

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

N.D. Admin. Code Chapters)	<u>REPORT OF THE</u>
75-03-07, 70-03-07.1, 75-03-08,)	<u>DEPT. OF HUMAN SERVICES</u>
75-03-09, 75-03-10, 75-03-11, and)	March 14, 2016
75-03-11.1, Licensing of)	
Early Childhood Services)	
(Pages 257-335))	
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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 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1 are necessary to comply with 2015 House Bill No. 1247.
2. These rules are related to changes in a federal statute or regulation, specifically P.L 113-186, relating to the Child Care and Development Block Grant Act of 2014.
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 offices in 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 December 8, 2015. The record was held open until 5:00 p.m. on December 18, 2015, to allow written comments to be submitted. No one attended or provided comments at the public hearing. Seven written comments were received within the comment period. 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 \$2,444.24.
6. The proposed rules amend chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1. The following specific changes are made:

Section 75-03-07-04. Section 75-03-07-04 is amended to reflect a statutory change regarding training requirements for providers who provide care to infants and to provide additional language to include a services-required determination from another state.

Section 75-03-07.1-00.1. Section 75-03-07.1-00.1 is amended

to provide consistency across chapter 75-03-07.1 regarding the use of provider and emergency designee.

Section 75-03-07.1-02. Section 75-03-07.1-02 is amended to remove redundant language, provide consistency across chapter 75-03-07.1 regarding the use of provider and emergency designee, to reflect a statutory change regarding training requirements for providers and emergency designees who provide care to infants, frequency of training courses, clarify who decides and to whom a child shall be released from care to, and to address aquatic activities.

Section 75-03-07.1-05. Section 75-03-07.1-05 is amended to provide consistency across chapter 75-03-07.1 regarding the use of provider.

Sections 75-03-07.1-06. Sections 75-03-07.1-06 is amended to provide consistency across chapter 75-03-07.1 regarding the use of provider and emergency designee, to add "arson" as a direct bearing offense, provide a requirement that a fingerprint based criminal history record check is required upon hire and every five years after initial approval, to provide a background check results review process, and to provide additional language to include a services-required determination from another state.

Section 75-03-07.1-08. Section 75-03-07.1-08 is amended to include both frequent visual checks and a monitor in the room with sleeping infants unless the provider or emergency designee is in the room with the sleeping infant.

Section 75-03-07.1-09. Section 75-03-07.1-09 is amended to provide consistency across chapter 75-03-07.1 regarding

the use of provider and emergency designee.

Section 75-03-07.1-10. Section 75-03-07.1-10 is amended to add 75-03-07.1-08 and to provide consistency across chapter 75-03-07.1 regarding the use of emergency designee.

Section 75-03-07.1-12. Section 75-03-07.1-12 is amended to allow for the issuance of a restricted license.

Section 75-03-08-12. Section 75-03-08-12 is amended to add the exception of substitute staff and emergency designees from basic child care courses and to reflect a statutory change regarding training requirements for staff members who provide care to infants.

Section 75-03-08-14. Section 75-03-08-14 is amended to remove redundant language, to add a requirement for an initial and annual fire inspection, and to obtain written statements of compliance to provide consistency across all licensed child care providers.

Section 75-03-09-14. Section 75-03-09-14 is amended to remove redundant language.

Section 75-03-09-17. Section 75-03-09-17 is amended to require an initial and annual fire inspection.

Section 75-03-10-09. Section 75-03-10-09 is amended for clarification purposes and to add language to clarify who decides and to whom a child shall be released from care to.

Section 75-03-11-13. Section 75-03-11-13 is amended to require all staff members to complete a Department approved basic child care course within the first three months of employment with the exception of substitute staff and

emergency designees.

Section 75-03-11.1-22. Section 75-03-11.1-22 is amended to add a requirement that records shall be kept at the school age program premises and satellite sites where the child is enrolled in.

Sections 75-03-07-06, 75-03-08-27, 75-03-09-27, 75-03-10-27, 75-03-11-27, and 75-03-11.1-27. Sections 75-03-07-06, 75-03-08-27, 75-03-09-27, 75-03-10-27, 75-03-11-27, and 75-03-11.1-27 are amended to add "arson" as a direct bearing offense, a requirement that a fingerprint based criminal history record check is required upon hire and every five years after initial approval, and a background check results review process.

Sections 75-03-07.1-00.1, 75-03-08-03, 75-03-09-03, 75-03-10-03, 75-03-11-03, and 75-03-11.1-03. Sections 75-03-07.1-00.1, 75-03-08-03, 75-03-09-03, 75-03-10-03, 75-03-11-03, and 75-03-11.1-03 are amended to add a definition of aquatic activity.

Sections 75-03-08-08.1 and 75-03-09-08. Sections 75-03-08-08.1 and 75-03-09-08 are amended to remove the exemption of substitute staff and emergency designee to complete CPR and First Aid and add language to clarify who decides and to whom a child shall be released from care to.

Sections 75-03-08-10, 75-03-09-10, 75-03-09-12, 75-03-10-10, 75-03-10-11.1, and 75-03-10-12. Sections 75-03-08-10, 75-03-09-10, 75-03-09-12, 75-03-10-10, 75-03-10-11.1, and 75-03-10-12 are amended to reflect a statutory change regarding training requirements for directors, providers, supervisors, and staff members who provide care to infants and

frequency of training courses.

Sections 75-03-08-21.1, 75-03-09-18, 75-03-10-18, 75-03-11-18, and 75-03-11.1-18. Sections 75-03-08-21.1, 75-03-09-18, 75-03-10-18, 75-03-11-18, and 75-03-11.1-18 are amended to address aquatic activities.

Sections 75-03-08-24, 75-03-09-24, and 75-03-10-24.

Sections 75-03-08-24, 75-03-09-24, and 75-03-10-24 are amended to include both frequent visual checks and a monitor in the room with sleeping infants unless a staff member is in the room with the sleeping infant.

Sections 75-03-08-28, 75-03-09-28, 75-03-10-28, 75-03-11-28, and 75-03-11.1-28. Sections 75-03-08-28, 75-03-09-28, 75-03-10-28, 75-03-11-28, and 75-03-11.1-28 are amended to provide additional language to include a services-required determination from another state.

Sections 75-03-11-08 and 75-03-11.1-08. Sections 75-03-11-08 and 75-03-11.1-08 are amended to clarify who decides and to whom a child shall be released from care to.

Sections 75-03-11-13 and 75-03-11.1-08.4. Sections 75-03-11-13 and 75-03-11.1-08.4 are amended to address frequency of training courses and to require a basic child care course.

7. No written requests for regulatory analysis have been filed by the Governor or by any agency. The rule 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 \$201,994.50. The entire fiscal impact is due to the proposed rules in response to Federal Reauthorization of the Child Care and Development Block Grant Act of 2014 that was signed into law (Pub.L. 113-186) by President Obama on November 19, 2014.
10. A constitutional takings assessment was prepared and is attached to this report.
11. These rules were not adopted as emergency (interim final) rules.

Prepared by:

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North Dakota Department of Human Services
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