

Assisted Living — North Dakota Century Code Excerpts (September 2019)

Below is a summary of chapters of the North Dakota Century Code that contain references or are applicable to Assisted Living Facilities.

[North Dakota Century Code t12c47](#) "The Penitentiary"

Section 12-47-39 requires the Department of Correction to inform an assisted living facility of the payment source for care provided, the nature of the conviction and the likelihood of reoffending if an incarcerated offender is released, pardoned or paroled from the Penitentiary due to a chronic or terminal illness and admitted to facility.

[North Dakota Century Code t23c06.5](#) "Health Care Directives"

The purpose of this chapter is to enable adults to retain control over their own health care during periods of incapacity through health directives and the designation of an individual agent to make healthcare decisions on their behalf. Under section 23-06.5-09 A long-term care provider, including an assisted living facility, is bound to follow the health care decisions or instructions of the agent named in the health care directive.

[North Dakota Century Code t23c07](#) "Reportable Diseases"

Under section 23-07-02 an administrator, CEO or manager of an assisted living facility is required to report all reportable diseases to the Health Department.

[North Dakota Century Code t23c12](#) "Public Health, Miscellaneous Provisions"

Section 23-12-10 prohibits smoking in public places and places of employment. The definition of public place includes an assisted living facility. Section 23-12-13 identifies from whom informed consent for healthcare for an individual determined by a physician to be incapacitated and unable to provide consent may be obtained. Section 23-12-14 provides when transferring from one health care provider to another, a free copy of the patient's health care records must be provided pursuant to a request by the patient or an individual authorized by the patient. For any other purpose, a health care provider must provide medical records and medical bills to the patient or authorized representative. Charges for providing these records are defined under the statute.

[North Dakota Century Code t23c44](#) "Nurse Aide Registry"

This chapter gives the Health Department authority to establish and operate a nurse aide registry. Provides authority for the department to establish rules on registry requirements, training and competency, approval of training programs, reporting and investigation of complaints (regarding those on the registry) and the disciplinary process for validate finding of abuse, neglect, misappropriation or other misconduct by someone on the registry.

[North Dakota Century Code t25c01.3](#) “Committee on Protection and Advocacy”

Section 25-01.3-04 requires that an individual who has knowledge of or reasonable cause to suspect abuse, neglect or exploitation of an assisted living resident who has been diagnosed with a mental illness or developmental disability must report to Protection & Advocacy.

[North Dakota Century Code t28c01](#) "Time for Commencing Actions"

Section 28-01-46 requires that any action for injury or death alleging professional negligence by an assisted living facility must be dismissed without prejudice unless an affidavit containing an expert opinion supports the professional negligence within three months of the start of the action.

[North Dakota Century Code t31c04](#) "General Provisions"

Section 31-04-12 provides that an expression of sympathy, apology, compassion or condolence by an assisted living facility or the facility’s employee is not admissible as evidence of liability in a civil action, arbitration or an administrative action regarding the facility.

[North Dakota Century Code t32c42](#) "Alternative Dispute Resolution"

This chapter describes the process that allows the resolution of a healthcare malpractice claim in a manner other than through a lawsuit.

[North Dakota Century Code t47c16](#) "Leasing of Real Property"

This chapter addresses requirements relating to the renting of property including notice to change terms, security deposits, statement on condition of premise, facility and tenant obligations, evictions and terminations, and service animals. Section 47-16-07.5 specifically relates to service animals when there is a no pets policy. It states: “A landlord may require reliable supporting documentation be provided by a tenant of a rental dwelling that is subject to a no pets policy, if the tenant asserts a disability requiring a service animal or assistance animal be allowed as an accommodation on the rented premises under any provision of law. Reliable supporting documentation may be provided by a physician or medical professional who does not operate in this state solely to provide certification for service or assistance animals. Reliable supporting documentation must confirm the tenant's disability and the relationship between the tenant's disability and the need for the requested accommodation. A landlord may not require supporting documentation from a tenant if the tenant's disability or disability-related need for a service animal or assistance animal is readily apparent or already known to the landlord.

[North Dakota Century Code t57c39.2](#) "Sales Tax Exemption for Assisted Living"

Under section 57-39.2-04 an assisted living facility is exempt from paying sales tax on items that are purchased for the use and benefit of tenants.