

**BEFORE THE  
ADMINISTRATIVE RULES COMMITTEE  
OF THE  
NORTH DAKOTA LEGISLATIVE COUNCIL**

**N.D. Admin. Code Chapters )  
75-03-15, Ratesetting for )  
Providers of Services to Foster )  
Children – Group Homes and )  
Residential Child Care )  
Facilities, and 75-03-16, )  
Licensing of Group Homes and )  
Residential Child Care Facilities )  
(Pages 240-292) )**

**REPORT OF THE  
DEPT. OF HUMAN SERVICES**

**June 11, 2014**

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For its report, the North Dakota Department of Human Services (Department) states:

1. The proposed amendments to N.D. Admin. Code chapters 75-03-15 and 75-03-16 are not related to statutory changes made by the Legislative Assembly.
2. These rules are not related to changes in a federal statute or regulation.
3. The Department uses direct and electronic mail as the preferred ways of notifying interested persons of proposed rulemaking. The Department uses a basic mailing list for each rulemaking project that includes the county social service board directors, the regional human service centers, Legal Services of North Dakota, all persons who have asked to be on the basic list, and internal circulation within the Department. Additionally, the Department constructs relevant mailing lists for specific rulemaking. The Department also places public announcements in all county newspapers advising generally of the content of the rulemaking, of over 50 locations

throughout the state where the proposed rulemaking documents may be reviewed, and stating the location, date, and time of the public hearing.

The Department conducts public hearings on all substantive rule-making. Oral comments are recorded. Oral comments, as well as any written comments that have been received, are summarized and presented to the Department's executive director, together with any response to the comments that may seem appropriate and a re-drafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on April 3, 2014. The record was held open until 5:00 p.m. on April 14, 2014, to allow written comments to be submitted. Two sets of written comments were received. The "Summary of Comments" is attached to this report.
5. The cost of giving public notice, holding a hearing, and the cost (not including staff time) of developing and adopting the rules was \$2,481.82.
6. The proposed rules amend chapters 75-03-15 and 75-03-16. The following specific changes were made:
  - Section 75-03-15-01. Section 75-03-15-01 is amended to add pertinent definitions, clarify language, and create consistency in terms used throughout the chapter.
  - Section 75-03-15-02. Section 75-03-15-02 is amended to clarify language relative to child census.
  - Section 75-03-15-03. Section 75-03-15-03 is amended to clarify the three types of identified child census days allowed,

clarify language, and create consistency in terms used throughout the chapter.

Section 75-03-15-04. Section 75-03-15-04 is amended to clarify language relative to desk audit rates, to create consistency in terms used throughout the chapter, to add the ability to notify facilities by electronic mail of any desk adjustments, to remove rehabilitation rate language that is no longer used in ratesetting, to exempt shelter care beds from the occupancy rate, and to establish a process for facilities to request a waiver of minimum bed occupancy allowance.

Section 75-03-15-06. Section 75-03-15-06 is amended to remove rehabilitation rate language that is no longer used in ratesetting, to clarify language, and to create consistency in terms used throughout the chapter.

Section 75-03-15-07. Section 75-03-15-07 is amended to clarify language, to create consistency in terms used throughout the chapter, to add nursing services, cellular phones, satellite television, and electronic communication systems to the maintenance rate, and to add computer software costs and maintenance to administration costs. (This section was further amended in response to a comment received to include monthly service fees associated with cellular phones and electronic communication systems.)

Section 75-03-15-08. Section 75-03-15-08 is amended to clarify language and ratesetting, to create consistency in terms used throughout the chapter, and to remove rehabilitation rates that are no longer used in ratesetting.

Section 75-03-15-09. Section 75-03-15-09 is amended to

clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-15-10. Section 75-03-15-10 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-15-11. Section 75-03-15-11 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-15-12. Section 75-03-15-12 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-15-12.1. Section 75-03-15-12.1 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-15-13.1. Section 75-03-15-13.1 is amended to clarify language, to create consistency in terms used throughout the chapter, and to increase the historical costs minimum for a depreciable asset from one thousand to five thousand dollars.

Section 75-03-15-14. Section 75-03-15-14 is amended to clarify language.

Section 75-03-15-15. Section 75-03-15-15 is amended to create consistency in terms used throughout the chapter.

Section 75-03-16-01. Section 75-03-16-01 is amended to add "custodian" to the definitions.

Section 75-03-16-02. Section 75-03-16-02 is amended to remove outdated language.

Section 75-03-16-02.3. Section 75-03-16-02.3 is amended

to correct a citation and to create consistency in terms used throughout the chapter.

Section 75-03-16-02.4. Section 75-03-16-02.4 is amended to create consistency in terms used throughout the chapter.

Section 75-03-16-03. Section 75-03-16-03 is amended to clarify language, to create consistency in terms used throughout the chapter, to add a new paragraph to subsection 1 regarding a facilities governing body if the facility is owned by a tribe or the Department of Public Instruction, and to clarify the requirements for notification of a membership change occurring within a facility's governing body. (This section was further amended in response to a comment identifying an unintended deletion from this rule. The language has been restored.)

Section 75-03-16-04. Section 75-03-16-04 is amended to clarify language.

Section 75-03-16-05. Section 75-03-16-05 is amended to clarify what facilities are required to include in employees' and nonemployees' files, to clarify language, and to create consistency in terms used throughout the chapter.

Section 75-03-16-06. Section 75-03-16-06 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-16-07. Section 75-03-16-07 is amended to clarify language and to remove outdated language.

Section 75-03-16-08. Section 75-03-16-08 is amended to clarify language, to create consistency in terms used throughout the chapter, and to remove duplicate language.

Section 75-03-16-09. Section 75-03-16-09 is amended to clarify language, to clarify required supervision for employees in clinical, treatment, and case management roles, and to require facilities to document annual supervisor training.

Section 75-03-16-10. Section 75-03-16-10 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-16-11. Section 75-03-16-11 is amended to clarify language, to create consistency in terms used throughout the chapter, and to require nonemployees who provide services at the facility to follow suspected child abuse and neglect and zero tolerance policies of the facility.

Section 75-03-16-12. Section 75-03-16-12 is amended to add zero tolerance language regarding sexual abuse and harassment, and to require the documentation of policy reviews, revisions, and employee participation, to clarify language, and to create consistency in terms used throughout the chapter.

Section 75-03-16-12.2. Section 75-03-16-12.2 is amended to clarify the status of nonemployees, to clarify and add language regarding background, driving record, and child abuse and neglect checks, and to create consistency in terms used throughout the chapter.

Section 75-03-16-12.3. Section 75-03-16-12.3 is amended to clarify health requirements for employees and nonemployees, and to create consistency in terms used throughout the chapter.

Section 75-03-16-14. Section 75-03-16-14 is amended to

clarify what constitutes employee professional development and to whom it applies, and to create consistency in terms used throughout the chapter.

Section 75-03-16-15. Section 75-03-16-15 is amended to clarify language, to create consistency in terms used throughout the chapter, and to clarify an internal investigation is not to be conducted by a facility if law enforcement or the department is investigating an allegation of child abuse and neglect.

Section 75-03-16-16. Section 75-03-16-16 is amended to add private placement language, to clarify and identify discharge report requirements, and to create consistency in terms used throughout the chapter.

Section 75-03-16-17. Section 75-03-16-17 is amended to clarify language, to create consistency in terms used throughout the chapter, to identify requirements for service delivery to the child and to the family by the facility and community providers, and to add a requirement for a facility that engages in electronic data entry and case filing to develop a policy to manage that process.

Section 75-03-16-19. Section 75-03-16-19 is amended to create consistency in terms used throughout the chapter.

Section 75-03-16-20. Section 75-03-16-20 is amended to create consistency in terms used throughout the chapter.

Section 75-03-16-21. Section 75-03-16-21 is amended to require a facility to include in its files a court order establishing the facility's authority to accept and care for any child welfare placement and services the family is receiving,

to clarify language, to create consistency in terms used throughout the chapter, and to update outdated language.

Section 75-03-16-24. Section 75-03-16-24 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-16-25. Section 75-03-16-25 is amended to require a facility to advise the custodian, parent, or guardian for children in placement of the facility's day-to-day and search rules, to add language regarding room assignments, to clarify language, and to create consistency in terms used throughout the chapter.

Section 75-03-16-26. Section 75-03-16-26 is amended to clarify requirements regarding the use of separation, to add language regarding the prohibition of isolating a child in a locked area, to create consistency in terms used throughout the chapter, and to update outdated language. (This section was further amended in response to a comment received.)

Section 75-03-16-26.1. Section 75-03-16-26.1 is amended to clarify language, to create consistency in terms used throughout the chapter, and to update outdated language.

Section 75-03-16-26.2. Section 75-03-16-26.2 is amended to clarify language and to create consistency in terms used throughout the chapter.

Section 75-03-16-27. Section 75-03-16-27 is amended to clarify language and to create consistency in terms used throughout the chapter.

7. No written requests for regulatory analysis have been filed by the



- Governor or by any agency. The proposed amendments are not expected to have an impact on the regulated community in excess of \$50,000. A regulatory analysis was prepared and is attached to this report.
8. A small entity regulatory analysis and small entity economic impact statement were prepared and are attached to this report.
  9. The anticipated fiscal impact resulting from the implementation of the proposed amendments is immaterial.
  10. A constitutional takings assessment was prepared and is attached to this report.
  11. These rules were not adopted as emergency (interim final) rules.

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