

SENATE BILL NO. 2226

Introduced by

Senators Dever, Clemens, Poolman

Representatives Porter, Rohr, Weisz

1 A BILL ~~for an Act to create and enact section 23-17.4-07.1 of the North Dakota Century Code,~~
2 ~~relating to licensure of residential hospice facilities; and to amend and reenact sections~~
3 ~~23-17.4-01, 23-17.4-02, 23-17.4-03, and 23-17.4-10 of the North Dakota Century Code, relating~~
4 ~~to licensure of residential hospice programs.~~ for an Act to create and enact chapter 23-17.7 of
5 the North Dakota Century Code, relating to regulation of residential end-of-life facilities; to
6 amend and reenact subsection 1 of section 23-09-01, subsection 1 of section 50-32-01, and
7 subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating
8 to the definition of assisted living facility and to a sales tax exemption for sales made to an
9 eligible facility; and to provide an effective date.

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

11 ~~— **SECTION 1. AMENDMENT.** Section 23-17.4-01 of the North Dakota Century Code is~~
12 ~~amended and reenacted as follows:~~

13 ~~— **23-17.4-01. Definitions.**~~

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

15 ~~— 1. "Bereavement" means the period of time during which the hospice patient's family~~
16 ~~experiences and adjusts to the death of the hospice patient.~~

17 ~~— 2. "Department" means the state department of health.~~

18 ~~— 3. "Hospice care team" means an interdisciplinary working unit including the hospice-~~
19 ~~patient and the hospice patient's family, the attending physician, the medical director~~
20 ~~of the hospice program, a registered professional nurse as defined under chapter~~
21 ~~43-12.1, a social worker licensed pursuant to chapter 43-41 providing medical social~~
22 ~~services, and trained hospice volunteers. Providers of special services, including a~~
23 ~~spiritual counselor, a pharmacist, a registered dietitian, or professionals in the field of~~

1 mental health may be included on the interdisciplinary team as determined to be
2 appropriate by the hospice program.

3 ~~4. "Hospice patient" means a person diagnosed as terminally ill with a prognosis of an~~
4 ~~anticipated life expectancy of six months or less, who has received admission into the~~
5 ~~hospice program. The diagnosis and prognosis must be certified by the attending~~
6 ~~physician.~~

7 ~~5. "Hospice patient's family" means the immediate kin of the patient, including a spouse,~~
8 ~~parent, stepparent, brother, sister, stepbrother, stepsister, child, or stepchild. Additional~~
9 ~~relatives or individuals with significant personal ties to the hospice patient may be~~
10 ~~included in the hospice patient's family for the purposes of this chapter.~~

11 ~~6. "Hospice program" means a coordinated program of home and inpatient care~~
12 ~~providing hospice services directly, or through agreement, using a hospice care team.~~

13 ~~7. "Hospice service plan" means the plan detailing the specific hospice services offered~~
14 ~~by a hospice program and the administrative and direct care personnel responsible for~~
15 ~~those services.~~

16 ~~8. "Hospice services" means palliative and supportive medical, health, and other care~~
17 ~~provided to hospice patients and their families to meet the special needs arising out of~~
18 ~~the physical, emotional, spiritual, and social stresses experienced during the final~~
19 ~~stages of illness and during dying and bereavement so that when and where possible~~
20 ~~the hospice patient may remain at home, with homelike inpatient care utilized only if~~
21 ~~and while it is necessary.~~

22 ~~9. "Palliative care" means treatment which is intended to achieve relief from, reduction of,~~
23 ~~or elimination of pain and other troubling symptoms, rather than treatment aimed at~~
24 ~~investigation and intervention for the purposes of cure or prolongation of life.~~

25 ~~10. "Residential hospice facility" means a freestanding facility that provides twenty four~~
26 ~~hour residential and support services in a home-like setting for hospice patients~~
27 ~~receiving hospice services from a third-party hospice program.~~

28 ~~11. "Volunteer services" means the services provided by individuals who have~~
29 ~~successfully completed a training program developed by a licensed hospice program.~~

30 ~~**SECTION 2. AMENDMENT.** Section 23-17.4-02 of the North Dakota Century Code is~~
31 ~~amended and reenacted as follows:~~

1 — ~~**23-17.4-02. Hospice program license**~~License required.

2 — ~~No~~A person may not establish, conduct, or maintain a hospice program or a residential
3 hospice facility, or advertise or present itself to the public as a hospice program or residential
4 hospice facility, without first obtaining a hospice program license or a residential hospice facility
5 license from the department.

6 — **SECTION 3. AMENDMENT.** Section 23-17.4-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 — ~~**23-17.4-03. Scope of license.**~~

9 — ~~A hospice program license or residential hospice facility license is valid only for the~~
10 ~~premises, person, or facility named in the application for license and is not transferable or~~
11 ~~assignable. The license must be renewed annually. The license must be displayed in a~~
12 ~~conspicuous place inside the hospice program or residential hospice facility office.~~

13 — **SECTION 4.** Section 23-17.4-07.1 of the North Dakota Century Code is created and
14 enacted as follows:

15 — ~~**23-17.4-07.1. Residential hospice facilities – Rulemaking authority.**~~

16 — ~~1. A hospice program license is not required to operate a residential hospice facility.~~
17 ~~Hospice services provided at a residential hospice facility must be provided under the~~
18 ~~supervision of a licensed hospice program. A residential hospice facility is not a~~
19 ~~hospital, skilled nursing home, intermediate care facility, nursing facility, or home~~
20 ~~health agency.~~

21 — ~~2. An application for issuance or renewal of a residential hospice facility license must be~~
22 ~~made to the department on forms provided by the department and must contain~~
23 ~~information reasonably required by the department.~~

24 — ~~3. The health council shall establish rules establishing minimum standards for licensure~~
25 ~~of a residential hospice facility.~~

26 — **SECTION 5. AMENDMENT.** Section 23-17.4-10 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 — ~~**23-17.4-10. Denial, suspension, or revocation of license.**~~

29 — ~~Denial, suspension, or revocation of a hospice program or residential hospice facility license~~
30 ~~by the department for noncompliance with this chapter is governed by chapter 28-32.~~

1 **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09-01 of the North Dakota Century
2 Code is amended and reenacted as follows:

- 3 1. "Assisted living facility" means a building or structure containing a series of at least
4 five living units operated as one entity to provide services for five or more individuals
5 who are not related by blood, marriage, or guardianship to the owner or manager of
6 the entity and which is kept, used, maintained, advertised, or held out to the public as
7 a place that provides or coordinates individualized support services to accommodate
8 the individual's needs and abilities to maintain as much independence as possible. An
9 assisted living facility in this chapter includes a facility that is defined as an assisted
10 living facility in any other part of the code. An assisted living facility does not include a
11 facility that is a congregate housing facility, licensed as a basic care facility, or licensed
12 under chapter 23-16 ~~or~~ chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

13 **SECTION 2.** Chapter 23-17.7 of the North Dakota Century Code is created and enacted as
14 follows:

15 **23-17.7-01. Definitions.**

16 As used in this section, unless the context and subject matter otherwise require:

- 17 1. "Department" means the state department of health.
18 2. "Hospice patient" has the same meaning as provided under section 23-17.4-01.
19 3. "Hospice program" has the same meaning as provided under section 23-17.4-01.
20 4. "Hospice services" has the same meaning as provided under section 23-17.4-01.
21 5. "Residential end-of-life facility" means a freestanding facility that provides twenty-four
22 hour residential and support services in a home-like setting for no more than twelve
23 hospice patients receiving hospice services from a third-party hospice program.

24 **23-17.7-02. License required.**

25 A person may not conduct, maintain, or operate a residential end-of-life facility in this state
26 without a license issued by the department under this chapter. A licensed residential end-of-life
27 facility is not a hospital, skilled nursing home, intermediate care facility, nursing facility, assisted
28 living facility, home health agency, or hospice program.

29 **23-17.7-03. License issuance and renewal - Evaluation and inspection - Rules.**

- 30 1. Upon receipt of an initial or renewal license application on forms established by the
31 department, the department or the department's authorized representative shall

evaluate and inspect the residential end-of-life facility. The department shall issue or renew a license for an applicant that submits a complete application, submits the appropriate fee, and meets the minimum requirements of this chapter.

2. In consultation with stakeholders, the state health council shall adopt rules:

a. For the application, issuance, and renewal of a license under this chapter:

b. Establishing minimum standards for licensure of a residential end-of-life facility;
and

c. Establishing the fee for issuance of a license and renewal of a license of a residential end-of-life facility.

23-17.7-04. Denial, suspension, or revocation of license.

The department may deny, suspend, or revoke the license of a residential end-of-life facility for noncompliance with this chapter or rules adopted under this chapter in accordance with the administrative hearings provisions of chapter 28-32.

SECTION 3. AMENDMENT. Subsection 1 of section 50-32-01 of the North Dakota Century Code is amended and reenacted as follows:

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under chapter 23-16 ~~or~~ chapter 25-16, chapter 23-17.7, or section 50-11-01.4.

SECTION 4. AMENDMENT. Subdivision a of subsection 24 of section 57-39.2-04 of the North Dakota Century Code is amended and reenacted as follows:

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

1 | **SECTION 5. EFFECTIVE DATE.** Section 4 of this Act is effective for taxable events
2 | occurring after June 30, 2021.