

Testimony
Department of Human Services
Senate Bill 2083 - Senate Human Services Committee
Senator Judy Lee, Chairman
January 12, 2015

Chairman Lee, members of the Senate Human Services committee, I am Julie Schwab, Director of the Medical Services Division for the Department of Human Services (Department). I am here today to support Senate Bill 2083, which was introduced at the request of the Department.

There are currently 71 licensed assisted living (AL) facilities in North Dakota. The Department is responsible for the annual licensure of these AL facilities. The Department of Health is responsible for the annual food and lodging licensure of the facilities.

The Department has received an increased number of complaints and concerns over the past two years. Based on these concerns, the Department is proposing to add more guidelines and requirements for the AL facilities to assure safety for the tenants residing in AL facilities in North Dakota.

Section 1 of the Bill amends North Dakota Century Code section 50-32-01 to include additional definitions specifically related to: "abuse," "financial exploitation," "mental anguish," "physical injury," and "sexual abuse or exploitation."

Section 2 of the Bill amends North Dakota Century Code section 50-32-02. The proposed changes to this section will:

- Allow the Department to issue a provisional license valid for no longer than 90 days which can be renewed for an additional 90

days to correct deficiencies. If the corrections have not been made after 90 days, the Department may deny the AL facility's application or may revoke its license. Currently chapter 50-32 does not include language to allow for a provisional license when deficiencies are found. Revocation is the alternative. By adding language to allow for provisional licenses the Department and the AL facility can continue to work together while the deficiencies are being corrected, versus requiring tenants to leave their current living arrangements because of a revocation only to have the facility resolve identified deficiencies a short time later and have its license reinstated. The proposed language for a provisional license was obtained from the skilled nursing facility Administrative Rules chapter 33-07-03.2-03.

- Allow the Department to conduct an onsite visit of an AL facility prior to issuing a license.
- Require an AL facility to notify the Department in writing 30 days in advance of a transfer or change of ownership, a change of name of the facility, a change of administrator, or a change in bed capacity.

Section 3 of the Bill amends North Dakota Century Code section 50-32-03. The proposed changes to this section will:

- Require the Department to establish a method to investigate complaints, including allegations of abuse of a tenant, and require the Department to create rules to establish a process for the investigation of complaints.

Section 4 of the Bill amends North Dakota Century Code section 50-32-05. The proposed changes in this section will:

- Require AL facilities to have tenancy criteria that address the specific needs that can be met within the facility and the conditions under which a tenant may be required to move out of the facility. Additionally, this subsection will require a facility to annually reevaluate a tenant's ability to meet the tenancy criteria; sooner if there has been a significant change in the tenant's needs or if the tenant has been hospitalized.
- In subsection 2, the proposed changes preclude an AL facility from serving an individual who is bedbound and from including services for a bedbound individual as an option in the tenancy criteria. Bedbound is medically defined as someone who is confined to bed, on bed rest, or bedridden.
- In subsection 3, the proposed changes would preclude an AL facility from representing itself as a facility that provides memory care services to individuals with memory care needs, such as Alzheimer's disease or dementia, and allow the Department to revoke the license of an AL facility that represents itself as being an AL facility that provides memory care services.
- In subsection 4, the proposed changes would require a facility to complete an assessment within seven days of a hospice election to ensure there is a coordinated plan of care among hospice, the AL facility, the tenant, and any appropriately appointed representative of the tenant.

- In subsection 5, the changes proposed would require an AL facility to complete a service plan when a tenant moves in and to update the plan annually; sooner if there has been a significant change in the tenant's needs or if the tenant has been hospitalized.
- In subsection 6, require that of the annual 12 hours of continuing education required for the administrator each year, at least 6 hours must be directly related to AL. In addition, training or education related to vulnerable adult protection services would be required annually.
- In subsection 7, require the AL facility to update the initial evaluation and service plan at least annually and requires a plan of care which includes necessary third-party contracts to be part of the tenant record.
- In subsection 8, require an AL facility to provide the Department with the results of the consumer satisfaction survey which is conducted every 24 months and to identify the facility's plan to correct any results that demonstrate consumer dissatisfaction.
- In subsection 10, require an AL facility to develop and follow a policy on medication administration and require an AL facility to report medication administration errors to the Health Department.
- In subsection 11, require an AL facility to develop policies for receiving, investigating, and resolving complaints, received from tenants and families.

In subsection 12 of section 50-32-05 currently exists in subsection 5 of North Dakota Century Code section 50-32-02 which is being amended in

section 2 of this bill. It makes more sense for it to be located within section 50-32-05, so the Department proposes it be moved.

This concludes my testimony and I would be happy to answer any questions.