

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 294

SENATE BILL NO. 2253

(Senators H. Christensen, R. Christensen, Wenstrom)
(Representatives Eagles, Unhjem)

RIGHTS OF THE DEVELOPMENTALLY DISABLED

AN ACT to specify certain rights to which developmentally disabled persons are entitled.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS. In this Act, unless the context or subject matter otherwise requires:

1. "Developmental disability" means a disability which meets all of the following conditions:
 - a. Is attributable to a mental or physical impairment or combination of mental and physical impairments.
 - b. Is manifested before the person attains age twenty-two.
 - c. Is likely to continue indefinitely.
 - d. Results in substantial functional limitations to the person's ability to function normally in society.
2. "Institution or facility" means any school, hospital, residence center, group home, or any other facility operated by any public or private agency, organization, or institution, which provides services to developmentally disabled persons.
3. "Least restrictive appropriate setting" means that setting which allows the developmentally disabled person to develop and realize his fullest potential and enhances the person's ability to cope with his environment without unnecessarily curtailing fundamental personal liberties.
4. "Service or services for developmentally disabled persons" means services provided by any public or private agency, organization, or institution, directed toward the

alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of a developmentally disabled person.

SECTION 2. APPROPRIATE TREATMENT, SERVICES, AND HABILITATION - TREATMENT IN LEAST RESTRICTIVE APPROPRIATE SETTING. All persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for those disabilities. Treatment, services, and habilitation for developmentally disabled persons shall be provided in the least restrictive appropriate setting.

SECTION 3. PRESUMPTION OF INCOMPETENCE PROHIBITED - DISCRIMINATION PROHIBITED - DEPRIVATION OF CONSTITUTIONAL, CIVIL, OR LEGAL RIGHTS PROHIBITED. No developmentally disabled person shall be presumed to be incompetent or shall be deprived of any constitutional, civil, or legal right solely because of admission to or residence at an institution or facility or solely because of receipt of services for developmentally disabled persons. However, nothing in this section shall be construed to limit or modify the provisions of section 16-01-04. The constitutional, civil, or legal rights which may not be varied or modified under the provisions of this section include, but are not limited to:

1. The right to vote at elections;
2. The free exercise of religion;
3. The right of reasonable opportunities to interact with members of the opposite sex; and
4. The right to confidential handling of personal and medical records.

SECTION 4. MAIL, TELEPHONE, AND VISITATION RIGHTS. Except as provided in this section, every person who resides in a mental health or developmental disabilities institution or facility has the right of private, unimpeded, uncensored communication with persons of the resident's choice by mail, telephone, and visitation.

1. The facility director shall ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible, and that space for private visitation is available.
2. The facility director may establish in writing reasonable times and places for use of telephones and for visits, provided that a resident's ability to contact an attorney may not be restricted, and provided that any rules or restrictions shall be posted in each residential facility. A copy of any rules or restrictions shall be given to all residents over eighteen years of age and to the parents or guardian of all residents under eighteen years of age, upon admission.

SECTION 5. PERSONAL PROPERTY. Except in the circumstances and under the conditions provided in this section, every resident of an institution or facility shall be permitted to receive, possess, and use lawful personal property and shall be provided with a secure, convenient, and reasonable amount of storage space for that property.

1. The facility director may restrict the possession and use of certain classes of property which may be dangerous or may harm a resident.
2. Notice of any restrictions shall be given in writing to all residents over eighteen years of age and to the parents or guardian of all residents under eighteen years of age, upon admission.
3. When a resident is discharged from the institution or facility all of the resident's lawful personal property which is in the custody of the facility shall be returned to the resident.

SECTION 6. LABOR - WAGES - MONEY. A resident or service recipient may consent to perform labor for a service provider if the professional responsible for overseeing the implementation of that resident's individual habilitation plan determines that the labor would be consistent with that plan.

1. A resident or service recipient who performs labor which is of any consequential economic benefit to a service provider shall receive wages which are commensurate with the value of the work performed, in accordance with applicable federal and state laws and regulations. A resident may be required to perform tasks of a personal housekeeping nature without compensation.
2. A resident may use his money as he chooses, unless he is a minor, is prohibited from doing so under a court guardianship or conservatorship order, or the use would be inconsistent with the resident's individual habilitation plan. A minor or a person under guardianship or conservatorship may be required to deposit his money with the service provider, or in a financial institution in the name of a parent, guardian, or conservator, and may be permitted to use the money in accordance with written instructions of the parent, guardian, or conservator.
3. A resident may deposit money, or cause money to be deposited, in his name with a financial institution of the resident's choice, or the resident may deposit the money with a service provider. The service provider may not retain any money deposited with the service provider under this subsection, but shall hold all such funds in an account in the resident's name. All earnings attributable to a resident's money shall accrue to the resident.

4. No service provider nor any of the service provider's employees shall be made representative payee for a resident's social security, pension, annuity, trust fund, or any other form of direct payment or assistance without the resident's informed consent.
5. When a resident is discharged, all of the resident's money, including earnings, shall be returned to the resident.

SECTION 7. MEDICAL AND DENTAL SERVICES. All residents of an institution or facility are entitled to appropriate and adequate medical and dental services, which must be provided by qualified professionals who are licensed to practice or are otherwise authorized to provide medical and dental services pursuant to state and federal law and regulations.

SECTION 8. MEDICATION - CHEMICAL RESTRAINTS. No person receiving services at any institution or facility for the developmentally disabled shall at any time be administered any drug or medication, or be chemically restrained or tranquilized in any manner, except upon the written authorization of a licensed physician when necessary and appropriate as an element of the service being received or as a treatment of any medical or physical condition in conformity with accepted standards for that treatment. The nature, amount of, and reasons for the administration of any drug or medication shall be promptly recorded in the person's medical record.

SECTION 9. PUNISHMENT - ISOLATION - PHYSICAL RESTRAINTS - PSYCHOSURGERY - STERILIZATION - SHOCK TREATMENT. No person receiving services at any institution or facility for the developmentally disabled shall at any time:

1. Be subjected to any corporal punishment.
2. Be isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person or other persons.
3. Be physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that person or to other persons.
4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may a person receiving treatment be subjected to hazardous or intrusive experimental research which is not directly related to the specific goals of that person's treatment program.

5. Be subjected to electroconvulsive therapy or shock treatment without that person's written and informed consent. If the recipient of services is a minor, the recipient's parent or guardian may provide informed consent for that treatment which the parent or guardian believes to be in the recipient's best interests.

SECTION 10. SECLUSION OR PHYSICAL RESTRAINT - FACILITY ADMINISTRATOR TO BE NOTIFIED. Whenever a person is placed in seclusion or is physically restrained, the facility administrator or his representative shall be notified and shall determine if the isolation or restraint is necessary. The isolation or restraint may be continued only upon written order of the administrator or his representative and for a period of not more than twenty-four hours. Any person who is in seclusion or who is physically restrained shall be checked by an attendant at least once every thirty minutes.

SECTION 11. PSYCHOSURGERY, STERILIZATION, OR RESEARCH - COURT ORDER REQUIRED - HEARING - RIGHT TO COURT-APPOINTED ATTORNEY. A court of competent jurisdiction may issue the orders required for the procedures or treatments in subsection 4 of section 9 of this Act upon application of the party alleging the necessity of the procedure, the person who is receiving or is entitled to receive the treatment, or the person's guardian, following a hearing on the application.

1. The person receiving or entitled to treatment shall:
 - a. Receive prior notice of the hearing;
 - b. Have the right and the opportunity to present evidence; and
 - c. Have the right to be confronted with and to cross-examine witnesses.
2. In the event that the developmentally disabled person cannot afford counsel, the court shall appoint an attorney not less than ten days before the hearing.
3. The burden of proof shall be on the party alleging the necessity of the procedure or treatment.
4. An order allowing the procedure or treatment may not be granted unless the party alleging the necessity of the procedure or treatment proves by clear and convincing evidence that the procedure is in the best interest of the recipient and that no less drastic measures are feasible.

SECTION 12. DIET. Every resident of any institution or facility shall be provided with a nutritionally adequate and sufficient diet planned by a qualified dietician.

SECTION 13. EDUCATION. Every developmentally disabled child is entitled to a free and appropriate education in the least restrictive appropriate setting in accordance with chapter 15-59.

SECTION 14. INDIVIDUALIZED HABILITATION PLAN - CONTENTS. Any institution, facility, school, agency, or organization that provides services for developmentally disabled persons shall have a written, individualized habilitation plan developed and put into effect for each person for whom that institution, facility, school, agency, or organization is primarily responsible for the delivery, or coordinating the delivery, of services. The individualized habilitation plan shall:

1. Be developed and put into effect within thirty days following admission of the person.
2. Be reviewed and updated from time to time, but no less than annually.
3. Include a statement of the long-term habilitation goals for the person and the intermediate objectives relating to the attainment of those goals. The objectives shall be stated specifically, in sequence, and in behavioral or other terms that provide measurable indices of progress.
4. State an objective criteria and an evaluation procedure and schedule for determining whether the objectives and goals are being achieved.
5. Describe the personnel necessary for the provision of the services described in the plan.
6. Specify the date of initiation and the anticipated duration of each service to be provided.

SECTION 15. RIGHT TO REFUSE SERVICES. An adult recipient of services, or, if the recipient is a minor or under guardianship, the recipient's guardian or parent, shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication, unless those services are necessary to prevent the recipient from causing serious harm to himself or to others. The facility director shall inform a recipient or guardian or parent of a minor who refuses generally accepted services of alternate services available, the risks of those alternate services, and the possible consequences to the recipient of the refusal of generally accepted services.

SECTION 16. NOTICE OF RIGHTS. Every facility shall post conspicuously in public areas a summary of the rights which are set out in this Act. In addition, upon commencement of services or as soon after commencement as the recipient's condition permits, every recipient who is eighteen years of age or older, the parents of all recipients under eighteen years of age, and the guardian of a minor

recipient or other recipient under guardianship shall be given written notice of the rights guaranteed by this Act.

SECTION 17. ENFORCEMENT OF RIGHTS. Every developmentally disabled person shall be entitled to enforce any of the rights guaranteed by this Act by civil action or any other remedy available by common law or statute. In any proceeding to enforce these rights the court may, in its discretion, award reasonable attorneys' fees and costs to a successful plaintiff. A developmentally disabled person who is successful in an administrative proceeding may also be awarded reasonable attorneys' fees and costs. Any award of attorneys' fees and costs shall be in addition to any actual or punitive damages to which the person may be entitled.

SECTION 18. AUTHORITY TO ADOPT RULES. The director of the state department of human services may adopt, in accordance with chapter 28-32, any rules necessary to implement the provisions of this Act. The rules adopted may not restrict or limit the rights guaranteed by this Act.

Approved April 3, 1981

CHAPTER 295

SENATE BILL NO. 2082
(Legislative Council)
(Legislative Audit and Fiscal Review Committee)

STATE HOSPITAL PATIENT EXPENSE CHARGE

AN ACT to amend and reenact section 25-09-02 of the North Dakota Century Code, relating to expenses chargeable against a state hospital or Grafton state school patient and providing that no expenses shall be charged by the state hospital for the care and treatment of a patient transferred from a jail or regional corrections center.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 25-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-09-02. EXPENSES CHARGEABLE AGAINST PATIENT OR HIS ESTATE - FILING CLAIMS. Expenses for care and treatment of each patient at the state hospital and each patient over twenty-one years of age at the Grafton state school shall, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health. The supervising department shall recover monthly from the patient, if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. The state hospital shall not recover expenses under this chapter, however, for the care and treatment of a patient transferred to the state hospital from a jail or regional corrections center. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans' administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that any amount required by the payor of such benefits to be paid directly to the patient shall, upon approval of the director of institutions, be credited to the patient's personal account from any money thus received.

Approved March 9, 1981

CHAPTER 296

HOUSE BILL NO. 1614
(Eagles, Unhjem)

VOCATIONAL REHABILITATION FACILITY LICENSURE

AN ACT to create and enact a new section to chapter 25-15 of the North Dakota Century Code, relating to recognition by the division of vocational rehabilitation of licensure of facilities by the state department of health; to amend and reenact sections 25-15-02, 25-15-03, and 25-15-04 of the North Dakota Century Code, relating to the definition of vocational rehabilitation facilities, the duties of the vocational rehabilitation facilities advisory committee, and the duties of the division of vocational rehabilitation; and to repeal section 25-15-07 of the North Dakota Century Code, relating to the duties of community vocational rehabilitation facilities boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

* SECTION 1. A new section to chapter 25-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

RECOGNITION BY THE DIVISION OF PHYSICAL PLANT LICENSING BY THE STATE HEALTH DEPARTMENT. In lieu of the division of vocational rehabilitation conducting an independent inspection of the physical plant of facilities licensed under chapters 23-16 or 25-16, the division may recognize and accept for purposes of this chapter the licensure of the physical plant of such facilities by the state department of health. Division recognition and acceptance of the license issued by the state health department shall not exempt the facilities applying for license under this chapter from the program standards established by the division.

SECTION 2. AMENDMENT. Section 25-15-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-02. VOCATIONAL REHABILITATION FACILITIES - DEFINITION. For purposes of this chapter, a vocational rehabilitation facility is ~~a non-profit~~ an organization which is operated for the purpose of providing rehabilitation to handicapped individuals who are unable

* NOTE: This section was amended by section 1 of House Bill No. 1050, chapter 297.

to participate in competitive employment due to their disability. A vocational rehabilitation facility shall ~~supply two or more of the following provide one or more of the services enumerated in the state plan for vocational rehabilitation as a step in the rehabilitative process for those who cannot be readily absorbed in the competitive labor market and during such any time as that employment opportunities for them in the competitive labor market do not exist.~~

- ~~1.--Work-Activity.--The-provision-of-therapeutic-activities-to handicapped-individuals---whose---physical---and---mental impairment---is---so---severe---as---to---make---their-productive capacity-inconsequential,-for--the--purpose--of--enhancing their-ability-to-function-as-independently-as-possible-in their-homes-and-community.~~
- ~~2.--Extended--Employment---A--work--situation-in-a-supervised environment-which-provides--employment--opportunities--for indefinite-periods-of-time.~~
- ~~3.--Vocational---Evaluation---A--comprehensive--process--that systematically--utilizes--work--as--the--focal--point--for assessment--and--vocational--exploration,-the--purpose--of which-is-to-assist-individuals-in-vocational--development. Vocational-evaluation-incorporates-medical,-psychological, social,-vocational,-educational,-cultural,-and--economic data.~~
- ~~4.--Vocational---Development---A---program---which---applies vocational--services---including---evaluation,-training, transitional-or-interim-employment,-to-resolve-the-problem of-unemployment-and-to-enable-the-person-served-to-obtain competitive-employment--or-further-education-or-training, or-both,-leading-to-employment.~~
- ~~5.--Residential--Rehabilitation---The-provision-of-supervised training--within--a--community--living--setting--which--is designed-to-prevent-the-need-for-institutional-living,-and is-programmed-to-meet-individual-needs---Services--offered provide--activities--designed-to-maximize-community-contact and-develop-positive-cultural,-social,-occupational--and educational-attitudes.~~

SECTION 3. AMENDMENT. Section 25-15-03 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-03. ADVISORY COMMITTEE. The division of vocational rehabilitation shall appoint a vocational rehabilitation facilities advisory committee, nine members of which shall be representatives of each of the following state organizations or agencies:

1. Division of vocational rehabilitation.

2. Department of public instruction - special education.
3. Department of accounts and purchases.
4. Job service North Dakota.
5. Organized labor.
6. Division of mental health and retardation services.
7. North Dakota chapter association of retarded persons.
8. Vocational education - special needs.
9. Grafton state school.

At least four members shall be appointed from professional, legislative, or civic groups, or from other public or nonpublic voluntary agencies. Such members shall serve at the pleasure of the division of vocational rehabilitation without compensation.

It shall be the duty of the vocational rehabilitation facilities advisory committee to recommend standards for community rehabilitation facilities for the handicapped, ~~including the mentally retarded~~ and to submit the recommendations to the appropriate state departments involved in the licensure of the facilities for their approval. These standards shall include those for physical plant, programming, staff, ratio of staff to persons served, policies, records and reports required, and such other standards deemed as the committee deems appropriate, ~~and shall submit the same to the division for its approval~~. The committee shall also advise the division on the general policy involved in the provision of rehabilitation facilities services and shall perform such other functions as the division may request.

SECTION 4. AMENDMENT. Section 25-15-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-04. DUTIES OF THE DIVISION OF VOCATIONAL REHABILITATION.

1. The division of vocational rehabilitation shall issue licenses on an annual basis to programs facilities meeting approved standards and applying for licensure.
2. Other duties of the division:
 - a. To encourage the development of local community initiative in broadening the scope of noninstitutional care and training programs for persons who are mentally retarded or seriously handicapped.

- b. To maintain standards for the operation of such programs.
- c. To review and assist programs as they develop.
- d. To foster the progress of vocational rehabilitation facilities to higher levels of service and to stimulate their rehabilitative aspects.

SECTION 5. REPEAL. Section 25-15-07 of the 1979 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 16, 1981

CHAPTER 297

HOUSE BILL NO. 1050
(Legislative Council)
(Interim Budget "B" Committee)

FACILITIES FOR THE DEVELOPMENTALLY DISABLED

AN ACT to amend and reenact section 1 of House Bill No. 1614, as approved by the forty-seventh legislative assembly, relating to recognition by the division of vocational rehabilitation of physical plant licensing by other governmental entities; and to amend and reenact sections 25-15-05, 25-16-01, 25-16-02, 25-16-03, 25-16-03.1, 25-16-05, 25-16-06, 25-16-07, 25-16-08, 25-16-09, 25-16-10, 25-16-11, and 25-16-12 of the North Dakota Century Code, relating to the licensure of facilities for developmentally disabled persons by the developmental disabilities division, division of vocational rehabilitation, and the state department of health; to provide effective dates; and to provide expiration dates.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 1 of House Bill No. 1614, as enacted by the forty-seventh legislative assembly, is hereby amended and reenacted to read as follows:

RECOGNITION BY THE DIVISION OF PHYSICAL PLANT LICENSING BY THE STATE HEALTH DEPARTMENT AND THE DEVELOPMENTAL DISABILITIES DIVISION. In lieu of the division of vocational rehabilitation conducting an independent inspection of the physical plant of facilities licensed under chapters 23-16 or 25-16, the division may recognize and accept for purposes of this chapter the licensure of the physical plant of such facilities by the state department of health or by the developmental disabilities division of the department of human services. Division recognition and acceptance of the license issued by the state department of health ~~department~~ or the developmental disabilities division shall not exempt the facilities applying for license under this chapter from the program standards established by the vocational rehabilitation division.

SECTION 2. AMENDMENT. Section 25-15-05 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-05. ORGANIZATIONS ELIGIBLE FOR LICENSURE. Eligible vocational rehabilitation facilities ~~shall--be~~ are organizations which ~~are--nonprofit--entities,--operating~~ operate vocational rehabilitation facilities or provide residential care for those developmentally disabled persons attending the vocational rehabilitation facilities and serving--the serve handicapped, including ~~the--mentally--retarded~~ developmentally disabled persons, without regard to race, religion, or national origin. Such organizations ~~shall~~ are to be licensed in accordance with this chapter and conform to standards recommended by the advisory committee and established by the division of vocational rehabilitation.

SECTION 3. AMENDMENT. Section 25-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-01. DEFINITIONS. In this chapter unless the context or subject matter otherwise requires:

1. "Treatment or care center" ~~shall--mean~~ means any hospital, home, or other premises, owned and operated by a charitable nonprofit corporation or association, especially to provide relief, care, custody, treatment, ~~training--or--education--of--the--mentally--retarded~~ day activity, work activity, or extended employment services to developmentally disabled persons.
2. "Division" ~~shall--mean~~ means the state mental health and retardation division of the state department of health.

SECTION 4. AMENDMENT. Section 25-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-01. DEFINITIONS. In this chapter unless the context or subject matter otherwise requires:

1. "Treatment or care center" means any hospital, home, or other premises, owned and operated by a charitable nonprofit corporation or association, especially to provide relief, care, custody, treatment, day activity, work activity, or extended employment services to developmentally disabled persons.
2. "Division" means the ~~state-mental-health-and-retardation~~ developmental disabilities division of the state department of health human services.

SECTION 5. AMENDMENT. Section 25-16-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-02. LICENSE REQUIRED. Any charitable nonprofit association or corporation which operates a treatment or care center for ~~mentally-retarded~~ developmentally disabled persons shall secure

annually from the division a license as required ~~in~~ by rules adopted under this chapter.

SECTION 6. AMENDMENT. Section 25-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-03. REQUIREMENTS FOR LICENSE. A The division shall issue a license for the operation of a treatment or care center for ~~mentally--retarded--shall--be--issued--by--the--division~~ developmentally disabled persons to reputable and responsible charitable nonprofit associations or corporations upon a showing that:

1. The premises to be used are in fit safe sanitary condition and properly equipped to provide good care and treatment;
2. The persons in active charge of the center and their assistants are qualified by training and experience to carry on efficiently the duties required of them;
3. The health, morality, safety and well-being of the residents cared for and treated therein will be properly safeguarded;
4. There is sufficient entertainment, treatment, educational, and physical facilities and services available to the residents therein; and
5. Appropriate arrangements are made for a medical and psychological examination of each resident ~~at--least--once every-six-months.~~
6. The provider is in compliance with rules adopted by the division under this chapter.

SECTION 7. AMENDMENT. Section 25-16-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-03.1. CONVICTION NOT BAR TO LICENSURE - EXCEPTIONS. Conviction of an offense shall not disqualify a person from licensure under this chapter unless the division determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a treatment or care center for ~~mentally--retarded~~ developmentally disabled persons, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 8. AMENDMENT. Section 25-16-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-05. CONTENT OF LICENSE. The license to operate a treatment or care center for ~~mentally--retarded~~ developmentally disabled persons issued under the provisions of this chapter ~~shall set-forth~~ must specify:

1. The name of the licensee.
2. The premises to which the license is applicable.
3. The number of residents who may be received in such premises at any one time.
4. The date of expiration of the license.

SECTION 9. AMENDMENT. Section 25-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-06. DIVISION TO PRESCRIBE FORMS - REGULATIONS. The division may prescribe forms for the registration and record of the ~~residents~~ persons residing in treatment or care centers for ~~mentally retarded developmentally disabled persons~~ and ~~shall--make--such~~ may adopt reasonable rules and regulations for the conduct of such centers as are necessary to carry out the purposes of this chapter.

SECTION 10. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-07. RECORDS OF TREATMENT OR CARE CENTER CONFIDENTIAL. No agent of the department of health or the superintendent of the Grafton state school or the licensee or their agents or employees shall disclose the contents of the individual records of a treatment or care center for ~~mentally--retarded~~ developmentally disabled persons, nor of the reports received therefrom, except:

1. In a judicial proceeding when ordered by the presiding judge; or
2. To officers of the law or any other legally constituted boards or agencies serving the interests of the residents; or
3. To the parents or legal guardians of the resident.

SECTION 11. AMENDMENT. Section 25-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-07. RECORDS OF TREATMENT OR CARE CENTER CONFIDENTIAL. No agent of the department of ~~health~~ human services or the superintendent of the Grafton state school or the licensee or their agents or employees shall disclose the contents of the individual records of a treatment or care center for developmentally disabled persons, nor of the reports received therefrom, except:

1. In a judicial proceeding when ordered by the presiding judge; or
2. To officers of the law or any other legally constituted boards or agencies serving the interests of the residents; or

3. To the parents or legal guardians of the resident.

SECTION 12. AMENDMENT. Section 25-16-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-08. REVOCATION OF LICENSE. The division may revoke a license of a treatment or care center for ~~mentally--retarded~~ developmentally disabled persons upon a proper showing that:

1. Any of the conditions set forth in section 25-16-03 as requirements for the issuance of the license no longer exists;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or operator has violated any of the rules and regulations of the division; or
4. The owner or operator of the center has been guilty of an offense determined by the division to have a direct bearing upon a person's ability to serve the public as an owner or operator, or the division determines, following conviction of an offense, that the person is not sufficiently rehabilitated under section 12.1-33-02.1.

SECTION 13. AMENDMENT. Section 25-16-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-09. HEARING ON DENIAL OR REVOCATION OF LICENSE. Before any application for a license to conduct a treatment or care center for ~~mentally--retarded--shall--be~~ developmentally disabled persons is denied or before the revocation of such license by the division, written charges as to the reasons therefor shall be served upon the applicant or licensee, who shall have the right to a hearing before the division, if such hearing is requested within ten days after service of written charges.

SECTION 14. AMENDMENT. Section 25-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-10. PURCHASE OF SERVICES. The state mental health and retardation division of the state department of health is hereby authorized to purchase from funds appropriated to it for that purpose, residential care, custody, treatment, training, and education for ~~mentally--retarded~~ developmentally disabled persons from any treatment or care center for ~~mentally--retarded~~ such persons licensed in the state of North Dakota. ~~The cost of such care, custody, treatment and education for each resident shall not exceed the per diem cost of residential care at the largest state institution serving the mentally retarded in North Dakota as determined by the superintendent of that institution for the fiscal year preceding the contract.~~

SECTION 15. AMENDMENT. Section 25-16-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-10. PURCHASE OF SERVICES. ~~The state-mental-health-and-retardation~~ developmental disabilities division of the state department of ~~health~~ human services is hereby authorized to purchase from funds appropriated to it for that purpose, residential care, custody, treatment, training, and education for developmentally disabled persons from any treatment or care center for such persons licensed in the state of North Dakota.

SECTION 16. AMENDMENT. Section 25-16-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-11. FUNDS OF STATE MENTAL HEALTH AND RETARDATION DIVISION FOR PURCHASING RESIDENTIAL CARE, CUSTODY, TREATMENT AND EDUCATION FOR ~~MENTALLY--REARDED~~ DEVELOPMENTALLY DISABLED PERSONS. All moneys received from appropriation by the legislative assembly to purchase residential care, custody, treatment, training, and education for ~~mentally--retarded~~ developmentally disabled persons from any treatment or care centers licensed in North Dakota shall be kept by the state treasurer in a fund known as the "fund of the ~~state-mental-health-and-retardation-division-of-the~~ state department of health for purchasing residential care, custody, treatment, training, and education for ~~mentally--retarded~~ developmentally disabled persons", and all expenditures made under the provisions of this chapter shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by vouchers to be signed by the director of the mental health and retardation division of the state department of health or his agents, or by such other officer or assistants as the division may designate and certify to the department of accounts and purchases. Any fund received from federal agencies shall be deposited and disbursed in the manner provided by Act of Congress or by the regulations of the federal agencies from which the funds were received.

SECTION 17. AMENDMENT. Section 25-16-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-11. FUNDS OF STATE ~~MENTAL--HEALTH--AND--RETARDATION~~ DIVISION DEPARTMENT OF HUMAN SERVICES FOR PURCHASING RESIDENTIAL CARE, CUSTODY, TREATMENT AND EDUCATION FOR DEVELOPMENTALLY DISABLED PERSONS. All moneys received from appropriation by the legislative assembly to purchase residential care, custody, treatment, training, and education for developmentally disabled persons from any treatment or care centers licensed in North Dakota shall be kept by the state treasurer in a fund known as the "fund of the state department of ~~health~~ human services for purchasing residential care, custody, treatment, training, and education for developmentally disabled persons", and all expenditures made under the provisions of this chapter shall be upon warrants prepared by the department of accounts and purchases and signed by the state auditor, such expenditures to be supported by vouchers to be signed by the

director of the ~~mental-health-and-retardation-division-of-the~~ state department of health human services or his agents, or by such other officer or assistants as the ~~division~~ director may designate and certify to the department of accounts and purchases. Any fund received from federal agencies shall be deposited and disbursed in the manner provided by Act of Congress or by the regulations of the federal agencies from which the funds were received.

SECTION 18. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-12. DIVISION EFFORTS TO OBTAIN PRIVATE AND GOVERNMENTAL GRANTS. The state mental health and retardation division of the state department of health and the duly licensed treatment or care centers for ~~mentally-retarded~~ developmentally disabled persons are hereby authorized to exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of ~~the-mentally-retarded~~ developmentally disabled persons.

SECTION 19. AMENDMENT. Section 25-16-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-16-12. DIVISION EFFORTS TO OBTAIN PRIVATE AND GOVERNMENTAL GRANTS. The ~~state--mental--health--and--retardation~~ developmental disabilities division of the state department of health human services and the duly licensed treatment or care centers for developmentally disabled persons are hereby authorized to exert all possible efforts to obtain grants, both private and governmental, for the care, custody, treatment, training, and education of developmentally disabled persons.

SECTION 20. EFFECTIVE DATES. Sections 1, 4, 11, 15, 17, and 19 of this Act shall become effective on January 1, 1982.

SECTION 21. EXPIRATION DATES. Sections 3, 10, 14, 16, and 18 of this Act shall be effective through December 31, 1981, and after that date shall be ineffective.

Approved April 6, 1981