

HOUSE BILL NO. 1111

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact subsection 1 of section 23-09.3-01, sections
2 23-09.3-02, 23-09.3-04, 23-09.3-05, 23-09.3-06, 23-09.3-07, 23-09.3-08, 23-09.3-08.1,
3 23-09.3-10, 23-09.3-11, subsection 3 of section 50-10.1-01, subsections 3 and 7 of section
4 50-24.5-02, subsection 7 of section 50-24.5-03, and section 50-24.5-04 of the North Dakota
5 Century Code, relating to basic care and assisted living facilities; to repeal sections
6 23-09.3-01.1 and 23-09.3-03 of the North Dakota Century Code, relating to the moratorium on
7 expansion of basic care bed capacity and access to a pharmacist; and to provide a contingent
8 effective date.

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

10 **SECTION 1. AMENDMENT.** Subsection 1 of section 23-09.3-01 of the 1999
11 Supplement to the North Dakota Century Code is amended and reenacted as follows:

12 1. ~~"Basic care facility"~~ "Assisted living facility" means a ~~residence facility~~, not licensed
13 under chapter 23-16 by the department, ~~that provides room and board to five or~~
14 ~~more individuals who are not related by blood or marriage to the owner or manager~~
15 ~~of the residence and who, because of impaired capacity for independent living,~~
16 ~~require health, social, or personal care services, but do not require regular~~
17 ~~twenty four hour medical or nursing services~~ defined in section 50-24.5-01 which is
18 not owned or operated by the state and includes any facility referred to as a basic
19 care facility.

20 **SECTION 2. AMENDMENT.** Section 23-09.3-02 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **23-09.3-02. Residential areas - Nongeriatric persons.** A nursing home, ~~intermediate~~
23 ~~care facility, basic care~~ assisted living facility, or any combination of a nursing home;
24 ~~intermediate care facility, or basic care~~ assisted living facility may establish residential areas

1 specifically for inhabitation by nongeriatric persons subject to any reasonable rules adopted by
2 the department.

3 **SECTION 3. AMENDMENT.** Section 23-09.3-04 of the 1999 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **23-09.3-04. Department to establish standards - Licensing - Inspection -**
6 **Prosecute violations.** It is the duty of the department to establish standards for ~~basic-care~~
7 assisted living facilities. The department shall inspect all places and grant annual licenses to
8 ~~basic-care~~ assisted living facilities as conform to the standards established and comply with the
9 rules prescribed, as provided in this chapter. The department shall prosecute all violations of
10 this chapter.

11 **SECTION 4. AMENDMENT.** Section 23-09.3-05 of the 1999 Supplement to the North
12 Dakota Century Code is amended and reenacted as follows:

13 **23-09.3-05. License required - Term - Revocation.** No person, institution,
14 organization, limited liability company, or public or private corporation may keep, operate,
15 conduct, or manage a ~~basic-care~~ an assisted living facility without holding a valid license issued
16 by the department. The license is not valid for more than one year. Any license may be
17 revoked by the department for violation of this chapter or the rules adopted by the department.
18 An application for a license for an assisted living facility not owned by the state or its political
19 subdivisions must be accompanied by a fee in an amount to be determined by the department
20 not to exceed the actual cost of licensing. License fees collected pursuant to this section must
21 be deposited in the state department of health operating fund in the state treasury and any
22 expenditure from the fund is subject to appropriation by the legislative assembly.

23 **SECTION 5. AMENDMENT.** Section 23-09.3-06 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **23-09.3-06. Injunction.** The department may apply to the district court of the county in
26 which the ~~basic-care~~ assisted living facility is located for, and the court has jurisdiction upon
27 hearing and for cause shown to grant, a temporary or permanent injunction restraining any
28 person from establishing, conducting, managing, or operating any ~~basic-care~~ assisted living
29 facility without obtaining a license under this chapter.

30 **SECTION 6. AMENDMENT.** Section 23-09.3-07 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **23-09.3-07. Contents of license.** The license must show the name of the owner or
2 manager of the ~~basic-care~~ assisted living facility, its location, and the maximum number of
3 persons that may be received and kept in the ~~basic-care~~ assisted living facility at any one time.

4 **SECTION 7. AMENDMENT.** Section 23-09.3-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-09.3-08. Records kept by ~~basic-care~~ assisted living facility.** A record of every
7 individual admitted to any ~~basic-care~~ assisted living facility must be kept at the place licensed
8 by the owner or manager in the manner and form prescribed by the department.

9 **SECTION 8. AMENDMENT.** Section 23-09.3-08.1 of the 1999 Supplement to the
10 North Dakota Century Code is amended and reenacted as follows:

11 **23-09.3-08.1. Admission of residents to ~~basic-care~~ assisted living facility -**
12 **Restrictions.** ~~A basic-care~~ An assisted living facility may admit and retain only an individual for
13 whom the facility provides, directly or through contract, appropriate services within the facility to
14 attain or maintain the individual at the individual's highest practicable level of functioning. ~~A~~
15 ~~basic-care~~ An assisted living facility may admit or retain only an individual whose condition and
16 abilities are consistent with the National Fire Protection Association 101 Life Safety Code
17 requirements.

18 **SECTION 9. AMENDMENT.** Section 23-09.3-10 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **23-09.3-10. Rules on services to nongeriatric persons.** The department shall adopt
21 rules under chapter 23-16 for ~~patient and~~ resident care and quality care review which are not in
22 conflict with any federal laws, and as are necessary to ensure the appropriate medical, social,
23 and psychological services to nongeriatric persons residing in a nursing home, ~~intermediate~~
24 ~~care facility,~~ ~~basic-care~~ assisted living facility, or any combination of a nursing home;
25 ~~intermediate care facility,~~ or ~~basic-care~~ assisted living facility.

26 **SECTION 10. AMENDMENT.** Section 23-09.3-11 of the 1999 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **23-09.3-11. Department to furnish information when requested.** If called upon by
29 any person, organization, corporation, limited liability company, or community interested in
30 establishing a ~~basic-care~~ an assisted living facility, the department shall furnish information
31 concerning the laws and rules governing operation of a ~~basic-care~~ an assisted living facility.

1 **SECTION 11. AMENDMENT.** Subsection 3 of section 50-10.1-01 of the North Dakota
2 Century Code is amended and reenacted as follows:

3 3. "Long-term care facility" means any skilled nursing facility, ~~intermediate care~~
4 ~~facility, basic care facility,~~ nursing home as defined in subsection 3 of section
5 43-34-01, boardinghouse, or swing bed hospital approved to furnish long-term care
6 services; provided, that a facility, as defined by subsection 2 of section 25-01.2-01,
7 providing services to developmentally disabled persons is not a long-term care
8 facility.

9 **SECTION 12. AMENDMENT.** Subsections 3 and 7 of section 50-24.5-02 of the North
10 Dakota Century Code are amended and reenacted as follows:

11 3. Supplement, within the limits of legislative appropriation, the income of an eligible
12 beneficiary receiving necessary ~~basic care~~ assisted living facility services to the
13 extent that the eligible beneficiary lacks income sufficient to meet the cost of that
14 care, provided at rates determined by the department.

15 7. Issue payment to ~~basic~~ assisted living facilities and adult family foster care facilities
16 for services provided to an eligible beneficiary.

17 **SECTION 13. AMENDMENT.** Subsection 7 of section 50-24.5-03 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 7. Conduct initial and ongoing functional assessments of applicants in cooperation
20 with ~~basic care~~ assisted living facilities.

21 **SECTION 14. AMENDMENT.** Section 50-24.5-04 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **50-24.5-04. Services provided - Limit on cost.** Services provided under this chapter
24 must be treated as necessary remedial care to the extent those services are not covered under
25 the medical assistance program. The cost of the services provided under this chapter to a
26 person residing in a ~~basic care~~ an assisted living or adult family foster care facility for which the
27 rate charged includes room and board is limited to the rate set for services in that facility, plus
28 ~~forty five dollars~~ a personal needs allowance established by the department, less that person's
29 total income.

30 **SECTION 15. REPEAL.** Sections 23-09.3-01.1 and 23-09.3-03 of the North Dakota
31 Century Code are repealed.

1 **SECTION 16. CONTINGENT EFFECTIVE DATE.** This Act is effective July 1, 2001,
2 unless House Bill No. 1009 is enacted by the fifty-seventh legislative assembly, in which case
3 this Act is ineffective.