

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2036

Introduced by

Legislative Council

(Budget Committee on Long-Term Care)

1 A BILL for an Act to amend and reenact sections 50-06-14.4 and 50-24.5-01 of the North
2 Dakota Century Code, relating to assisted living facilities; to require the preparation of a
3 recommendation by the department of human services and the department of health; to provide
4 an effective date; and to provide an expiration date.

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

6 **SECTION 1. AMENDMENT.** Section 50-06-14.4 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **50-06-14.4. Alzheimer's and related dementia and twenty-four hour care projects.**

9 The department of ~~human services~~ shall establish projects designed to meet the service needs
10 of the alzheimer's and related dementia population and other aged, blind, or disabled persons
11 who require twenty-four hour care. The projects established under this section must explore
12 the financial and service viability of converting existing nursing facility or ~~basic care~~ assisted
13 living facility capacity to a specific twenty-four hour service environment that targets either the
14 alzheimer's and related dementia population or other aged, blind, or disabled persons who
15 require twenty-four hour care. Project costs must be met using amounts appropriated to the
16 department. Approval preference must be given to projects that involve a reduction in nursing
17 facility beds due to delicensing an entire nursing facility or wing of a nursing facility. The state
18 department of health shall cooperate with the department to ensure the success of the projects.
19 The projects may be established notwithstanding subsections ~~2, 5, 4, 9, and 10, and 11~~ and
20 subdivision c of subsection 9 8 of section 50-24.5-01, ~~relating to definitions for aid to aged,~~
21 ~~blind, and disabled persons, and subsection 1 of section 23-09.3-01, relating to the definition of~~
22 ~~a basic care facility.~~

23 **SECTION 2. AMENDMENT.** Section 50-24.5-01 of the 1997 Supplement to the North
24 Dakota Century Code is amended and reenacted as follows:

- 1 **50-24.5-01. Definitions.** In this chapter, unless the context otherwise requires:
- 2 1. "Assisted living facility" means a facility that:
- 3 a. Makes response staff available at all times;
- 4 b. Provides housing and:
- 5 (1) Congregate meals;
- 6 (2) Kitchen facilities in each resident's living quarters; or
- 7 (3) Any combination of congregate meals and kitchen facilities in each
- 8 resident's living quarters sufficient to assure each resident adequate
- 9 access to meals;
- 10 c. Assures provision of:
- 11 (1) Personal care, therapeutic care, and social and recreational
- 12 programming;
- 13 (2) Supervision, safety, and security;
- 14 (3) Medication services; and
- 15 (4) Transportation services;
- 16 d. Fosters dignity, respect, and independence by allowing, to the maximum
- 17 extent feasible, each resident to determine the resident's service providers,
- 18 routines of care provision, and service delivery; and
- 19 e. Serves five or more adult residents, unrelated to the proprietor, on a specified
- 20 premises not licensed under chapter 23-20 or 25-16, which meets the
- 21 requirements of the national fire protection association 101 Life Safety Code,
- 22 as applicable.
- 23 2. "Aged" means at least sixty-five years of age.
- 24 ~~2. "Assisted living" means an environment where a person lives in an apartment-like~~
- 25 ~~unit and receives services on a twenty-four hour basis to accommodate that~~
- 26 ~~person's needs and abilities to maintain as much independence as possible.~~
- 27 3. ~~"Basic care facility" means a facility defined in section 23-09.3-01 which is not~~
- 28 ~~owned or operated by the state.~~
- 29 4. "Blind" has the same meaning as the term has when used by the social security
- 30 administration in the supplemental security income program under title XVI of the
- 31 Social Security Act [42 U.S.C. 1381 et seq.].

- 1 5- 4. "Congregate housing" means housing shared by two or more persons not related
2 to each other which is not provided in an institution.
- 3 6- 5. "County agency" means the county social service board.
- 4 7- 6. "Department" means the department of human services.
- 5 8- 7. "Disabled" has the same meaning as the term has when used by the social
6 security administration in the supplemental security income program under title XVI
7 of the Social Security Act [42 U.S.C. 1381 et seq.].
- 8 9- 8. "Eligible beneficiary" means a resident of this state who:
- 9 a. (1) Is aged; or
- 10 (2) Is at least eighteen years of age and is disabled or blind;
- 11 b. Has applied for and is eligible to receive benefits under title XIX of the Social
12 Security Act [42 U.S.C. 1396 et seq.], provided that a person who was eligible
13 to receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381
14 et seq.] and who was receiving benefits under title XVI before January 1,
15 1995, is not ineligible because that person is not eligible to receive benefits
16 under title XIX;
- 17 c. Based on a functional assessment, is not severely impaired in any of the
18 activities of daily living of toileting, transferring to or from a bed or chair, or
19 eating and:
- 20 (1) Has health, welfare, or safety needs, including a need for supervision
21 or a structured environment, which require care in a licensed adult
22 family foster care home or ~~a licensed basic care~~ an assisted living
23 facility; or
- 24 (2) Is impaired in three of the following four instrumental activities of daily
25 living: preparing meals, doing housework, taking medicine, and doing
26 laundry; and
- 27 d. Is determined to be eligible pursuant to rules adopted by the department.
- 28 40- 9. "Institution" means an establishment that makes available some treatment or
29 services beyond food or shelter to ~~four~~ five or more persons who are not related to
30 the proprietor.

- 1 ~~44.~~ 10. "Living independently" includes living in congregate housing. The term does not
2 include living in an institution.
- 3 11. "Proprietor" means a person responsible for day-to-day administration and
4 management of a facility.
- 5 12. "Qualified service provider" means a county agency or independent contractor who
6 agrees to meet standards for services and operations established by the
7 department.
- 8 13. "Related to the proprietor" means a person who is a proprietor's spouse or former
9 spouse, or a parent, stepparent, grandparent, stepgrandparent, child, stepchild,
10 grandchild, stepgrandchild, brother, sister, half-brother, half-sister, stepbrother, or
11 stepsister of a proprietor or proprietor's spouse or former spouse.
- 12 14. "Remedial care" means services that produce the maximum reduction of an
13 eligible beneficiary's physical or mental disability and the restoration of an eligible
14 beneficiary to the beneficiary's best possible functional level.
- 15 ~~44.~~ 15. "Would be eligible to receive the cash benefits except for income" refers to a
16 person whose countable income, less the cost of necessary remedial care that
17 may be provided under this chapter, does not exceed an amount equal to the cash
18 benefit under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] which the
19 person would receive if the person had no income, plus forty-five dollars.

20 **SECTION 3. DEPARTMENT OF HUMAN SERVICES AND DEPARTMENT OF**

21 **HEALTH - RECOMMENDATION.** The department of human services and the department of
22 health, after consultation with individuals and entities determined appropriate by those
23 departments, shall prepare a recommendation for consideration by the fifty-seventh legislative
24 assembly describing the conversion of current basic care and assisted living facilities into an
25 integrated long-term housing and service system entitled assisted living. The recommendation
26 must include appropriate methods and means for the inspection, regulation, and payment
27 systems for assisted living facilities that respect residents' choices of care providers. That
28 recommendation must include a proposed budget and any necessary implementing legislation
29 and appropriation.

30 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act becomes effective on July 1,
31 2001.

1 **SECTION 5. EXPIRATION DATE.** Section 1 of this Act is effective through June 30,
2 2001, and after that date is ineffective.