

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

SENATE BILL NO. 2036
(Legislative Council)
(Budget Committee on Long-Term Care)

AN ACT to amend and reenact sections 50-06-14.4 and 50-24.5-01 of the North Dakota Century Code, relating to assisted living facilities; to require the preparation of a recommendation by the department of human services and the state department of health; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

50-06-14.4. Alzheimer's and related dementia and twenty-four hour care projects. The department of ~~human services~~ shall establish projects designed to meet the service needs of the alzheimer's and related dementia population and other aged, blind, or disabled persons who require twenty-four hour care. The projects established under this section must explore the financial and service viability of converting existing nursing facility or basic care capacity to a specific twenty-four hour service environment that targets either the alzheimer's and related dementia population or other aged, blind, or disabled persons who require twenty-four hour care. Project costs must be met using amounts appropriated to the department. Approval preference must be given to projects that involve a reduction in nursing facility beds due to delicensing an entire nursing facility or basic care facility or wing of a nursing facility or basic care facility. The state department of health shall cooperate with the department to ensure the success of the projects. The projects may be established notwithstanding subsections ~~2, 5, 4, 9, and 10, and 11~~ and subdivision c of subsection ~~9~~ 8 of section 50-24.5-01; ~~relating to definitions for aid to aged, blind, and disabled persons, and subsection 1 of section 23-09.3-01, relating to the definition of a basic care facility.~~

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

50-24.5-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Assisted living facility" means a facility that:
 - a. Makes response staff available at all times;
 - b. Provides housing and:
 - (1) Congregate meals;
 - (2) Kitchen facilities in each resident's living quarters; or
 - (3) Any combination of congregate meals and kitchen facilities in each resident's living quarters sufficient to assure each resident adequate access to meals;
 - c. Assures provision of:
 - (1) Personal care, therapeutic care, and social and recreational programming;
 - (2) Supervision, safety, and security;
 - (3) Medication services; and

(4) Transportation services:

- d. Fosters dignity, respect, and independence by allowing, to the maximum extent feasible, each resident to determine the resident's service providers, routines of care provision, and service delivery; and
- e. Serves five or more adult residents, unrelated to the proprietor, on a specified premises not licensed under chapter 23-20 or 25-16, which meets the requirements of the national fire protection association 101 Life Safety Code, as applicable.

2. "Aged" means at least sixty-five years of age.

~~2.~~ "Assisted living" means an environment where a person lives in an apartment like unit and receives services on a twenty four hour basis to accommodate that person's needs and abilities to maintain as much independence as possible.

~~3.~~ "Basic care facility" means a facility defined in section 23-09.3-01 which is not owned or operated by the state.

4. "Blind" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

~~5.~~ 4. "Congregate housing" means housing shared by two or more persons not related to each other which is not provided in an institution.

~~6.~~ 5. "County agency" means the county social service board.

7. 6. "Department" means the department of human services.

~~8.~~ 7. "Disabled" has the same meaning as the term has when used by the social security administration in the supplemental security income program under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.].

9. 8. "Eligible beneficiary" means a resident of this state who:

a. (1) Is aged; or

(2) Is at least eighteen years of age and is disabled or blind;

b. Has applied for and is eligible to receive benefits under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], provided that a person who was eligible to receive benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and who was receiving benefits under title XVI before January 1, 1995, is not ineligible because that person is not eligible to receive benefits under title XIX;

c. Based on a functional assessment, is not severely impaired in any of the activities of daily living of toileting, transferring to or from a bed or chair, or eating and:

(1) Has health, welfare, or safety needs, including a need for supervision or a structured environment, which require care in a licensed adult family foster care home or a licensed basic care ~~an assisted living facility;~~ or

(2) Is impaired in three of the following four instrumental activities of daily living: preparing meals, doing housework, taking medicine, and doing laundry; and

d. Is determined to be eligible pursuant to rules adopted by the department.

~~10.~~ 9. "Institution" means an establishment that makes available some treatment or services beyond food or shelter to ~~four~~ five or more persons who are not related to the proprietor.

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

SECTION 3. DEPARTMENT OF HUMAN SERVICES AND STATE DEPARTMENT OF HEALTH - RECOMMENDATION. The department of human services and the state department of health, after consultation with individuals and entities determined appropriate by those departments, shall prepare a recommendation for consideration by the fifty-seventh legislative assembly describing the conversion of current basic care and assisted living facilities into an integrated long-term housing and service system entitled assisted living. The recommendation must include appropriate methods and means for the inspection, regulation, and payment systems for assisted living facilities that respect residents' choices of care providers. That recommendation must include a proposed budget and any necessary implementing legislation and appropriation.

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2036.

Senate Vote: Yeas 45 Nays 0 Absent 4

House Vote: Yeas 97 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,
at _____ o'clock _____ M.

Secretary of State