

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

<b>Creation of N.D. Admin. Code</b>	)	<b><u>REPORT OF THE</u></b>
<b>Article 75-09.1, Substance Abuse</b>	)	<b><u>DEPT. OF HUMAN SERVICES</u></b>
<b>Treatment Programs (Pages 384-460</b>	)	<b>July 19, 2005</b>

.....

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

- 1. The repeal of N.D. Admin. Code Article 75-09 and the creation of Article 75-09.1 arose out of 2003 Senate Bill no. 2210 under which some insurers have elected to provide coverage of substance abuse treatment if it is provided by a program licensed by the Department of Human Services.**
  
- 2. These rules are not related to any changes in federal statutes or regulations.**
  
- 3. The Department of Human Services 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 boards, the regional human service centers, all 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 change occasioned by the comments.

4. Comments were received at the public hearing held in Bismarck on December 22, 2004. Written comments were also received. A summary of comments is attached to this report.
5. The approximate cost of giving public notice and holding a hearing and the cost (not including staff time) of developing and adopting the rules was \$690.00.
6. The rules better define and use more current professional standards for the licensing of substance abuse treatment programs. The rules that were contained in the former article 75-09 did not distinguish between the various types of substance abuse treatment programs now being offered. Article 75-09.1 clarifies the type of license granted to such programs and the extent of the treatment provided by the program.

Chapter 75-09.1-01, General standards, governs all substance abuse treatment programs licensed by the Department with the exception of DUI seminars that are governed by chapter 75-09.1-09. The purpose of the rules in this chapter is to provide general licensing and operating requirements for all substance abuse treatment

**programs such as application procedures, licensing reports, fiscal management, client record keeping requirements, license sanctions and appeal procedures.**

**Chapter 75-09.1-02 describes the program and admission criteria required in order to be licensed to treat adults in a clinically managed low-intensity residential care program.**

**Chapter 75-09.1-02.1 describes the program and admission criteria required in order to be licensed to treat adolescents in a clinically managed low-intensity residential care program.**

**Chapter 75-09.1-03 describes the program and admission criteria required in order to be licensed to treat adults in a clinically managed high-intensity residential care program.**

**Chapter 75-09.1-03.1 describes the program and admission criteria required in order to be licensed to treat adolescents in a clinically managed medium-intensity residential care program.**

**Chapter 75-09.1-04 describes the program and admission criteria required in order to be licensed to treat adults in a medically monitored intensive inpatient treatment program.**

**Chapter 75-09.1-04.1 describes the program and admission criteria required in order to be licensed to treat adolescents in a medically monitored high-intensity inpatient treatment program.**

**Chapter 75-09.1-05 describes the program and admission criteria**

**required in order to be licensed to treat adults in a partial hospitalization/day treatment program.**

**Chapter 75-09.1-05.1 describes the program and admission criteria required in order to be licensed to treat adolescents in a partial hospitalization/day treatment program.**

**Chapter 75-09.1-06 describes the program and admission criteria required in order to be licensed to treat adults in an intensive outpatient treatment program.**

**Chapter 75-09.1-06.1 describes the program and admission criteria required in order to be licensed to treat adolescents in an intensive outpatient treatment program.**

**Chapter 75-09.1-07 describes the program and admission criteria required in order to be licensed to treat adults in an outpatient services program.**

**Chapter 75-09.1-07.1 describes the program and admission criteria required in order to be licensed to treat adolescents in an outpatient services program.**

**Chapter 75-09.1-08 describes the program and admission criteria required in order to be licensed to provide social detoxification and describes the definitions, program criteria, provider criteria, admission and continued stay criteria, referral to acute care criteria, and criteria to determine when social detoxification is not necessary.**

Chapter 75-09.1-09 provides standards that govern the licensing of all DUI seminar programs. The purpose of the rules in this chapter is to provide general licensing and operating requirements for all DUI seminars including application procedures, licensing reports, fiscal management, client record keeping requirements, license sanctions and appeal procedures.

Some providers governed by the rules expressed concern that the rules prohibited the treatment of an adolescent in an adult group. The rules were revised to allow that mixing of age groups if an adolescent is screened by the program according to specific criteria and found to be appropriate to treat with adults. Even with this change to the rules, some providers were still concerned about their ability to treat adolescents in adult groups and to accept referrals and advertise for adolescent treatment in adult groups. To allay those concerns, the Department proposes the following amendment to section 75-09.1-01-16:

**4. The Department may issue the designation of "Adolescent/Adult Combined program" to the license of any program that intends to serve, in an adult program, adolescents who screen according to the requirements of this section. In order to receive such a designation, the program must be in compliance with the other requirements of this article. The designation may be added to any type of license described in this article with the exception of medically monitored inpatient licenses.**

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

**Governor or by any agency. The rule amendments are anticipated to have a significant fiscal impact on the regulated community. 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. A constitutional takings assessment was prepared and is attached to this report.**
- 10. These rules were adopted as emergency (interim final) rules. Emergency rulemaking was necessary to abate imminent peril to public health, safety, or welfare. Some insurers have elected to provide coverage of substance abuse treatment as described in 2003 Senate Bill no. 2210 if that treatment is provided by a program licensed by the Department of Human Services. The new rules will clarify the type of license granted to such programs and the extent of the treatment provided by the program thus assisting insurers in approving payment for such treatment when it is appropriate. More readily available insurance coverage may mean that more individuals will seek treatment for substance abuse.**

**Prepared by:  
Melissa Hauer, Director  
Legal Advisory Unit  
North Dakota Department of Human Services  
July 19, 2005**