

**Testimony**  
**House Bill 1537 – Department of Human Services**  
**House Human Services Committee**  
**Representative Robin Weisz, Chairman**  
**February 2, 2009**

Chairman Weisz, members of the Human Services Committee, I am Nancy Nikolas, Program Administrator, Medical Services Division of the Department of Human Services. I am not here in support of this bill, I am here today to provide information regarding House Bill 1537.

The Department does not require a substitute caregiver to be a licensed adult foster care provider. Licensed adult foster care providers who need a break from providing care are required to use respite providers who meet the standards listed in N.D.A.C. §75-03-21-10. Respite providers must be 18 years of age or older, not be a resident of the adult foster care home, meet the standards of a qualified service provider, and successfully complete the criminal background check requirements as specified in N.D.C.C. § 50-11-02.4, §50-11-06.8, and §50-11-06.9.

The Department requires adult foster care providers to choose qualified respite providers to assure the health and safety of the residents. In addition, the Department has made assurances to the Centers for Medicare & Medicaid Services (CMS) in the home and community based services waivers for the elderly and disabled and developmentally disabled, that adult foster care respite providers will meet the standards previously stated.

If this change is made to chapter 50-11 of the North Dakota Century Code, the Department would need to modify the provider qualifications currently approved by CMS in the home and community based waivers. We are uncertain of how CMS would view this change in qualifications.

I would be happy to address any questions that you may have.