of sections 12.1-20-01 through 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.3, or chapter 12.1-27.2, by any individual, including a juvenile.

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[304] Section 50-25.1-02 was also amended by section 39 of House Bill No. 1035, chapter 245, section 467 of House Bill No. 1247, chapter 352, and section 468 of House Bill No. 1247, chapter 352.

4. "Alternative response assessment" means a child protection response involving substance exposed newborns which is designed to:

   a. Provide referral services to and monitor support services for a person responsible for the child's welfare and the substance exposed newborn; and

   b. Develop a plan of safe care for the substance exposed newborn.

5. "Authorized agent" means the human service zone, unless another entity is designated by the department.

6. "Child fatality review panel" means a multidisciplinary team consisting of a representative of the department and, if possible, a forensic pathologist, a physician, a representative of the state department of health injury prevention, a representative of the attorney general, a representative of the superintendent of public instruction, a representative of the department of corrections and rehabilitation, a peace officer licensed in the state, a mental health professional, a representative of emergency medical services, a medical services representative from a federally recognized Indian tribe in this state, one or more representatives of the lay community, and a designated tribal representative, as an ad hoc member, acting for each federally recognized Indian tribe in this state. A team member, at the time of selection and while serving on the panel, must be a staff member of the public or private agency the member represents or shall serve without remuneration. The child fatality review panel may not be composed of fewer than three individuals.

7. "Child protection assessment" means a factfinding process designed to provide information that enables a determination ~~to be made that services are required to provide for the protection and treatment~~ of whether a child meets the definition of an abused or neglected child ~~and an evidence-based screening tool~~, including instances that may not identify a specific person responsible for the child's welfare which is responsible for the abuse or neglect.

~~7.~~8. "Children's advocacy center" means a full or associate member of the national children's alliance which assists in the coordination of the investigation in response to allegations of child abuse by providing a dedicated child-friendly location at which to conduct forensic interviews, forensic medical examinations, and other appropriate services and which promotes a comprehensive multidisciplinary team response to allegations of child abuse. The team response may include forensic interviews, forensic medical examinations, mental health and related support services, advocacy, and case review.

~~8.~~9. "Citizen review committee" means a committee appointed by the department to review the department's provision of child welfare services.

~~9.~~10. "Confirmed" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, and the department confirms the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.

11. "Confirmed with unknown subject" means that upon completion of a child protection assessment, the department determines, based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child, but the evidence does not confirm the identity of a specific person responsible for the child's welfare which is responsible for the abuse or neglect.

12. "Department" means the department of human services ~~or its designee~~.

~~10.~~13. "Family services assessment" means a child protection services response to reports of suspected child abuse or neglect in which the child is determined to be at low risk and safety concerns for the child are not evident according to guidelines developed by the department ~~and an evidence-based screening tool~~.

~~11.~~14. "Impending danger" means a foreseeable state of danger in which a behavior, attitude, motive, emotion, or situation can be reasonably anticipated to have severe effects on a child according to criteria developed by the department.

15. "Indicated" means that upon completion of an assessment of a report of institutional child abuse or neglect, the department determines based upon a preponderance of the evidence, that a child meets the definition of an abused or neglected child.

16. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect when the institution responsible for the child's welfare is a public or private school, a residential ~~child care~~ facility~~, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state~~ or setting either licensed, certified, or approved by the department, or a residential facility or setting that receives funding from the department. For purposes of this subsection, residential facilities and settings excludes correctional, medical, home and community-based residential rehabilitation, and educational boarding care settings.

~~12. "Local child protection team" means a multidisciplinary team consisting of the designee of the human service zone director who shall serve as presiding officer, together with such other representatives as that director might select for the team. All team members, at the time of their selection and thereafter, must be staff members of the public or private agencies they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court proceeding nor may the child protection team be composed of fewer than three members. The department may coordinate the organization of local child protection teams on a human service zone basis.~~

~~13.~~17. "Near death" means an act that, as certified by a physician, places a child in serious or critical condition.

~~14.~~18. "Neglected child" means a child who, due to the action or inaction of a person responsible for the child's welfare:

a. Is without proper care or control, subsistence, education as required by law, or other care or control necessary for the child's physical, mental, or

emotional health, or morals, and is not due primarily to the lack of financial means of a person responsible for the child's welfare;

b. Has been placed for care or adoption in violation of law;

c. Has been abandoned;

d. Is without proper care, control, or education as required by law, or other care and control necessary for the child's well-being because of the physical, mental, emotional, or other illness or disability of a person responsible for the child's welfare, and that such lack of care is not due to a willful act of commission or act of omission, and care is requested by a person responsible for the child's welfare;

e. Is in need of treatment and a person responsible for the child's welfare has refused to participate in treatment as ordered by the juvenile court;

f. Was subject to prenatal exposure to chronic or severe use of alcohol or any controlled substance as defined in ~~chapter 19-03.1~~section 19-03.1-01 in a manner not lawfully prescribed by a practitioner;

g. Is present in an environment subjecting the child to exposure of a controlled substance, chemical substance, or drug paraphernalia as prohibited by section 19-03.1-22.2, except as used in this subsection, controlled substance includes any amount of marijuana; or

h. Is a victim of human trafficking as defined in title 12.1.

~~15.~~19. "Prenatal exposure to a controlled substance" means use of a controlled substance as defined in chapter 19-03.1 by a pregnant woman for a nonmedical purpose during pregnancy as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance.

~~16.~~20. "Protective services" includes services performed after an assessment of a report of child abuse or neglect has been conducted, such as social assessment, service planning, implementation of service plans, treatment services, referral services, coordination with referral sources, progress assessment, monitoring service delivery, and direct services.

~~17.~~21. "State child protection team" means a multidisciplinary team consisting of ~~the designee~~a representative of the department and, where possible, ~~of a physician, a representative of a child-placing agency,~~ a representative of the state department of health, a representative of the attorney general, a representative of law enforcement, a representative of the superintendent of public instruction, a ~~representative of the department of corrections and rehabilitation,~~parent with lived experience, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter, must be staff members of the public or private agency they represent or shall serve without remuneration. An attorney member of the child protection team may not be appointed to represent the child or the parents at any subsequent court

proceeding nor may the child protection team be composed of fewer than three ~~persons~~individuals. A quorum of the state child protection team consists of a minimum of one member from the department and two other state child protection team members.

~~18.~~22. "Substance exposed newborn" means an infant younger than twenty-eight days of age at the time of the initial report of child abuse or neglect and who is identified as being affected by substance abuse or withdrawal symptoms or by a fetal alcohol spectrum disorder.

23. "Unable to determine" means insufficient evidence is available to enable a determination whether a child meets the definition of an abused or neglected child.

24. "Unconfirmed" means that upon completion of a child protection assessment, the department has determined, based upon a preponderance of the evidence, that a child does not meet the definition of an abused or neglected child.

SECTION 2. AMENDMENT. Section 50-25.1-03 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03. Persons required and permitted to report - To whom reported.

1. Any dentist; optometrist; dental hygienist; medical examiner or coroner; tier 1 mental health professional, tier 2 mental health professional, tier 3 mental health professional, or tier 4 mental health professional as defined under section 25-01-01; or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, licensed social worker, family service specialist, child care licensor, or member of the clergy having knowledge of or reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is derived from information received in the capacity of spiritual adviser.

2. Any person having reasonable cause to suspect a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department or authorized agent.

3. A person having knowledge of or reasonable cause to suspect a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department or authorized agent.

SECTION 3. AMENDMENT. Section 50-25.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-03.1. Photographs - X-rays - Medical tests.

Any ~~person~~individual or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who the ~~person~~individual or official has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colposcopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any ~~person~~individual or official required to report under this chapter. Photographs and visual images, or copies of them, must be sent to the department or ~~the department's designee~~authorized agent at the time the initial report of child abuse or neglect is made or as soon thereafter as possible.

SECTION 4. AMENDMENT. Section 50-25.1-04 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04. Method of reporting.

1. All persons mandated or permitted to report cases of known or suspected child abuse or neglect ~~shall~~ immediately shall cause oral or written reports to be made to the department or ~~the department's designee~~authorized agent. Oral reports must be followed by written reports within forty-eight hours if so requested by the department or ~~the department's designee~~authorized agent. A requested written report must include information specifically sought by the department or authorized agent if the reporter possesses or has reasonable access to that information. Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this chapter.

2. The chief administrator of an entity employing more than twenty-five individuals who are required to report suspected child abuse or neglect under this chapter may designate an agent within the entity to file reports of suspected child abuse or neglect on behalf of the staff members and volunteers of the entity. Under no circumstances may a designated agent to whom such report has been made impose conditions, including prior approval or prior notification, upon a staff member or volunteer reporting suspected child abuse or neglect under this chapter or exercise any control, restraint, or modification, or make any changes to the information provided by the staff member or volunteer. A report filed by the designated agent must include the first and last name, title, and contact information for every staff member or volunteer of the entity who is believed to have direct knowledge of the facts surrounding the report. A single report from the designated agent under this subsection is adequate to meet the reporting requirement on behalf of staff members and volunteers of the entity listed with the required information.

3. If a staff member or volunteer makes a report of suspected child abuse and neglect to a designated agent of an entity as authorized in subsection 2, and the designated agent files a report on behalf of the staff member or volunteer, the staff member or volunteer will be considered to be fully compliant with the reporting requirements in this chapter. However, this section does not preclude the staff member or volunteer from also reporting the suspected child abuse and neglect directly to the department or authorized agent. A staff member or volunteer reporting suspected child abuse or neglect under this subsection who has knowledge the designated agent has failed to report on behalf of the staff member or volunteer immediately shall make a report directly to the department or authorized agent.

SECTION 5. AMENDMENT. Section 50-25.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.1. State child protection team - How created - Duties.

1. The department shall name the members of the state child protection team. ~~The members must be appointed for three-year staggered terms.~~ The ~~member who represents the~~ department ~~shall serve as presiding officer and~~ is responsible for ~~the transmittal of~~ all ~~team~~ reports made pursuant to this chapter. The ~~presiding officer~~department shall set meetings for the purposes of fulfilling the duties set forth in sections 50-25.1-02 and 50-25.1-04.

2. Under procedures adopted by the team, ~~it~~the team may meet at any time, confer with any individuals, groups, and agencies, and may issue reports or recommendations on any aspect of child abuse, neglect, or death resulting from abuse or neglect ~~it~~the team deems appropriate. All reports or recommendations issued are subject to section 50-25.1-11, except that the team shall make available information reflecting the disposition of reports of institutional child abuse, neglect, or death resulting from abuse or neglect, when the identity of persons reporting, and of the children and parents of children involved, is protected.

3. In every case of alleged institutional child abuse or neglect, the state child protection team shall make a determination ~~that~~whether child abuse or neglect is ~~or is not~~ indicated. Upon a determination that institutional child abuse or neglect is indicated, the state child protection team promptly shall make a written report of the determination. When ~~the subject of the~~a report ~~is a state-operated institution~~includes an allegation or report of institutional child abuse and neglect as defined in section 50-25.1-02, the state child protection team promptly shall notify the ~~governor~~executive director of the department of the determination. Notwithstanding section 50-25.1-11, the department shall notify the superintendent of public instruction, the school district administrator, and the president or chairman of the school board or a private school's governing body or entity if the subject of the report is a public or private school.

4. If a determination that institutional child abuse or neglect is indicated relative to a residential facility or setting either licensed, certified, or approved by the department or a residential facility or setting that receives funding from the department, that facility or setting shall engage in an improvement plan approved by the department. Failure to complete the approved improvement plan must result in notification to the residential facility or setting's board of directors and to any entity that accredits the facility or setting. Notification must include the written report of the state child protection team, the approved improvement plan, and areas of deficiency that resulted in the notification.

[305] **SECTION 6. AMENDMENT.** Section 50-25.1-04.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.2. Child fatality review panel.

The ~~state child protection team shall serve as a~~ child fatality review panel is a multidisciplinary panel and incorporates representatives of agencies that are directly

[305] Section 50-25.1-04.2 was also amended by section 469 of House Bill No. 1247, chapter 352.

or indirectly involved in responding to the death of a child. The department ~~shall appoint a peace officer licensed in the state, a mental health professional, and~~may designate any other person as appropriate to assist the panel in the performance of ~~its~~the panel's duties. The department, in coordination with the state department of health, shall adopt rules for the operation of the panel. Panel members are not entitled to compensation or reimbursement of expenses for service on the panel. The representative of the department shall serve as presiding officer and is responsible for gathering records and preparing reports to review. The presiding officer shall set meetings for the purpose of fulfilling the duties set forth in sections 50-25.1-04.3 and 50-25.1-04.5.

SECTION 7. AMENDMENT. Section 50-25.1-04.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-04.3. Child fatality review panel - Duties.

The child fatality review panel shall meet at least ~~semiannually~~quarterly to review the deaths and near deaths of all minors which occurred in the state during the preceding ~~six~~twelve months and to identify trends or patterns in the deaths and near deaths of minors. The panel may review near deaths alleged to have resulted only from child abuse and neglect. The panel shall promote:

1. Interagency communication for the management of child death cases and for the management of future nonfatal cases.

2. Effective criminal, civil, and social intervention for families with fatalities.

3. Intervention and counseling of surviving and at-risk siblings, and offer the same.

4. Interagency use of cases to audit the total health and social service systems and to minimize misclassification of cause of death.

5. Evaluation of the impact of specific risk factors including substance abuse, domestic violence, and prior child abuse.

6. Interagency services to high-risk families.

7. Data collection for surveillance of deaths and the study of categories of causes of death.

8. The use of media to educate the public about child abuse prevention.

9. Intercounty, interhuman service zones, and interstate communications regarding child death.

10. ~~Use of local child protection team members as local child fatality review panelists.~~

~~11.~~ Information that apprises a parent or guardian of the parent's or guardian's rights and the procedures taken after the death of a child.

SECTION 8. AMENDMENT. Section 50-25.1-05 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05. Child protection assessment - Alternative response assessment - Family services assessment.

1. The department or authorized agent, in accordance with rules adopted by the department, immediately shall initiate a child protection assessment, alternative response assessment, or family services assessment or cause an assessment, of any report of child abuse or neglect including, when appropriate, the child protection assessment, alternative response assessment, or family services assessment of the home or the residence of the child, any school or child care facility attended by the child, and the circumstances surrounding the report of abuse or neglect.

2. According to guidelines developed by the department, the department or authorized agent may initiate an alternative response assessment or family services assessment if the department or authorized agent determines initiation is appropriate.

3. If the report alleges a violation of a criminal statute involving sexual or physical abuse, the department or authorized agent shall initiate a child protection assessment by contacting the law enforcement agency having jurisdiction over the alleged criminal violation. The department or authorized agent and an appropriate law enforcement agency shall coordinate the planning and execution of the child protection assessment and law enforcement investigation efforts to avoid a duplication of factfinding efforts and multiple interviews. If the law enforcement agency declines to investigate, the department or authorized agent shall continue the child protection assessment to a determination.

4. The department, the authorized agent, or the law enforcement agency may:

   a. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, and other services.

   b. Interview, without the consent of a person responsible for the child's welfare, the alleged abused or neglected child and any other child who currently resides or who has resided with the person responsible for the child's welfare or the alleged perpetrator.

   c. Conduct the interview at a school, child care facility, or any other place where the alleged abused or neglected child or other child is found.

5. Except as prohibited under title 42, Code of Federal Regulations, part 2, a medical, dental, or mental health professional, hospital, medical or mental health facility, or health care clinic shall disclose to the department or the ~~department's~~ authorized agent, upon request, the records of a patient or client which are relevant to a child protection assessment of reported child abuse or neglect or to a ~~services required~~confirmed decision. The department, or the ~~department's~~ authorized agent, shall limit the request for records to the minimum amount of records necessary to enable a determination to be made or to support a determination of whether ~~services are required~~child abuse or neglect is confirmed, confirmed with unknown subject, or unable to determine to provide for the protection and treatment of an abused or neglected child.

6. The department shall adopt guidelines for case referrals to a children's advocacy center. When cases are referred to a children's advocacy center, all interviews of the alleged abused or neglected child conducted at the children's

advocacy center under this section ~~shall~~must be audio-recorded or video-recorded.

7. The department or authorized agent shall complete an evidence-based screening tool during a child protection assessment or a family services assessment.

8. The department or authorized agent may terminate in process a child protection assessment upon a determination there is no credible evidence supporting the reported abuse or neglect occurred.

9. If a report alleges institutional child abuse or neglect involving a public or private school, the department or the department's authorized agent shall conduct a child protection assessment. If practical, the department or the department's authorized agent shall provide notice of the onset of a child protection assessment to the public or private school. A public or private school may complete an investigation into any conduct reported or alleged to constitute institutional child abuse or neglect at the school's institution concurrently with a child protection assessment. If a public or private school conducts an investigation concurrently with a child protection assessment, the department or the department's authorized agent and the public or private school shall coordinate the planning and execution of the child protection assessment and public or private school investigation efforts to avoid a duplication of fact finding efforts and multiple interviews if practical.

SECTION 9. AMENDMENT. Section 50-25.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.1. ~~Services required~~Child abuse or neglect assessment decision - How determined.

Upon completion of the child protection assessment of the initial report of child abuse or neglect, a decision must be made whether ~~services are required to provide for the protection and treatment of an abused or neglected~~confirmed, confirmed with unknown subject, unconfirmed, or unable to determine abuse or neglect of a child.

1. This determination is the responsibility of the department.

2. A decision ~~that services are required~~of confirmed may not be made if the suspected child abuse or neglect arises solely out of conduct involving the ~~legitimate~~lawful practice of religious beliefs by a parent or guardian. This exception does not preclude a court from ordering that medical services be provided to the child if the child's life or safety requires such an order or the child is subject to harm or threatened harm.

SECTION 10. AMENDMENT. Section 50-25.1-05.2 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.2. Report to the court - Entry of report in the child abuse information index.

1. Upon ~~a decision~~confirmation that ~~services are required~~a child meets the definition of an abused or neglected child, the department promptly shall make a written report of the decision to the juvenile court having jurisdiction in the matter.

2. The department promptly shall file a report of a decision that ~~services are required~~a child meets the definition of an abused or neglected child under this section in the child abuse information index.

SECTION 11. AMENDMENT. Section 50-25.1-05.3 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.3. Disposition of reports implicating a person not responsible for the child's health or welfare.

1. Upon determination by the department or ~~the department's designee~~authorized agent that a report made under this chapter implicates a person other than a person responsible for a child's welfare, the department or authorized agent shall refer the report to an appropriate law enforcement agency for investigation and disposition.

2. If law enforcement determines a minor committed an act in violation of sections 12.1-20-01 through 12.1-20-04, section 12.1-20-07, sections 12.1-20-11 through 12.1-20-12.2, or chapter 12.1-27.2 against another minor, law enforcement shall provide the report to the department or authorized agent. Law enforcement shall conduct a criminal investigation and shall coordinate with the department or authorized agent for the provision of services to the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors.

3. The department or authorized agent shall provide risk assessment, safety planning, and any appropriate evidence-based screening for the minors and any other minors under the same care. The department or authorized agent shall refer the minors, parents, custodians, or other persons serving in loco parentis with respect to the minors, for appropriate services.

SECTION 12. AMENDMENT. Section 50-25.1-05.4 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.4. Department to adopt rules for review of child protection assessment findings.

The department shall adopt rules to resolve complaints and conduct appeal hearings requested by the subject of a report of suspected child abuse, neglect, or death resulting from abuse or neglect who is aggrieved by the ~~conduct or result of a child protection assessment~~confirmed decision.

SECTION 13. AMENDMENT. Section 50-25.1-05.5 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.5. Child abuse information index - Establishment.

The division of children and family services or other division as determined appropriate by the department shall maintain a child abuse information index of all reports ~~of decisions that services are required~~confirmed or confirmed with unknown subjects for child abuse, neglect, or death resulting from abuse or neglect which are filed pursuant to section 50-25.1-05.2.

SECTION 14. AMENDMENT. Section 50-25.1-05.6 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-05.6. Interviews on school property.

The department, authorized agent, or appropriate law enforcement agency shall notify the school principal or other appropriate school administrator of its intent to conduct an interview on school property pursuant to section 50-25.1-05. The school administrator may not disclose the nature of the notification or any other related information concerning the interview to any person, including a person responsible for the child's welfare. The school administrator and department, authorized agent, or law enforcement agency shall make every effort to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school property.

[306] **SECTION 15. AMENDMENT.** Section 50-25.1-06 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-06. Protective and other services to be provided.

The department shall provide protective services for ~~the~~a child meeting the definition of an abused or neglected child and who is at substantial risk of continued abuse or neglect due to a supported state of impending danger, as well as other children under the same care as may be necessary for their well-being and safety and shall provide other appropriate social services, as the circumstances warrant, to the parents, custodian, or other persons serving in loco parentis with respect to the child or the other children. The department may discharge the duties described in this section through an authorized agent. The department may provide protective services, as resources permit, for any child, other children under the same care, parents, custodian, or other persons serving in loco parentis upon concurrence of the parent, custodian, or other persons serving in loco parentis.

SECTION 16. AMENDMENT. Section 50-25.1-07 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-07. Protective custody.

Any physician examining a child with respect to whom abuse or neglect is known or suspected, after reasonable attempts to advise the parents, guardian, or other person having responsibility for the care of the child that the physician suspects has been abused or neglected, may keep the child in the custody of the hospital or medical facility for not to exceed ninety-six hours and must immediately notify the juvenile court and the department or authorized agent in order that child protective proceedings may be instituted.

SECTION 17. AMENDMENT. Section 50-25.1-09.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-09.1. Employer retaliation prohibited - Penalty.

1. An employer ~~who~~that retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor. It is a defense to any charge brought under this section that the presumption of good faith, described in section 50-25.1-09, has been rebutted.

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[306] Section 50-25.1-06 was also amended by section 40 of House Bill No. 1035, chapter 245.

2. The employer of ~~a person~~an individual required or permitted to report pursuant to section 50-25.1-03 ~~who~~which retaliates against the ~~person~~individual because of a report of abuse or neglect, or a report of a death resulting from child abuse or neglect, is liable to that ~~person~~individual in a civil action for all damages, including exemplary damages, costs of the litigation, and reasonable attorney's fees.

3. There is a rebuttable presumption that any adverse action within ninety days of a report is retaliatory. For purposes of this subsection, an "adverse action" is action taken by an employer against the ~~person~~individual making the report or the child with respect to whom a report was made, including:

   a. Discharge, suspension, termination, or transfer from any facility, institution, school, agency, or other place of employment;

   b. Discharge from or termination of employment;

   c. Demotion or reduction in remuneration for services; or

   d. Restriction or prohibition of access to any facility, institution, school, agency, or other place of employment or ~~persons~~individuals affiliated with it.

SECTION 18. AMENDMENT. Section 50-25.1-11 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11. Confidentiality of records - Authorized disclosures.

1. A report made under this chapter, as well as any other information obtained, is confidential and must be made available to:

   a. A physician who has before the physician a child whom the physician reasonably suspects may have been abused or neglected.

   b. A person who is authorized to place a child in protective custody and has before the person a child whom the person reasonably suspects may have been abused or neglected and the person requires the information to determine whether to place the child in protective custody.

   c. Authorized staff of the department and its authorized agents, children's advocacy centers, and appropriate state ~~and local~~ child protection team members, and citizen review committee members.

   d. Any person who is the subject of the report; provided, however, that the identity of persons reporting or supplying information under this chapter is protected until the information is needed for use in an administrative proceeding arising out of the report.

   e. Public officials and their authorized agents who require the information in connection with the discharge of their official duties.

   f. A court, including an administrative hearing office, whenever the court determines that the information is necessary for the determination of an issue before the court.

g. A person engaged in a bona fide research purpose approved by the department's institutional review board; provided, however, that no individually identifiable information as defined in section 50-06-15 is made available to the researcher unless the information is absolutely essential to the research purpose and the department gives prior approval.

h. ~~A person~~An individual who is identified in subsection 1 of section 50-25.1-03, and who has made a report of suspected child abuse or neglect, if the child is likely to or continues to come before the reporter in the reporter's official or professional capacity.

i. A parent or a legally appointed guardian of the child identified in the report as suspected of being, or having been, abused or neglected, provided the identity of persons making the report or supplying information under this chapter is protected. Unless the information is confidential under section 44-04-18.7, when a decision is made under section 50-25.1-05.1 that ~~services are required to provide for the protection and treatment of an~~a child is abused or neglected ~~child~~, the department or authorized agent shall make a good-faith effort to provide written notice of the decision to ~~persons~~individuals identified in this subsection. The department or authorized agent shall consider any known domestic violence when providing notification under this section.

j. A public or private school that is the subject of a report of institutional child abuse or neglect, provided the identity of the persons reporting or supplying the information under this chapter is protected, except if the individuals reporting or supplying information are employees of the public or private school.

2. In accordance with subsection 3 of section 50-11.1-07.8, the department or authorized agent shall notify the owner, operator, holder of a self-declaration, or in-home provider and shall notify the parent or legally appointed guardian of a child, who at the time of notification is receiving early childhood services under chapter 50-11.1, of the name of the subject and provide a summary of the facts and the results of a child protection assessment conducted under this chapter if the report made under this chapter involves the owner, operator, holder of a self-declaration, or in-home provider; or involves an adult or minor staff member or adult or minor household member of the early childhood program, self-declaration, or in-home provider, who is providing care to the child.

3. In accordance with subsection 4 of section 50-25.1-04.1, the department may notify the residential facility or setting's board of directors and any entity that accredits the facility or setting of the institutional child abuse or neglect indicated determination, written report of the state child protection team, the approved improvement plan, and areas of deficiency that resulted in the notification.

4. If a public or private school is the subject of a report of institutional child abuse or neglect, any records and information obtained, created, generated, or gathered by the public or private school in response to the report or during an investigation by the public or private school of the alleged conduct set forth in the report, are confidential until the state child protection team makes a determination in accordance with section 50-25.1-04.1 whether institutional child abuse or neglect is indicated.

SECTION 19. AMENDMENT. Section 50-25.1-13 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-13. Penalty for failure to report - Penalty and civil liability for false reports.

Any ~~person~~individual required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any ~~person~~individual who willfully, as defined in section 12.1-02-02, makes a false report, or provides false information ~~which~~that causes a report to be made, under this chapter is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the ~~person~~individual who causes the false report to be made is guilty of a class A misdemeanor. ~~A person~~An individual who willfully makes a false report, or willfully provides false information that causes a report to be made, under this chapter is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.

SECTION 20. AMENDMENT. Section 50-25.1-14 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-14. Unauthorized disclosure of reports - Penalty.

Any ~~person~~individual who permits or encourages the unauthorized disclosure of reports made or confidential information obtained under the provisions of this chapter is guilty of a class B misdemeanor.

[307] **SECTION 21. AMENDMENT.** Section 50-25.1-15 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-15. Abandoned infant - Approved location procedure - Reporting immunity.

1. As used in this section:

   a. "Abandoned infant" means an infant who has been abandoned at birth at a hospital or before reaching the age of one year regardless of the location of birth and who has been left with an on-duty staff member at an approved location in an unharmed condition.

   b. "Approved location" means a hospital or other location as designated by administrative rule adopted by the department.

   c. "Hospital" means a facility licensed under chapter 23-16.

2. A parent of an infant under the age of one year, or an agent of the parent with the parent's consent, may leave the infant with an on-duty staff member at an approved location. Neither the parent nor the agent is subject to prosecution under sections 14-07-15 and 14-09-22 for leaving an abandoned infant.

3. An approved location shall accept an infant left under this section. The approved location may request information regarding the parents and shall provide the parent or the agent with a medical history form and an envelope

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[307] Section 50-25.1-15 was also amended by section 41 of House Bill No. 1035, chapter 245, and section 470 of House Bill No. 1247, chapter 352.

with the approved location's return address. If a hospital accepting the infant has the infant's medical history, the hospital is not required to provide the parent or the agent with a medical history form. Neither the parent nor the agent is required to provide any information.

4. If an infant is left at a hospital, the hospital shall provide the parent or the agent with a numbered identification bracelet to link the parent or the agent to the infant, unless due to birth of the infant, the infant and parent currently have an identification bracelet. Possession of an identification bracelet does not entitle the bracelet holder to take custody of the infant on demand. If an individual possesses a bracelet linking the individual to an infant left at a hospital under this section and parental rights have not been terminated, possession of the bracelet creates a presumption that the individual has standing to participate in a protection services action brought under this chapter or chapter 27-20. Possession of the bracelet does not create a presumption of maternity, paternity, or custody.

5. The approved location may provide the parent or the agent with any relevant information, including:

   a. Information about the safe place for abandoned infant programs;

   b. Information about adoption and counseling services; and

   c. Information about whom to contact if reunification is sought.

6. Within twenty-four hours of receiving an infant under this section, the approved location shall report to the department or authorized agent, as required by section 50-25.1-03, that an infant has been left at the approved location. The report may not be made before the parent or the agent leaves the approved location.

7. The approved location and its employees and agents are immune from any criminal or civil liability for accepting an infant under this section.

8. Upon receiving a report of an abandoned infant under this section, the department or authorized agent shall proceed as required under this chapter if it appears that the abandoned infant was not harmed, except the department or authorized agent may not attempt to identify or contact the parent or the agent. If it appears the infant who was left was harmed, the department or authorized agent shall initiate a child protection assessment of the matter as required by law.

9. If an individual claiming to be the parent or the agent contacts the department or authorized agent and requests to be reunited with the infant who was left, the department or authorized agent may identify or contact the individual as required under this chapter and all other applicable laws. If an individual contacts the department or authorized agent seeking information only, the department or authorized agent may attempt to obtain information regarding the identity and medical history of the parents and may provide information regarding the procedures in a case involving an infant who was left at an approved location. The individual is under no obligation to respond to the request for information, and the department or authorized agent may not attempt to compel response to investigate the identity or background of the individual.

10. The state department of health, in coordination with the department of human services, shall develop and implement a public awareness campaign to provide information, public service announcements, and educational materials regarding this section to the public, including medical providers, law enforcement, and social service agencies.

SECTION 22. AMENDMENT. Section 50-25.1-16 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-16. Prenatal exposure to controlled substances - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy shall report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.

2. Any individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy.

3. If a report alleges a pregnant woman's use of a controlled substance for a nonmedical purpose, the department or ~~its designee~~authorized agent immediately shall ~~immediately~~ initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for an addiction assessment, a referral for substance use disorder treatment if recommended, or a referral for prenatal care. The department or ~~its designee~~authorized agent may also take any appropriate action under chapter 25-03.1.

4. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.

5. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of use, if known, and the name and address of the individual making the report.

SECTION 23. AMENDMENT. Section 50-25.1-18 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-18. Prenatal exposure to alcohol abuse - Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol after the woman knows of the pregnancy may:

    a. Arrange for an addiction assessment conducted by a licensed treatment program and confirm that the recommendations indicated by the assessment are followed; or

b. Immediately report the circumstances to the department or authorized agent if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.

2. An individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol during the pregnancy.

3. If the woman is referred for an addiction assessment under subdivision a of subsection 1 and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, an individual required to report under section 50-25.1-03 who has knowledge of the failure to obtain the assessment or refusal to comply with recommendations of the assessment shall make a report to the department or authorized agent.

4. If a report alleges a pregnant woman has abused alcohol, the department or ~~its designee~~authorized agent shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for an addiction assessment, a referral for substance use disorder treatment, if recommended, or a referral for prenatal care. The department or ~~its designee~~authorized agent may also take any appropriate action under chapter 25-03.1.

5. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.

6. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, and the name and address of the individual making the report.

SECTION 24. AMENDMENT. Section 50-25.1-19 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-19. Child protective services duties - Training requirements.

1. The department or authorized agent, at the initial time of contact with an individual subject to a child abuse or neglect assessment, shall advise the individual of the specific complaints or allegations made against the individual.

2. The department or authorized agent shall provide training to all representatives of the child protective services system regarding the legal duties of the representatives. The training may consist of various methods of informing the representatives of these duties, to protect the legal rights and safety of children and families from the initial time of contact during assessment through treatment.

3. The department shall adopt rules to implement the requirements of this section.

SECTION 25. AMENDMENT. Section 50-25.1-20 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-20. Alternative response assessment - Compliance.

If an alternative response assessment is initiated as a result of a report of child abuse or neglect, a decision that ~~services are required~~a child is confirmed abused or neglected may not be made if the person responsible for the child's welfare complies with the resulting referred services and plan of safe care for the substance exposed newborn. The department or authorized agent shall determine whether a person responsible for the child's welfare has complied with the referred services and plan of safe care for the substance exposed newborn. If the department or authorized agent determines a person responsible for the child's welfare has not complied with the referred services and plan of safe care for the substance exposed newborn, an assessment of the initial report of child abuse or neglect may be completed.

SECTION 26. AMENDMENT. Section 50-25.1-21 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-21. Alternative response assessment - Services.

1. In response to an alternative response assessment, the department:

   a. Shall provide referral services to, and monitor support services for, the person responsible for the child's welfare, the substance exposed newborn, and other children under the same care as may be necessary for their well-being and safety;

   b. Shall develop a plan of safe care for the substance exposed newborn; and

   c. May take any appropriate action under chapter 25-03.1.

2. The department may discharge the powers and duties provided under this section through an authorized agent.

SECTION 27. AMENDMENT. Section 50-25.1-22 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-22. Family services assessment - Compliance.

If a family services assessment is initiated as a result of a report of child abuse or neglect, a decision that ~~services are required~~a child is confirmed abused or neglected may not be made if ~~the~~a person responsible for the child's welfare complies with the resulting referred services for the child. The department or authorized agent shall determine whether a person responsible for the child's welfare has complied with the referred services. If the department or authorized agent determines a person responsible for the child's welfare has not complied with the referred services for the child, a child protection assessment of the initial report of child abuse or neglect may be completed.

SECTION 28. AMENDMENT. Section 50-25.1-23 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-23. Family services assessment - Services.

1. In response to a family services assessment, the department shall provide appropriate referral services to ~~the~~a person responsible for the child's welfare

and the children under the same care as may be necessary for the well-being and safety of the children.

2. The department may discharge the powers and duties provided under this section through an authorized agent.

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 378

SENATE BILL NO. 2131

(Senators Lee, Hogan, K. Roers)
(Representatives Hatlestad, Roers Jones, Westlind)

AN ACT to create and enact a new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code, relating to criminal history record checks requested by the department of human services; to amend and reenact section 50-25.1-11.1 of the North Dakota Century Code, relating to powers of the department of human services regarding requests for criminal history record checks made by children's advocacy centers; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

[308] **SECTION 1.** A new subdivision to subsection 2 of section 12-60-24 of the North Dakota Century Code is created and enacted as follows:

> The department of human services for a criminal history record check for a children's advocacy center as authorized under section 50-25.1-11.1.

[309] **SECTION 2. AMENDMENT.** Section 50-25.1-11.1 of the North Dakota Century Code is amended and reenacted as follows:

50-25.1-11.1. ~~Confidentiality of children's~~Children's advocacy ~~center~~centers - Confidentiality of records - Criminal history record checks.

1. Records and digital media in the possession of a children's advocacy center relating to a forensic medical examination, forensic interview, or therapy are confidential and may be released only to a person other than a law enforcement agency, the department or the department's authorized agent, or a medical or mental health professional when the child comes before the medical or mental health professional in that person's professional capacity, upon service of a subpoena signed by a judge.

2. Upon receipt of a request by a children's advocacy center, the department may submit a request for a criminal history record check under section 12-60-24. Under this subsection, a children's advocacy center may require the following individuals to submit to a criminal history record check:

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[308] Section 12-60-24 was also amended by section 1 of House Bill No. 1073, chapter 98, section 2 of House Bill No. 1073, chapter 98, section 18 of House Bill No. 1247, chapter 352, section 1 of House Bill No. 1253, chapter 164 section 1 of Senate Bill No. 2062, chapter 452, section 1 of Senate Bill No. 2110, chapter 218, section 1 of Senate Bill No. 2174, chapter 447, section 1 of Senate Bill No. 2187, chapter 323, section 1 of Senate Bill No. 2338, chapter 379.

[309] Section 50-25.1-11.1 was also amended by section 13 of Senate Bill No. 2002, chapter 30.

a. An employee, final applicant for employment, contractor, multidisciplinary team member, or volunteer, who has contact with a child at or through a children's advocacy center; and

b. An individual a children's advocacy center determines requires a criminal history record check to participate in services at a center.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 25, 2021

Filed March 26, 2021