

## **CHAPTER 25-01.1 INSTITUTIONAL MANAGEMENT**

### **25-01.1-01. Definition of supervising department.**

In this chapter unless the context or subject matter otherwise requires, "supervising department" means that department, division, board, or office responsible for and exercising supervision, control, and administration over the state hospital, as provided by law.

### **25-01.1-02. Heads of institutions responsible to supervising department.**

For the exercise of the duties of general supervision over the institutions subject to the control of the supervising department, the heads of the institutions are responsible to the supervising department.

### **25-01.1-03. Adopt uniform system of accounting.**

The supervising department shall devise and install a system of accounting and auditing of all moneys appropriated, received, and expended. Such system must be adapted to the institutions under its control and must be made as nearly uniform as the necessities of the case may permit and in accordance with requirements of the office of management and budget.

### **25-01.1-04. Books and accounts kept by supervising department.**

The supervising department shall keep at its office a proper and complete system of books and accounts with each institution under its control which must show every expenditure authorized and made thereat. The book must exhibit an account of each extraordinary or special appropriation made by the legislative assembly, with each item of expenditure thereof.

### **25-01.1-05. Blanks and forms furnished by supervising department.**

The supervising department shall formulate and furnish to each institution under its control proper blanks and forms for all statements and accounts necessary to furnish the information required of the institution.

### **25-01.1-06. Supervising department to have access to institutions and to books and records of institutions.**

The supervising department shall have access to all the state institutions under its management and control and to all books, accounts, vouchers, supplies, and equipment of each of the institutions so that the supervising department may familiarize itself with the conditions, needs, and requirements of the institutions. All books, documents, and records relating to the concerns and business of such institutions except personal records of patients at all times must be open to the examination of any citizen of this state. Personal records of patients must be made available upon court order or in accordance with rules and regulations established by the supervising department.

### **25-01.1-07. Rules for procedure and administration of institutions.**

The supervising department shall make all necessary rules for its own procedure and for the general administration, supervision, and management of the institutions under its control and management.

### **25-01.1-08. Inspection of institutions.**

The supervising department or its duly authorized representative shall visit and inspect the institutions under its administration and control concerning administration, treatment, or finances of such institutions at any time, but shall make such inspection at least twice each year. If deemed necessary, the supervising department shall examine under oath the officers and attendants, guards, and other employees and make such inquiries as will determine their fitness for their respective duties.

**25-01.1-09. Investigation of institutions - Witnesses - Fees - Not excused from testifying.**

The supervising department, in aid of the investigation of any institution under its control, may summon and compel the attendance of witnesses and examine the same under oath, which any member thereof shall have the power to administer. The supervising department shall have access to all books, accounts, papers, and property material to such investigation and may order the production of any other books or papers material thereto. Witnesses other than those in the employ of the state are entitled to the same fees as are allowed in civil cases in the district court. The claim that any testimony or evidence sought to be elicited or produced on such examination may tend to incriminate the person giving or producing it, or expose that person to public ignominy, does not excuse that person from testifying or producing evidence, documentary or otherwise, but no person may be prosecuted or subjected to any penalty or forfeiture for and on account of any matter or thing concerning which the person may testify or produce such evidence. The witness is not exempt from prosecution and punishment for perjury committed in so testifying.

**25-01.1-10. Testimony taken at investigation transcribed and filed.**

The supervising department shall cause the testimony taken at any investigation to be transcribed and filed in its office within ten days after the same is taken, or as soon thereafter as practicable. When so filed, the evidence must be open for inspection of any person.

**25-01.1-11. Failure to testify - Contempt.**

Any person who fails or refuses to obey the orders of the supervising department issued in an investigation of any institution under its control, or to give or produce evidence when required, must be reported by the supervising department to the district court or any judge thereof and must be dealt with by the court or judge as for contempt of court.

**25-01.1-12. Report to governor any abuses and wrongs existing in institutions.**

The supervising department shall investigate and report to the governor any abuses or wrongs alleged to exist in the institutions under its control and management.

**25-01.1-13. Supervising department to keep record of persons in institutions.**

The supervising department shall keep in its office a record showing:

1. The residence, sex, age, nativity, occupation, religion, civil condition, and date of entrance or commitment of every person, patient, or inmate in the institutions under its control and administration.
2. The date of discharge of every such person from the institutions, and whether such discharge was final.
3. The condition of the person at the time the person left the institution.
4. If a person is transferred from one institution to another, to what institution transferred.
5. If a person, patient, or inmate of an institution dies, the date and cause of death.

This information must be furnished to the supervising department by the institutions under its control. Such other obtainable facts must be furnished as the supervising department, from time to time, may require. No one may have access to the records, except as authorized by the supervising department, or on the order of a court of record.

**25-01.1-14. Entrance and discharge record of persons at institutions.**

The managing officer of each institution, within thirty days after the commitment or entrance of a person, patient, or inmate to the institution, shall cause a true copy of the entrance record to be made and forwarded to the office of the supervising department. When a patient or inmate leaves, or is discharged, transferred, or dies in any institution, the superintendent or person in charge, within ten days thereafter, shall send such information to the supervising department having control of such institution. All such information must be furnished on forms which the supervising department may prescribe.

**25-01.1-14.1. Heads of institutions - Duty to appoint surrogate parents.**

The heads of each of the state institutions shall establish as required by the state superintendent a procedure for determining whether a patient under the age of twenty-one years needs a surrogate parent and for assigning such a surrogate parent for the purpose of special education and related services.

**25-01.1-15. Supervising department to provide protection against fire - Means of escape.**

The supervising department under advisement of the state fire marshal shall compel the superintendent of each of the institutions under its control to:

1. Provide at each institution adequate and ready means of protection against fire.
2. Construct proper means of escape for the patients and attendants where the same are not already constructed.
3. Establish and enforce rigid rules and regulations by which the danger of fire shall be minimized.
4. Prevent, as far as possible, injury to the patients or pupils and loss or destruction, by any cause, of the property of the state.

**25-01.1-16. Inventory of stocks and supplies.**

The supervising department, annually on June thirtieth of each year, shall require the superintendent of each institution under its charge to make a complete, minute, and accurate inventory of the stock and supplies on hand, and the amount and value thereof. The inventory must be under the following heads:

1. Livestock.
2. Produce of the farm on hand.
3. Automobiles, trucks, and other vehicles.
4. Agricultural implements.
5. Machinery.
6. Mechanical fixtures.
7. Real estate.
8. Beds and bedding in patients' department.
9. Other furniture in patients' department.
10. Personal property of the state in superintendent's department.
11. Readymade clothing.
12. Dry goods.
13. Provisions and groceries.
14. Drugs and medicines.
15. Fuel.
16. Library property.
17. All other property under such heads as the supervising department may deem proper.

A like inventory must be submitted by the proper superintendent of each institution to the supervising department when requested by the supervising department.

**25-01.1-17. Moneys remitted to state treasurer.**

All moneys belonging to the state, derived from any source at any of the institutions under the control of the supervising department, must be accounted for and remitted to the state treasurer not later than the tenth day of each month. The state treasurer shall maintain a special operating fund within the state treasury for each remitting institution. All rents, interests, or income from land, money, or property donated or granted by the United States and allocated to specific charitable institutions under the terms of the Enabling Act and the Constitution of North Dakota must be deposited in such special operating fund of each institution and expended in accordance with section 1 of article IX of the Constitution of North Dakota. The state treasurer shall make periodic transfers upon order of the director of the office of management and budget from each institutional general fund appropriation to the appropriate institutional special operating fund whenever its balance falls so low as to require supplementation. All funds for

necessary expenditures of such institutions must be drawn from the special operating fund in the state treasury as provided by this chapter.

**25-01.1-18. Property of institution is property of state.**

All public property of every kind and all public money in the charge of the superintendent of any institution under the control of the supervising department, or that comes to the superintendent's control on account of the institution under the superintendent's charge, or from the business thereof, is the property of the state and at all times must be kept separate and apart from the property of such superintendent.

**25-01.1-19. Funds belonging to institutions or patients to be paid to superintendent.**

Each officer and employee of all state institutions under the management and control of the supervising department shall pay over to the superintendent of the institution without delay any funds which may come into the officer's or employee's hands belonging to any patient of the institution and of which the superintendent is the legal custodian. An officer or employee shall pay over to the proper officer of the institution without delay any funds belonging to the institution.

**25-01.1-20. Care and custody of funds belonging to patients of state institutions.**

The superintendent of any state institution under the management and control of the supervising department, when the care and custody of any funds belonging to patients of a state institution are by law devolved upon the superintendent, shall keep accurate accounts of these funds in books provided for that purpose and shall pay out these funds under rules as may be prescribed by law or by the supervising department, taking proper vouchers of the funds in all cases from the patient or responsible representative of the patient. Each superintendent shall give a bond conditioned for the faithful performance of duties.

**25-01.1-21. Property of patients to be returned.**

The money and effects, except clothing, in possession of each patient when committed to any institution under control of the supervising department must be preserved by the superintendent of such institution and returned to such patient when discharged.

**25-01.1-22. Estimate of expenditures of institutions presented to supervising department and office of management and budget - Revision.**

At the times and in the manner provided by the office of management and budget, the superintendent shall cause to be prepared triplicate estimates of all expenditures required for the institution. Two of the said triplicate estimates must be sent to the supervising department and the third must be kept by the superintendent. The supervising department may revise the estimates for supplies or other expenditures and shall certify that it has carefully examined the same and that the articles contained in such estimates as approved, or revised by it, are, to its best knowledge and belief, actually required for the use of the institution. An approved copy containing any revisions of the estimate by the supervising department must be forwarded by the supervising department to the office of management and budget which shall contract for the required purchases.

**25-01.1-23. Office of management and budget to advertise for bids for supplies - State firm given preference.**

Repealed by S.L. 1979, ch. 568, § 11.

**25-01.1-24. Contract for supplies sent to institution.**

When the estimates for supplies for the institutions under the control of the supervising department have been certified and revised by the supervising department and bids for the supplies enumerated and described therein have been received and contracts for furnishing the supplies have been let by the office of management and budget, a copy of such revised estimates and the contract for furnishing the supplies enumerated and described in such revised

estimates, duly certified, must be sent to the institution and another copy must be sent to the supervising department having control of such institution.

**25-01.1-25. Office of management and budget may purchase supplies on open market.**

Repealed by S.L. 1979, ch. 568, § 11.

**25-01.1-26. Bill presented to institution - Form - Thirty days allowed to pay for supplies.**

The supplies purchased for the institutions under the control of the supervising department must be purchased so as to permit at least thirty days' time to pay therefor. The officer of the institution designated by the supervising department shall require itemized bills to be rendered by the person who furnishes supplies, in duplicate, for all purchases whether made upon contract or otherwise, which must be in the form prescribed by the office of management and budget and certified as required for other claims against the state.

**25-01.1-27. Rules for purchase of supplies - Jobbers to file address with office of management and budget or institutions.**

Repealed by S.L. 1979, ch. 568, § 11.

**25-01.1-28. Supplies of institutions - Duties of officers.**

The officer of each institution who is designated by the supervising department to have charge of and to be accountable for all the supplies and stores of the institution must be charged therewith at their invoice value, and shall:

1. Direct all purchases of such institution as may be ordered by the office of management and budget under the estimates as provided in section 25-01.1-22, in conjunction with the superintendent of each institution.
2. Issue all the supplies upon requisition approved by the superintendent or other officer designated by the supervising department. The requisition shall be the officer's voucher therefor.
3. Examine and register all goods delivered, according to their amount and quality, and if found to correspond with the samples and in good order and correct in charge, the officer shall certify the bills.
4. Make a consolidated report of all purchases to the office of management and budget and the supervising department and all other transactions of such institution to such supervising department at the close of the annual period.

**25-01.1-29. Shortage in supplies - Liability of officer in charge.**

If it appears that there is a shortage in the supplies of any institution, the supervising department having control of such institution shall appoint a committee to investigate the cause thereof. If it appears that the shortage resulted from unavoidable loss, without the negligence of the officer designated to have charge of the supplies, such officer must be credited therewith, otherwise the officer must be charged with the amount thereof and must be required to pay the same into the state treasury within sixty days after the determination of the loss. If default is made in such payment, the officer shall forfeit the office and suit must be instituted upon the officer's official bond to recover the same.

**25-01.1-30. Monthly statement of institutional expenditures and payroll to supervising department.**

An officer designated by the supervising department for each institution under its control shall prepare two monthly statements showing first the payroll and second the expenditures of every kind during the preceding month. Such statement must be signed by the officer, approved by the superintendent of the institution, and filed with the supervising department on a date fixed by the supervising department for the examination and audit of such department. Attached thereto must be the affidavit of the officer stating that the services therein specified were

rendered and that the goods and other articles therein specified were purchased and received by the officer or under the officer's direction at the institution and were purchased at a fair cash market price on credit not exceeding thirty days, that neither the officer nor any person in the officer's behalf had any pecuniary or other interest in the purchases made, that the officer did not receive any pecuniary or other benefit therefrom, directly or indirectly, by commission, percentage, deductions or in any other manner whatever, and that the articles contained in such bill conformed in all respects to the invoiced goods received and ordered by the officer or the samples from which the goods were purchased, both in quality and quantity. Such monthly statement must be accompanied by the original invoices of all institutional purchases and a complete itemized statement of each institutional expenditure. If any invoice or statement, or any part thereof, is found objectionable, the supervising department having control of such institution shall endorse its disapproval thereon with its reasons therefor, and shall return it to the management of the institution, and when the matter disapproved of is corrected, the statement and invoice must be returned to the supervising department.

**25-01.1-31. Audit of monthly statements of expenditures - Abstracts of statement - Payment.**

When the monthly statement of expenditures of an institution have been audited by the supervising department having control of such institution and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the amount due each claimant, and the institution and the fund thereof on account of which the payment shall be made. The supervising department shall deliver one copy thereof to the office of management and budget and the other copy must be retained in the office of the department. The office of management and budget, upon receipt of the certified abstract, after approval by the office of the budget, shall issue a warrant or warrants for the amount or amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in conformity with such rules as the supervising department may prescribe.

**25-01.1-32. Examination of monthly payroll - Payment.**

When the monthly statement of the payroll of an institution has been audited by the supervising department and found correct, the supervising department shall prepare an abstract, in duplicate, showing the name, residence, and the amount due each claimant, and the institution and the fund from which the payment shall be made. The supervising department shall deliver one copy thereof to the office of management and budget and the other copy must be retained in the office of the supervising department. The office of management and budget, upon receipt of the certified abstract, after approval by the office of the budget, shall issue a warrant or warrants for the amounts thereof and shall deliver the same to the supervising department for delivery to the proper officer of the institution, to be paid out in accordance with such rules as the supervising department may prescribe.

**25-01.1-33. Use of patient labor in erection or repair of buildings of institutions.**

All work for the erection, repair, or improvement of buildings, grounds, or properties under the control of the supervising department must be let by contract, except that the work of patients in such institutions may be utilized if approved by the superintendent of such institution as having possible benefits to the patient and not detrimental to the patient's health or treatment and when the use of such labor will not substantially depart from the requirements of chapter 48-01.2.

**25-01.1-34. Supervising department, employees, or employees of institutions not to be interested in contracts.**

No member of the supervising department, nor any employee of any of the same, nor any employee of the institutions under control of the supervising department, may be interested, directly or indirectly, in any contract, purchase, or sale for or on account of any of the institutions

under control of such supervising department. Any violation of the provisions of this section is sufficient cause for removal from office.

**25-01.1-35. Members of supervising department and officers and employees of institutions prohibited from accepting gifts - Penalty.**

No member of the supervising department, nor any officer, agent, or employee thereof, and no superintendent, officer, manager, or employee of any of the institutions under the charge and control of the supervising department, directly or indirectly, for that person or to benefit any other person, may receive or accept any gift or gratuity from any person dealing in goods, merchandise, or supplies which may be used in any of the institutions, or from any employee, servant, or agent of such person. Any person violating the provisions of this section is guilty of a class A misdemeanor. Such violation is cause for removal from office.

**25-01.1-36. Employees - Penalty for influencing appointment.**

Any member of the supervising department and any officer thereof who exerts any improper influence, by solicitation or otherwise, on the superintendent of any institution under the control of the supervising department, in the selection of any employee or assistant, is guilty of a class A misdemeanor.

**25-01.1-37. Political influence or contribution by members of supervising department or employees of institution prohibited.**

Any member or officer of the supervising department, or any officer or employee of an institution subject to control of the supervising department, who, by solicitation or otherwise, exerts the person's influence, directly or indirectly, to induce other officers or employees of the state to adopt the person's political views must be removed from the person's office or position by the proper authorities.

**25-01.1-38. Child welfare - Powers and duties of supervising department.**

In addition to the other duties prescribed by law, the supervising department has the following duties and powers:

1. To accept the guardianship of the persons or children who may be committed to its care by courts of competent jurisdiction as neglected, delinquent, dependent, or defective.
2. To make such provisions for children committed to its care as are within the resources of the supervising department, and as will afford them proper care and protection.
3. To take the initiative in protecting and conserving the rights and interests of neglected, dependent, delinquent, illegitimate, and defective children.
4. To act as parole officers of juveniles upon the request of courts of the state to which dependent, neglected, handicapped, or delinquent children may be committed.