

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

N.D. Admin. Code Chapters)	<u>REPORT OF THE</u>
75-03-07, 75-03-07.1, 75-03-08,)	<u>DEPT. OF HUMAN SERVICES</u>
75-03-09, 75-03-10, 75-03-11,)	June 9, 2020
and 75-03-11.1,)	
Early Childhood Services)	
)	
(Pages 773-831))	

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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, relating to early childhood services, are being amended as a result of 2019 Senate Bill No. 2124.
2. These rules are not related to a change 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 human service zone 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 redrafted rule incorporating any changes occasioned by the comments.

4. A public hearing on the proposed rules was held in Bismarck on March 18, 2020. The record was held open until 5:00 p.m. on March 30, 2020, to allow written comments to be submitted. No comments were received at the public hearing. No written comments were received within the comment period. A "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 \$3,003.87.
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. These rules are being amended to comply with 2019 Senate Bill No. 2124. The following specific changes were made:
Section 75-03-07-04 is amended to replace county with the department in response to 2019 Senate Bill No. 2124 and to remove "director of a regional human service center or the director's designee for consideration and action on the in-home registration document" from among the parties to whom

the department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and the department will already have the information.

Section 75-03-07.1-02 is amended to replace county with the department in response to 2019 Senate Bill No. 2124 and to replace "director of a regional human service center, or the director's designee, in consultation with the" and "director of the regional human service center or the director's designee" with the "department". The director of a regional human service center is an employee of the department and this change will allow the department to determine the most appropriate employee to issue the provisional self-declaration document.

Section 75-03-07.1-06 is amended to remove "and to the director of a regional human service center or the director's designee for consideration and action on the application or self-declaration document" from among the parties to whom the department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and the department will already have the information. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-07.1-10 is amended to remove "regional supervisor of early childhood services" and replace with

“department”, as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-08-06 is amended to remove the “director of a regional human service center, or the director’s designee, in consultation with the” and “director of the regional human service center or the regional director’s designee” with the “department”. The director of a regional human service center is an employee of the department and this change will allow the department to determine the most appropriate employee to issue the provisional license.

Section 75-03-08-07 is amended to insert the “department or its” and remove “in the county” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-08-08.1 is amended to insert the “department or its” or “its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-08-14 is amended to insert the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-08-21.1 is amended for consistency purposes with other early childhood services licensing rules, to require that medication required by a child in care, that medication

prescribed by a medical provider must be accompanied by the provider's written instructions as to dosage and storage and labeled with the child's name and the date.

Section 75-03-08-28 is amended to remove "and to the director of the regional service center or the director's designee for consideration and action on the application or license" from among the parties to whom the department had to furnish a determination of current ability to provide care that is free of abuse and neglect, as the director of a regional human service center is an employee of the department and the department will already have the information. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-08-29 is amended to replace "regional supervisor of early childhood services" with "department" as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-09-06 is amended to replace "director of a regional human service center, or the director's designee, in consultation with the" and "director of the regional human service center or the director's designee" with "department". The director of a regional human service center is an employee of the department and this change will allow the department

to determine the most appropriate employee to issue the provisional license.

Sections 75-03-09-07, 75-03-09-08, 75-03-09-14, 75-03-09-17, and 75-03-09-18 are amended to insert the “department or its” or “its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-09-28 is amended to remove “and to the regional director of the regional human service center or the director’s designee for consideration and action on the group child care application license” from among the parties to whom the department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and the department will already have the information. The proposed amendment also inserts the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-09-29 is amended to replace “regional supervisor of early childhood services” with “department”, as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-10-06 is amended to remove the “director of a regional human service center, or the director’s designee, in consultation with the” and “director of the regional human

service center or the regional director's designee" with the "department". The director of a regional human service center is an employee of the department and this change will allow the department to determine the most appropriate employee to issue the provisional license.

Sections 75-03-10-07, 75-03-10-09, and 75-03-10-17 are amended to insert the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-10-18 is amended to provide that the operator shall ensure that in child care centers, other than an occupied private residence, where meals are prepared, the state department of health conducts an annual inspection. If only snacks or occasional cooking projects are prepared, a state department of health inspection is not required. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-10-21 is amended to insert the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-10-28 is amended to remove "and to the director of a regional human service center or the director's designee for consideration and action on the application or license" from among the parties to whom the department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and

the department will already have the information. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-10-29 is amended to replace "regional supervisor of early childhood services" with "department" as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11-06 is amended to remove the "director of a regional human service center, or the director's designee, in consultation with the" and "director of the regional human service center or the director's designee" with the "department". The director of a regional human service center is an employee of the department and this change will allow the department to determine the most appropriate employee to issue the provisional license.

Sections 75-03-11-07, 75-03-11-08, 75-03-11-17, and 75-03-11-18 are amended to insert the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11-28 is amended to remove the "and to the director of the regional service center or the director's designee for consideration and action on the preschool application or license" from among the parties to whom the

department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and the department will already have the information. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11-29 is amended to replace "regional supervisor of early childhood services" with "department" as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11.1-06 is amended to remove the "director of a regional human service center, or the director's designee, in consultation with the" and "director of the regional human service center or the regional director's designee" with the "department". The director of a regional human service center is an employee of the department and this change will allow the department to determine the most appropriate employee to issue the provisional license.

Sections 75-03-11.1-07, 75-03-11.1-08, 75-03-11.1-17, 75-03-11.1-18, and 75-03-11.1-21 are amended to insert the "department or its" in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11.1-28 is amended to remove the “and to the director of the regional service center or the director’s designee for consideration and action on the application or license” from among the parties to whom the department had to furnish a determination of current ability to provide care that is free of abuse and neglect as the director of a regional human service center is an employee of the department and the department will already have the information. The proposed amendment also inserts the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

Section 75-03-11.1-29 is amended to replace “regional supervisor of early childhood services” with “department” as the regional supervisor is an employee of the department and this change will allow the department to determine the most appropriate employee to grant an extension of additional time to correct violations. The proposed amendment also inserts the “department or its” in response to 2019 Senate Bill No. 2124 as the department is fully responsible for licensing.

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 nominal.

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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