

Adult Foster Care Policies and Procedures

Service Chapter 660-05

North Dakota Department of Human Services
600 East Boulevard Dept. 325
Bismarck, ND 58505-0250

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Definitions 660-05-05

(Revised 11/15/21 ML #3641)

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1. Abuse means the willful act or omission of a caregiver or any other person that results in physical injury, mental anguish, unreasonable confinement, sexual abuse or exploitation, to or of a resident.
2. Agency means an organization which monitors the facility.
3. Applicant means the individual or individuals completing and submitting to the Department an application to be licensed to provide care.
4. Care means foster care for adults as defined by N.D.C.C. Section 50-11-00.1 (5) and includes the provision of personal non-medical service provided to assist a resident with tasks of a personal nature that are performed daily and which involve such activities as bathing, dressing, toileting, transferring from bed or chair, continence, eating or feeding, and mobility inside the facility.
5. Caregiver means a qualified individual who provides care to an adult residing in an Adult Foster Facility.
6. Critical incident means any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well-being of any client receiving HCBS.
7. Department means the North Dakota Department of Human Services.
8. Exploitation means the act or process of a provider using the income, assets, or person of a resident for monetary or personal benefit, profit, gain, entertainment, or gratification.
9. Adult Foster Care (AFC) means the provision of food, shelter, security and safety, guidance, and comfort on a twenty-four-hour per day basis, in the home of the caregiver, to a person age eighteen or older, who is unable, neglects, or refuses to provide for the person's own care.
10. Facility means a foster care home for adults.
11. Home and Community Based Services (HCBS) Adult Foster Care (AFC) setting experience interview means an instrument used to record information about a resident's experiences in the facility.

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12. Legal Representative means someone who has been given power by law to represent another person.
13. License means a document issued by the Department authorizing an applicant to operate a facility.
14. Licensed Capacity means maximum number of residents for which the Foster Home for Adults is licensed.
15. Mental Anguish means psychological or emotional damage that requires medical treatment or medical care, or is characterized by behavioral changes, or physical symptoms.
16. Monitoring means overseeing the care provided to a resident by a provider and verifying compliance with laws, rules, and standards pertaining to Adult Foster care and resident's rights related to the facility.
17. Neglect means the failure of the provider to provide the goods or services necessary to avoid physical harm, mental anguish, or mental illness.
18. Person-centered service plan means a plan that describes recipient resident's assessed needs, outcomes, and goals and how the services and natural supports provided will assist the resident in achieving their outcomes and live safely and successfully in the community.
19. Physical Injury means damage to bodily tissue caused by nondramatic conduct, which includes fractures, bruises, lacerations, internal injuries, dislocations, physical pain, illness, or impairment of physical function.
20. Provider means the primary caregiver in active charge of an Adult Foster Facility who has documented qualifications in providing care and is enrolled as a qualified service provider.
21. Qualified Service Provider (QSP) means an individual who has met all standards and requirements for that status established under Chapter 75-03-23.
22. Related by Blood or Marriage includes the spouse or one of the following relatives: parent, grandparent, child, adult sibling, aunt, uncle, adult niece, or adult nephew.
23. Resident means any adult who is receiving care, in an Adult Foster Facility for Adults for compensation on a 24-hour basis, but does not mean any other individual who lives or stays in the facility.
24. Respite Care means care provided by a respite care provider or a substitute caregiver to an adult foster care resident for the purposes of providing temporary relief to the provider from the stresses and demands associated with daily care or emergencies.

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25. Respite Care Provider means an individual enrolled as a qualified service provider who provides respite care to residents, whose care is funded by the county or state, in the absence of the provider.
26. Sexual Abuse means conduct directed against a resident which constitutes any of those sex offenses defined in North Dakota Century Code. Sections 12.1-20-02, 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-06, 12-20-06.1, 12.1-20-07, 12.1-20-11, 12.1-20-12.1 and 12.1-20-12.2 and North Dakota Century Code Chapter 12.1-41.
27. Substitute Caregiver means an individual who meets qualified service provider standards and provides respite care to private pay residents in the absence of the provider.

**Legal Reference/Authority - Foster Care Homes for Adults
660-05-10**

(Revised 5/1/19 ML 3549)

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The legal reference/authority for the Adult Foster Care Program is North Dakota Century Code [50-11](#), and North Dakota Administrative Code [75-03-14](#), Licensing for Foster Care Homes, and North Dakota Administrative Code [75-03-21](#), Licensing for Foster Homes for Adults.

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Purpose 660-05-15 **(Revised 5/1/19 ML 3549)**

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The purpose of Adult Foster Care is to offer a choice within a continuum of care to adults who could benefit from living in a home environment, as well as to promote independent functioning to the limit of a person's ability and provide for a safe and secure environment.

These policies establish procedures for the licensing of Adult Foster Care Facilities that are in compliance with state statute and administrative code.

Licensing 660-05-20
(Revised 5/1/19 ML 3549)

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A person may not provide Adult Foster Care to more than one adult, or to more than two adults who are related to each other by blood or marriage, without first procuring a license to do so from the Aging Services Division. At no time shall the number of persons receiving care exceed four.

Public funds can only be used to purchase Adult Foster Care from licensed providers. No person acting on behalf of any state, county, or local governmental entity may arrange for or promote care provided in a facility that does not have a valid license issued by the Aging Services Division. This does not apply to any home or institution under the management and control of the state.

1. A license to operate a facility indicates compliance with the required standards, rules and laws at the time of issuance.
2. A license shall be issued to the owner or lessee of the facility.
3. A license is not valid for a person other than whose name or names appears on the license. A license may not be transferred to another person.
4. A license is not valid for a residence other than the one located at the address that appears on the license.
5. An initial license is valid for no longer than twelve months from the date of issuance.
6. A license that is issued after the initial licensing period has expired is valid for no longer than 24 months from the date of issuance or the date or expiration of the provider's status as a qualified service provider, whichever comes first.

Dual Licenses 660-05-20-05**(Revised 5/1/19 ML 3549)**[View Archives](#)

Dual licensure is an option available only to facilities that are caring for a foster child who is receiving Developmental Disability services and the child is transitioning to the adult foster care program where his/her needs can be more adequately met utilizing Developmental Disability services. This will allow the former foster child to remain in the facility and continue to receive reimbursement for his/her cost of care, as well as supportive services, through the adult foster care system. The adult foster care license will be child specific and not available for other placements through the Department.

The provider will need to ensure that they are able to comply with the laws and regulations governing both the provision of foster care to adults and children. If dual licensure is being considered, both foster care programs and the custodian must coordinate services to ensure the safety of the individuals receiving the care. Responsibilities of each agency must be clearly outlined during the planning process. Agency efforts must be made to streamline licensing and case supervision to ensure the least disruption to the provider; i.e. family foster care and adult foster care licensing cycle during the same time period.

Any request for dual licensure must be discussed and approved through the Child and Family Team meeting which will include the regional supervisor and the regional Developmental Disability supervisor and custodian.

Upon request, the provider must make the license available for review.

**Affidavit of Compliance with Licensing Requirements
660-05-20-10**

(Revised 11/15/21 ML #3641)

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Adult Foster Care that is provided on Federal Reservations such as an Indian Reservation or Military base may be approved, if requests for such approvals are made by the appropriate authority (i.e., Military Base Commander or Tribal Council) to the Department and all the licensing standards of the Department have been met.

SFN 915, "Adult Foster Care Home Affidavit of Standard of Compliance in Lieu of License," is completed for the reservation or military base home and must be approved by the Division. An affidavit may be denied, revoked, or correction orders issued, should the Division become aware of noncompliance with established standards.

Representatives of the Department of Human Services and Home and Community Based Services Case Managers do not have the authority to conduct licensing studies on Indian Reservations or Military Bases unless it is requested. Persons that are enrolled Tribal members are subject to the jurisdiction of the Tribe and non-enrolled persons are subject to the laws and Administrative rules of the state of North Dakota. In order for an enrolled Tribal member to be licensed by the Department, the enrolled person would need to request permission from the Tribal Council to submit to civil jurisdiction for the specific purpose of becoming licensed for Adult Foster Care by the Department. Persons residing on a Military Base are also subject to the laws and rules of the Federal Government and must seek permission to submit to civil jurisdiction for the purpose of becoming licensed for Adult Foster Care.

Application for License 660-05-20-15
(Revised 11/15/21 ML #3641)

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An application for licensure must be made to the HCBS Case Manager in the department of Human Services.

The applicant may withdraw an application at any time during the licensing process by notifying the Aging Services Division or the HCBS Case Manager.

An application is not complete until all required information and verifications are submitted to the HCBS Case Manager Department of Aging Services Division. This includes:

1. Evidence that all applicants have requested qualified service provider status and the completed forms listed below have been approved by the Medical Services Division.
 - a. SFN 1605, "Individual Request to be a Qualified Service Provider/AFC Provider"
 - b. SFN 750, "Documentation of Competency," or applicable license, certification, or accreditation
 - c. SFN 615, "Medicaid Program Provider Agreement".
 - d. SFN 583, "ND Medicaid/Electronic Remittance Advice (835) Enrollment.
 - e. SFN 433, "Child Abuse and Neglect Background Inquiry".
 - f. W 9 "Request for Taxpayer Identification Number & Certification".
 - g. A copy of government issued Identification (i.e. driver's license, Tribal ID, etc.).
 - h. National Provider Identifier Number (NPI).
2. Evidence that all applicants and individuals age 18 or over living in the potential facility have completed:
 - a. SFN 467, "Personal Authorization for Criminal Record Inquiry"

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- b. SFN 466, "Background Check Address Disclosure"
 - c. Two fingerprinting cards, if required
3. A signed SFN 800, "Fire Safety Self Declaration," form relating to fire safety of the home
 4. Documentation of applicant's completion of a Department approved Fire Prevention and Safety Course
 5. Proof of auto insurance (Section 660-05-30-40)
 6. A report of professional inspection of the heating and electrical system for operability and safety (Section 660-05-30-30 (2))
 7. A copy of the applicant's home floor plan indicating escape routes (Section 660-05-30-30 (11))
 8. A copy of the provider's Service and Rental Agreement including landlord tenant and eviction and appeals process, and all items listed in (Section 660-05-30-45). Service and rental agreement must be signed by the provider and the resident or resident's legal representative.
 9. Examples of service logs that will be used to account for service time and tasks performed (Section 660-05-65-95).
 10. Examples of daily menu plans
 11. Three reference letters (Section 660-05-65-25 for examples)
 12. If applicable, proof of current pet vaccinations
 13. Additional information and verifications as requested by the Department (Section 660-05-20-15-05)
 14. Complete a SFN 823, "Family Evacuation Disaster Plan" (Section 05-65-90)

**Additional Information/Verifications - Application
Process 660-05-20-15-05**

(Revised 1/1/20 ML 3572)

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When requested by the HCBS Case Manager, Human Service Center or the Division, any of the following information and verifications must also be provided:

1. Fire inspections by the state fire marshal or local fire inspector
2. Physicians examination
3. Psychological examinations
4. Proof of age and relationship of applicant and/or individuals residing in the home
5. Sanitation and safety inspection reports
6. Drug and alcohol evaluation report

**Renewal of an Adult Foster Care License 660-05-20-20
(Revised 11/15/21 ML #3641)**

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An application to renew an AFC license is not complete until all required information and verifications are submitted to the HCBS Case Manager and the Aging Services Division. This includes:

Must be present in file from initial license:

1. SFN 1013, "Application to Provide Adult Foster Care".
2. Floor plan indicating escape routes
3. Examples of service logs to account for service time and tasks performed
4. Examples of daily menu plans
5. Three reference letters
6. SFN 823, "Evacuation Disaster Plan - Adult Foster Care".

Required for license renewal:

1. A completed SFN 1031, "Relicensing Study – Adult Foster Care".
2. Evidence that all caregivers have requested renewal of qualified service provider status and the completed forms listed below have been approved by the Medical Services Division.
 - a. SFN 1605, "Individual Request to be a Qualified Service Provider/AFC Provider".
 - b. SFN 750, "Documentation of Competency," or applicable license, certification, or accreditation.
 - c. SFN 615, "Medicaid Program Provider Agreement".
 - d. SFN 433, "Child Abuse and Neglect Background Inquiry".
 - e. W 9 "Request for Taxpayer Identification Number & Certification".
 - f. A copy of a form of ID, ex: driver's license or social security card.
3. If a background check was not completed previously or a break in licensure has occurred, or if the provider has not been continuously

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licensed since August 1, 1999, provide evidence that all AFC applicants and individuals age 18 or over living in the AFC home have completed:

- a. SFN 467, "Personal Authorization for Criminal Record Inquiry".
- b. SFN 466, "Background Check Address Disclosure".
- c. Two fingerprinting cards, if required.
4. A new SFN 800, "Fire Safety Self Declaration," form.
5. Documentation of applicant's current completion of the Department approved Fire Prevention and Safety Course.
6. Current proof of auto insurance.
7. Review the copy of the provider's Service and Rental Agreement including landlord tenant and eviction and appeals process and all items listed in (Section 660-05-30-45). The Service and Rental Agreement must be signed by the provider and the resident or resident's legal representative on admission.
8. Copies of the Home and Community Based Services Adult Foster Care Setting Experience Interviews (SFN 636) completed annually with all residents both public and private paying living in the facility.
 - a. For individuals on the Traditional IID/DD HCBS Waiver (DD Waiver), the SFN 636 will be completed initially and annually by the Developmental Disabilities Program Manager (DDPM). The completed forms will be sent to the DD Services Administrator who will review and forward to HCBS Aging Program Manager.
 - i. For biannual licensing review by the HCBS Case Manager, the DDPM will accompany the HCBS Case Manager to complete the client experience interview or SFN 636.
9. A report of a professional inspection of all heating units, to include furnace, water heater, and alternate heating devices, is required upon license renewal. (Section 660-05-30-30 (2)).
10. If applicable, proof of up to date pet vaccinations.
11. Additional information and verifications as requested by the Department (Section 05-20-15-05).

Provisional License 660-05-20-25

(Revised 11/1/19 ML 3567)

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The Aging Services Division, may issue a provisional license for up to (6) six months beyond the expiration date of the current or initial license under the following conditions:

1. The provider has previously been licensed for at least (12) twelve months continuously.
2. The licensed provider is waiting receipt of materials and information requested by the Department which includes but is not limited to health screening reports, fire and sanitation report, psychological evaluation, proof of age or relationship, documentation of competency in providing personal care, drug and alcohol evaluation, or the completion of a specific counseling/treatment program.
3. The home requires structural changes or modification.

A provisional license shall be issued only to an applicant who has in writing waived:

1. The right to a written statement of changes as to the reasons for denial of an unrestricted license; (Section 660-05-65-65) and
2. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the non-issuance of an unrestricted license.

Any provisional license issued shall be accompanied by a written statement of violations signed by the Aging Services Division and acknowledged by the provider/applicant in writing.

The provider/applicant shall comply with policies, rules, and statutes governing Adult Foster Care within the period of time a provisional license is in effect.

A provisional license shall:

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1. State all applicable AFC provider standards and regulations that are out of compliance with the Aging Services Division.
2. State that items of noncompliance are set forth in a document made available to the provider upon request.
3. Expire at a set date not to exceed six months from the date of issuance.
4. Upon demonstrating compliance with all applicable standards and regulations, the provisional license will be replaced by an unrestricted license. The unrestricted license shall bear the same start date as the provisional license.

Licensing of Agency Staff 660-05-20-30
(Revised 1/1/20 ML 3572)

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Issuance of a license to an employee of HCBS Case Manager, Human Service Center, Department of Human Services or an agency that arranges placements and monitors the placement in an Adult Foster Care facility is not prohibited provided all established standards are met. The decision to license should involve evaluating and taking into consideration conflicts of interest that might arise.

**Application for Respite Provider and Substitute Caregiver
for Respite Services 660-05-20-35**

(Revised 5/1/19 ML 3549)

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Individuals who provide respite care/substitute caregiver services to AFC residents are required, prior to providing services, to meet the standards of a Qualified Service Provider for Respite Care in an AFC home.

In order to meet these standards, applicants/providers are required to complete:

1. SFN 1605, "Individual Request to be a Qualified Service Provider/AFFC Respite Provider"
2. SFN 750, "Documentation of Competency," or applicable license, certification, or accreditation
3. SFN 467, "Personal Authorization for Criminal Record Inquiry"
4. SFN 466, "Background Check Address Disclosure"
5. Two fingerprinting cards, if required
6. SFN 615 "Medicaid Program Provider Agreement".
7. SFN 1168 "Ownership Controlling Interest and Conviction Information".
8. SFN 433 "Child Abuse and Neglect Background Inquiry".
9. W 9 "Request for Taxpayer Identification Number & Certification".
10. A copy of a form of ID, ex: driver's license or social security card.

All completed forms should be mailed to: Medical Services Division, 600 E. Boulevard Ave, Bismarck, ND 58505.

Background Checks for Applicants/Relatives 660-05-20-40

(Revised 11/15/21 ML #3641)

[View Archives](#)

All AFC applicants/providers and anyone age 18 or over living in the AFC facility, other than foster care recipients, are subject to mandatory state and nationwide background checks.

Criminal history record investigations will be conducted by the North Dakota Bureau of Criminal Investigation (BCI). BCI shall request nationwide background checks from the Federal Bureau of Investigation. The Department will cover the cost of the background check, except the fingerprinting fee.

For new applicants, the HCBS Case Manager provide the following documents to applicants/provider:

1. SFN 467, "Personal Authorization for Criminal Record Inquiry"
2. SFN 466, "Background Check Address Disclosure"
3. Two fingerprinting cards, if required.

The HCBS Case Manager will provide the documents to the applicant/provider. A separate authorization form, address disclosure form, and if required, two fingerprinting cards must be completed for each adult living in the facility that is not receiving care. AFC applicants/providers are responsible for the completion of two fingerprinting cards.

Fingerprint cards can be completed at their local Police or Sheriff's office or local fingerprinting locations. There is a small fee for fingerprinting services. The fee for fingerprinting is the responsibility of the applicant/provider. The HCBS Case Manager representative is to emphasize the need for completion of all information on the form. Incomplete forms will be returned.

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Fingerprints need not be taken, and a nationwide background check need not be made if an individual:

1. Has resided continuously in this state for eleven years or since reaching age 18, whichever is less;
2. Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or
3. Is excused from providing fingerprints under rules adopted by the Department.

AFC providers licensed prior to August 1, 1999, are not required to have a background check and will not routinely require a background check as long as they are continuously licensed. If there is a break in the licensure of more than thirty (30) days, and later they reapply for an AFC license, a background check is required. If another adult joins the facility, that individual is subject to the background check requirement.

Completed forms should be forwarded to: Aging Services Division, ATTENTION: AFC Program Administrator, 1237 West Divide Ave, Suite 6, Bismarck, ND 58501. Aging Services Division will review for completeness and forward to BCI for processing.

BCI will conduct the criminal history record and forward the report to the Division. Statewide Criminal Record Investigation Reports from BCI are usually received within a three-week time frame. Federal Criminal Record Investigation Reports can take up to eight weeks to complete. The Division will inform the HCBS Case Manager and the Medical Services staff (responsible for QSP enrollment) of the results of the background check.

If the background check results indicate that the individual has offenses that may affect his/her ability to be an adult foster care provider, that information will be noted. A license to provide AFC cannot be issued until the background check has been completed.

The person being fingerprinted must be notified in writing that the fingerprints will be used to check the criminal history records of the FBI and this is stated at the bottom of form SFN 60688, which is filled out by the Aging Services Division prior to submitting to BCI for processing.

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The individual who is the subject of the background check has the right to receive a copy of the report, challenge the report, or correct the report. The individual must contact BCI at 701-328-5500 and follow their record request procedures.

If the applicant elects to review/challenge the criminal history record, Aging Services Division will provide a thirty (30) day period of time to do so before the final denial which is stated at the bottom of form SFN60688, which is filled out by the Aging Services Division prior to submitting to BCI for processing.

**Background Checks for Respite Care Providers and
Substitute Caregivers 660-05-20-40-05**

(Revised 11/15/21 ML #3641)

[View Archives](#)

Individuals who provide respite care or act as a substitute caregiver in an AFC home are subject to the mandatory state and nationwide background check requirements.

The HCBS Case Manager is responsible for forwarding AFC background check documents to these individuals. See Section 660-05-20-40 for required background check forms. The Department will cover the cost of the background check, except the fingerprinting fee.

The HCBS Case Manager representatives are to emphasize the need for completion of all information on the form. Incomplete forms will be returned. Completion of two fingerprinting cards, if required, is the responsibility of the respite care provider or the substitute caregiver. See Section 660-05-20-40 for fingerprint requirements. Fingerprint cards can be completed at their local Police or Sheriff's office or local finger printing locations. Payment for fingerprinting is the responsibility of the applicant.

Completed forms should be forwarded to: Aging Services Division, ATTENTION: AFC Program Administrator, 1237 West Divide Avenue, Suite 6, Bismarck, ND 58501. The Aging Services Division will review for completeness and forward to BCI for processing. The Aging Services Division will notify the HCBS Case Manager, and the Medical Services Division (responsible for QSP enrollment) that the background check is complete.

If there is a lapse in the qualified services provider enrollment for more than thirty (30) days, the respite care provider and/or substitute caregiver must repeat the background check requirement should they apply for qualified service provider re-enrollment.

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If the background check results indicate that the individual has offenses that may affect his/her ability to provide care in an adult foster care facility, that information will be noted. After December 31, 2001, respite care shall not be provided in an AFC home until a background check has been completed on the individual providing care.

The person being fingerprinted must be notified in writing that the fingerprints will be used to check the criminal history records of the FBI and this is stated at the bottom of form SFN60688, which is filled out by the Aging Services Division prior to submitting to BCI for processing.

The individual who is the subject of the background check has the right to receive a copy of the report, challenge the report, or correct the report. The individual must contact BCI at 701-328-5500 and follow their record request procedures.

If the applicant elects to review/challenge the criminal history record, Aging Services Division will provide a thirty (30) day period of time to do so before the final denial, which is stated at the bottom of form SFN60688, which is filled out by Aging Services Division prior to submitting to BCI for processing.

Responsibility 660-05-25

(Revised 1/1/20 ML 3572)

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This section outlines the responsibilities of the individual applicants, HCBS Case Manager, and the Medical Services Division with the application and license renewal process.

**Adult Foster Care Applicant/Provider Responsibilities
660-05-25-05**

(Revised 1/1/20 ML 3572)

[View Archives](#)

It is the responsibility of a new applicant to complete or arrange for the completion of the licensing application paperwork. (Section [660-05-20-15](#))

All forms must be submitted to the HCBS Case Manager completing the licensing procedure within a sixty-(60) day time period from the date of the request for license application.

The applicant is expected to cooperate and participate in the licensing process until such time that an application is withdrawn. This includes providing all required information and verification as indicated in Section [660-05-20-15-05](#).

For renewal of an adult foster care facility license, the Medical Services Division will notify the provider in writing ninety (90) days prior to the expiration date. The provider must contact the HCBS Case Manager to obtain required forms and arrange for assistance with completion of the license renewal. Completed documentation must be submitted to the HCBS Case Manager and the Medical Services Division thirty (30) days prior to the expiration date.

Requests for changes in the number of individuals to receive care in the home as indicated on the AFC license must be made to the HCBS Case Manager.

HCBS Case Manager Responsibilities 660-05-25-10
(Revised 1/1/20 ML 3572)

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The HCBS Case Manager is responsible to:

1. Upon request of a license application, provide the following to potential Adult Foster Care providers:
 - a. North Dakota Century Code Chapter 50-11
 - b. North Dakota Administrative Code Chapter 75-03-21
 - c. Qualified Service Provider/Adult Foster Care Provider Handbook
 - d. The Following Sections of the North Dakota Department of Human Service Chapter 660-05:
 - Section 660-05-20 Licensing
 - Section 660-05-20-15 Application for License
 - Section 660-05-20-15-05 Additional Information/Verifications
 - Section 660-05-20-20 Renewal of an AFC License
 - Section 660-05-25-05 Applicant Responsibilities
 - Section 660-05-30-05 Standards for Providers
 - Section 660-05-30-05-05 General Practices – AFC Providers
 - Section 660-05-30-10 Standards for Respite Care Providers and Substitute Caregivers
 - Section 660-05-30-10-05 General Practices for Respite Care Providers and Substitute Caregivers
 - Section 660-05-30-15 Standards for Service Delivery/Allowable Tasks
 - Section 660-05-30-20 Standards for the Licensed Home
 - Section 660-05-30-25 Standards for Sanitation
 - Section 660-05-30-30 Standards for Safety
 - Section 660-05-30-35 Standards for Meals and Nutrition
 - Section 660-05-30-40 Standards for Insurance
 - Section 660-05-30-45 Standards for Preadmission Information and House Rules
 - Section 660-05-30-50 Standards for Record Keeping

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- Section 660-05-30-55 Standards for Provider Termination of Care
 - Section 660-05-30-60 Standards for Voluntary Termination of License
 - Section 660-05-35 Complaints
 - Section 660-05-60 Allowable Tasks/Activities
 - Section 660-05-60-05 Resident out-of-Home with Foster Care Provider
 - Section 660-05-60-10 Employment Outside of the Home
- e. SFN 1013, "Application to Provide Adult Foster Care"
- f. SFN 800, "Fire Safety Self Declaration"
- g. SFN 823, "Evacuation Disaster Plan"
- h. Adult Foster Care Background Check Documents including:
- Information Sheet
 - SFN 467, "Personal Authorization for Criminal Record Inquiry"
 - SFN 466, "Background Check Address Disclosure"
 - Two fingerprinting cards, if required
2. Conduct a licensing assessment with the applicant. Completing SFN 669, "Initial Licensing Study-Adult Foster Care," to determine compliance with policies, rules, and state laws relating to adult foster care.
3. Request letters of reference (see Forms Appendix for example) from individuals identified on the application form, or interview individuals and document substance of the interview. Three letters of reference (or documented interviews) are required for initial licensure. Individual references must be non-relatives and have knowledge of the applicant's ability to provide care to older individuals and/or individuals with disabilities. If the applicant currently holds an Adult Foster Care license, letters of reference must be included in the provider's record.
4. Review all information pertaining to the application for a license for accuracy and completeness and forward to the Aging Services Division responsible for licensure. Requirements are listed in (Section 660-05-20-15). Include a recommendation as to whether a license should be issued and, if a license is not recommended, provide justification. Indicate the number of individuals the provider will be licensed to care for, not to exceed four individuals. Qualified service provider

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- application and background check paperwork will be sent to the Medical Services Division Office for processing.
5. If an applicant or current provider resides on an Indian reservation or military base, facilitate completion of SFN 915, "Adult Foster Care Affidavit of Standard of Compliance in Lieu of License" (Section 660-05-20-10).
 6. For license renewal, contact the provider to discuss license renewal and provide the required renewal paperwork. Assist provider in completion of paperwork if warranted. Complete SFN 1031, "Re-Licensing Study - Adult Foster Care." Along with requirements listed for renewal (Section 660-05-20-20). Review all renewal documentation for accuracy and completeness. Forward completed paperwork to the Aging Services Division responsible for licensure. Provide justification if license renewal is not recommended. Indicate the number of individuals the provider will be licensed to care for, not to exceed four individuals. Qualified service provider enrollment renewal paperwork will be sent to the Medical Services Division Office for processing. Forward completed paperwork at least thirty (30) days prior to the expiration of the current license.
 7. Report immediately to the Aging Services Division any changes that affect the ability of the provider to provide service.
 8. Upon receipt of a request to change the number of individuals listed on the AFC license, notify the Aging Services Division responsible for licensing. If there is a request to increase the number of individuals listed on the license, complete a home inspection to ensure the facility meets the standards for an increase. Make recommendation to the Aging Services Division for the increase and to issue a corrected license to the provider.
 9. Evaluate compliance with policies, rules, and state law through on-site inspections, review of records, and interviews with the resident(s), providers. Complete the (SFN 636) Home and Community Based Services (HCBS) Adult Foster Care (AFC) Setting Experience Interview annually with all public and private pay resident(s) in the home or with their legal representatives. Send copies of the SFN 636 to the Aging Services Division annually.
 10. Receive complaints and consult with the Aging Services Division regarding investigation. (Section 660-05-35)

Aging Services Division Responsibilities 660-05-25-15
(Revised 1/1/20 ML 3572)

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The Aging Services Division must review for accuracy and completeness, all information submitted by the HCBS Case Manager to determine whether the application for an AFC license should be approved, denied, or if a provisional license should be issued. In making the determination, the Aging Services Division may make an on-site inspection, interview the applicant, and request additional information and verifications ([Section 660-05-20-15-05](#)).

For initial licensing:

1. Notification is received from Medical Service Division that applicants who have applied for adult foster care have been approved for qualified service provider status. Within sixty (60) calendar days of receipt of application materials, issue SFN 1020, "License to Provide Adult Foster Care." An initial license is effective for no more than 12 months. A license for less than 12 months can be considered if qualified service status is to be renewed in less than 12 months. Send copy of license to the HCBS Case Manager.
2. If a license is not recommended, issue a letter of denial including notification of rights. Upon request, assist the applicant in the completion of [SFN 747](#), "Adult Foster Care Appeal".
3. Notify the applicant if an additional forty-five (45) days are needed in order to determine whether a license will be granted or denied.

For providers holding a current license:

1. Once the Aging Services Division has provided notification of the license expiration date and all of the renewal documentation has been received from the HCBS Case Manager, issue a new license (SFN 1020) to the provider for no more than (24) twenty-four months. Send a copy of license to the HCBS Case Manager.
2. If a provisional license is required, the Aging Services Division will issue the license (SFN 1020) to the provider ([Section 660-05-20-25](#)). Send copy of license to the HCBS Case Manager.

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3. If a denial of license is warranted, consult with the HCBS Case Manager. The Aging Services Division will issue a letter of denial including notification of rights. Upon request, assist the provider in the completion of SFN 747, "Appeal." Send a copy of the forms to the HCBS Case Manager.
4. Report immediately to the HCBS Case Manager any changes in provider status that affects the provider's ability to provide service.
5. Receive requests from the HCBS Case Manager for an increase or decrease in the number of individuals listed on the license. If an increase has been requested, consult with the HCBS Case Manager to ensure the standards have been met. Issue a new license that reflects the changes to the individual, and HCBS Case Manager.
6. Receive complaints and assist in investigations, (Section 660-05-35). Follow the Department Complaint Policies.
7. Review all complaints and investigation findings. Consult with the HCBS Case Manager and other applicable parties within the Department. If warranted, the Aging Services Division will issue a correction order (Section 660-05-40). A copy of the Correction Order is sent to legal for review before being sent to the provider and HCBS Case Manager.
8. If revocation of a license is warranted, consult with the HCBS Case Manager. Issue a letter of revocation (Section 660-05-45) to the provider. Upon request, assist the provider in the completion of SFN 747, "Adult Foster Care Appeal Form." Send copies of the forms to the HCBS Case Manager.

**Medical Services Division Responsibilities 660-05-25-20
(Revised 11/15/21 ML #3641)**

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1. Review the qualified service provider (QSP) application for all adult foster care applicants/providers, respite care providers and substitute caregivers which includes:
 - a. SFN 1605, "Individual Request to be a Qualified Service Provider/AFC Provider"
 - b. SFN 750, "Documentation of Competency," or applicable license, certification, or accreditation
 - c. SFN 615, "Medicaid Program Provider Agreement".
 - d. SFN 433, "Child Abuse and Neglect Background Inquiry".
 - e. W 9 "Request for Taxpayer Identification Number & Certification".
 - f. A copy of a form of ID, ex: driver's license or social security card.
2. Return application forms if not complete. Notify the HCBS Case Manager and Aging Services Division of status of QSP application.
3. Review background check forms for completion and forward to Aging Services Division to complete the check for adult foster care applicants/providers, relatives in the home, substitute caregivers, and respite care providers which includes:
 - a. SFN 467, "Personal Authorization for Criminal Record Inquiry"
 - b. SFN 466, "Background Check Address Disclosure"
 - c. Two fingerprint cards, if required
4. Determine expiration date of adult foster care license based on background check results and expiration of QSP status. Notify the HCBS Case Manager and Aging Services Division responsible for licensing of the expiration date.
5. For license renewal, notify the provider, the HCBS Case Manager and the Aging Services Division in writing 90 days prior to the expiration date.
6. Refer all complaints and investigation findings to Aging Services Division.

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7. If revocation of a license is warranted, the Aging Services Division will issue a revocation letter (Section 660-05-45) to the provider. Upon request, assist the provider in the completion of SFN 747, "Adult Foster Care Appeal Form." Send copies of the forms to the Aging Services Division and the HCBS Case Manager.

Standards 660-05-30
(Revised 5/1/19 ML 3549)

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This section outlines standards and general practices for AFC providers, respite care providers, and substitute caregivers, standards for service delivery and allowable tasks/activities, standards for the licensed facility, sanitation, safety, meals and nutrition, insurance, preadmission information and house rules, record keeping, provider termination of care, and voluntary termination of a license.

Standards for Providers 660-05-30-05

(Revised 1/1/20 ML 3572)

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A provider of Adult Foster Care must:

1. Be twenty-one (21) years of age or older.
2. Be the owner or lessee of the licensed facility. If the facility is leased the provider must be free of influence, control, and direction in the operation of the facility by the landlord.
3. Live continuously in the licensed facility.
4. Be in good physical health, emotionally stable, and not abusing drugs or alcohol.
5. Not be related by blood or marriage to a resident receiving care in the licensed facility.
6. Must be enrolled as a Qualified Service Provider of Adult Foster Care. Competency requirements are outlined in the "Qualified Service Provider Handbook/Adult Foster Care Provider." Copies of the handbook are available on the DHS publications website. Potential providers may obtain a copy from the HCBS Case Manager.
7. A provider may meet developmentally disabled competency standards for facilities in which the responsible provider is licensed according to chapter 75-04-01 and services are provided according to chapter 75-04-07 in lieu of the QSP enrollment requirement. Documentation of completion of the competency standards must be submitted with the QSP application.

**Standards for Respite Care Provider and Substitute
Caregiver 660-05-30-10**

(Revised 5/1/19 ML 3549)

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A respite care provider and/or substitute caregiver must:

1. Not be a recipient of Adult Foster Care.
2. Meet the enrollment standards of a Qualified Service Provider for Respite Care Provider and/or Substitute Caregiver providing care in an AFC facility and:
 - a. Be eighteen years of age or older;
 - b. Have the basic ability to communicate;
 - c. Be free of communicable diseases;
 - d. Be in good physical health, emotionally and functionally stable, and not abusing drugs or alcohol.

General Practices - Respite Care Providers and Substitute Caregivers 660-05-30-10-05

(Revised 11/1/19 ML 3567)

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The following general practices must be adhered to:

1. The provider is responsible for the care of the residents at all times, even though the duties or tasks of providing resident care have been delegated to a substitute caregiver and/or respite care provider.
2. For residents who are either private pay or funded by the Department, the provider must arrange for a respite care provider or substitute caregiver who meets standards of competency of a Qualified Service Provider of respite care/substitute caregiver in an AFC facility.
(Section 05-30-10)
3. A substitute caregiver or respite care provider who is providing care to private pay residents may not be left in charge of the facility for more than one hundred-ninety-two (192) calendar days during the twenty-four (24) month period immediately following the date of issuance of the license or for more than ninety-six (96) days of the issuance of the initial license.
4. Whenever a substitute caregiver or respite care provider is left in charge of the facility for more than eight (8) hours during a calendar day, unless subdivision six (6) (listed below) applies, a calendar day will be counted towards the ninety-six (96) (or one hundred-ninety-two (192) calendar day limit a substitute caregiver or respite care provider may be in charge of the facility.
5. In a private pay situation, the service rate is the amount negotiated between the recipient or their representative and the licensed Adult Foster Care Provider.
6. A calendar day will not be counted toward the sixty (60) calendar day limit if the provider is away from the facility in the performance of duties on behalf of the Adult Foster Care residents or the Adult Foster Care home.
7. All respite care providers/substitute caregivers must complete the required qualified service provider application paperwork (Section 660-05-20-35) and be enrolled as a Qualified Service Provider.

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8. All respite care providers/substitute caregivers must have completed a required background check (Section 660-05-20-40-05).
9. Employing individuals other than those who meet the definition of substitute caregiver or respite care provider to provide services to adult foster care recipients is prohibited.

**Standards for Service Delivery and Allowable
Tasks/Activities 660-05-30-15**

(Revised 1/1/20 ML 3572)

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Standards for service delivery and allowable tasks/activities for AFC providers, respite care providers and substitute caregivers are contained in the "Qualified Service Provider Handbook/Adult Foster Care Provider Handbook." Copies of the handbook are available at on the DHS publications website. Potential providers may obtain a copy from the HCBS Case Manager.

As identified in the Handbook, standards 5-25 require verification of demonstrated competence by a physician, Registered Nurse, Occupational Therapist, Physical Therapist, or other professional degree of expertise in the specialized area(s) of in-home care.

Endorsements 660-05-30-15-05

(Revised 11/15/21 ML #3641)

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Endorsements, as outlined in the "Qualified Service Provider/ Adult Foster Care Provider Handbook," are considered separately because very few individuals' need the specific care addressed by them. Demonstrated competence must be verified before a provider can perform the care identified by the respective endorsement.

AFC Providers, respite care providers and substitute caregivers must meet all standards for service delivery for Adult Foster Care (Standards 5 – 25 in the Handbook) before consideration will be given for approval of endorsements.

Standards for the Licensed Facility 660-05-30-20
(Revised 11/1/19 ML 3567)

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Standards addressing the physical structure are divided into two sections, the facility and specific rooms.

1. Standards for the Facility:

a. The facility must be:

- i. Free of warped or damaged floors, loose or unsecured floor coverings, loose tiles, broken or damaged windows, loose or broken handrails, broken light bulbs, and other hazards that would affect the safety of an adult residing in the facility;
- ii. Maintained free of offensive odors, vermin, and dampness;
- iii. Maintained by a central heating system at a temperature of at least sixty-eight (68) degrees Fahrenheit unless an adjustment to a higher temperature is necessary for health reasons;
- iv. Maintained to prevent crawling and flying pests from entering the home through windows; and
- v. Equipped with handrails on all stairways.

b. The facility must have a telecommunication device on the main floor of the home available for use by residents.

c. Mobile home units used as a facility must:

- i. Have been constructed since 1976;
- ii. Have been designed for use as a dwelling, rather than as a travel trailer;
- iii. Meet the flame spread rate requirements; and
- iv. Have a manufacturer's label permanently affixed stating the mobile home meets the requirements of the Department of Housing and Urban Development or the American National Standards Institute.

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- d. The facility furnishings and grounds shall be clean and well maintained.
- e. Food and cooking utensils shall be stored to protect from dust, leakage from pipes, or other contamination.
- f. All occupied and utilized areas of the facility shall be well lighted, adequately heated and ventilated.
- g. Be in compliance with the fire and safety survey points listed on the SFN 800, "Fire Safety Self Declaration," form.

2. Standards for Specific Rooms:

a. Bedrooms:

- i. Bedrooms for all residents must have been constructed as a bedroom with walls or partitions of standard construction that extend from floor to ceiling and must provide privacy for the resident.
- ii. Bedrooms occupied by one resident must have no less than seventy (70) square feet of useable floor space and provide privacy in the sleeping area.
- iii. Bedrooms occupied by two residents must have no less than one hundred twenty (120) square feet of usable floor space.
- iv. Bedroom ceilings must be at least six (6) feet and eight (8) inches above the finished floor surface at the ceiling's lowest point.
- v. No more than two residents may be assigned to one bedroom.
- vi. Residents of the opposite sex shall not occupy the same bedroom unless they are husband and wife.
- vii. Bedrooms shall have a hinged door which opens directly to a hallway or common use room without passage through another bedroom or common bathroom.
- viii. Bedrooms occupied by residents may not be located in a level of the home below grade level unless there are two means of egress, one of which leads to the outside of the home.
- ix. Providers, provider's members, relatives, or a provider's personal guests to the facility shall not sleep in living areas nor share bedrooms with residents.

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- x. Bedrooms must be lockable by the resident for privacy, with only the resident and appropriate staff having keys to the door. Any restriction on having a lockable door must be documented and justified in the person-centered service plan or service rental agreement.
- xi. Minimum bedroom furnishings:
 - a. Each resident shall have a separate bed that is clean and comfortable;
 - b. Beds shall be at least thirty-six (36) inches wide and seventy-two (72) inches long;
 - c. Water beds are acceptable but cots, folding beds, studio couches, and stacked bunk beds are prohibited;
 - d. Each bed shall have clean bedding in good condition that is appropriate for the season and a resident's needs;
 - e. Each bedroom shall contain closet space and a dresser or private drawer space sufficient for clothing and personal effects; and
 - f. Provision shall be made for a resident's personal items.
- b. Bathroom:
 - i. At least one full bathroom must be available on the same floor as any bedroom occupied by residents of the facility
 - ii. Bathroom doors must be lockable by the resident for privacy with only the resident and appropriate staff having keys to the door. Any restrictions on having a lockable door must be documented and justified in the person-centered service plan or service and rental agreement.
 - iii. Bathrooms shall:
 - a. Provide individual privacy;
 - b. Have adequate supplies of toilet paper and soap for each resident;
 - c. Have hot and cold water at each tub, sink, and shower, in sufficient supply to meet the needs of the residents of the facility;

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- d. Be equipped with non-porous surfaces for shower enclosures;
 - e. Be equipped with safety mats or slip-preventing materials on the bottom of tubs and floors of showers; and
 - f. Be vented or have an outside window.
- iv. Residents will be provided with individual towels and washcloths that are laundered regularly.
 - v. Residents will be provided with racks or hooks for drying bath towels and washcloths.

Standards for Sanitation 660-05-30-25
(Revised 5/1/19 ML 3549)

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Minimum standards for sanitation are as follows:

1. All sewage disposal systems shall comply with North Dakota Administrative Code 62-03-16. Inspection of sewage disposal systems can be requested of the North Dakota Department of Health and Consolidated Laboratories.
 - a. All domestic sewage shall be disposed of by an approved method of collection, treatment, and effluent discharge. Domestic sewage or sewage effluent shall not be disposed of in any manner that will cause pollution of the ground surface, ground water, bathing area, lake, pond, watercourse, or create a nuisance. It shall not be discharged into any abandoned or unused well, or into any crevice, sink hole, or other opening either natural or artificial in a rock formation.
 - b. Water carried sewage from bathrooms, kitchens, laundry fixtures, and other household plumbing shall pass through a septic or other approved sedimentation tank prior to its discharge into the soil or into a sand filter.
2. Rubbish, garbage, and other refuse must be stored in readily cleanable containers and removed from the facility at least every second day. Rubbish, garbage, and other refuse kept outside of the facility must be stored in readily cleanable, rodent proof containers and disposed of weekly.
3. The facility must be reasonably free of animal feces, urine, and hair.
4. Drinking water must be obtained from an approved community water system or from a source tested and approved by the State Department of Health and Consolidated Laboratories. A copy of the report approving the water source must be submitted to the Department or its designee every two years.
5. Milk must be obtained from an approved commercial source.
6. Soiled and dirty linens and clothing shall be stored in containers in an area separate from food storage, kitchen, or dining areas.

Standards for Safety 660-05-30-30
(Revised 5/1/19 ML 3549)

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Minimum safety standards are as follows:

1. The facility must be located where a community or rural fire department is available.
2. Upon an initial license, the Department requires that the facility undergo a fire inspection, inspection of the heating system, the electrical system and any other type of inspection that the Department determines necessary.
 - a. Deficiencies noted during an inspection must be corrected within sixty (60) days after the issuance of the inspection report.
 - b. Any fees for inspections required by the Department or costs associated with correcting deficiencies noted during an inspection shall be the responsibility of the applicant or provider.
3. The heating system must be inspected for operability and safety at the time of the initial licensing application and upon license renewal as required by the Department.
4. Within twenty-four (24) hours of arrival a new resident shall be shown how to exit from the facility in an emergency. The provider may want to ask a resident to sign a document verifying that the new resident was shown how to exit the facility in an emergency.
5. Firearms must be stored, unloaded, in a locked cabinet. A firearms cabinet must be located in an area of the facility that is not readily accessible to residents.
6. Food preparation areas, equipment, and food storage areas must be clean, free of offensive odors, and in sound working condition.
7. All dangerous household products, flammable liquids and chemicals shall be stored in a safe area. Questions relating to "safe areas" may be referred to the local fire department.
8. Pets must not present a danger to the resident or the resident's guests. Pet vaccinations must be current; supporting documentation must be submitted to the county upon an initial license and upon each license renewal.

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9. Smoke detectors must be provided for all sleeping areas and each floor level.
10. Interior doors with a locking mechanism must be provided with a means to unlock the door from either side.
11. A written fire escape plan must be formulated and available.
12. Fire drills must be conducted quarterly and within the first week a resident enters the facility.

Standards for Meals and Nutrition 660-05-30-35
(Revised 5/1/19 ML 3549)

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Minimum standards for the provision of meals and nutrition are as follows:

1. Three meals must be served daily.
2. Residents must be allowed access to food at any time and meal choices must be provided. Any restrictions on access to or choice of food because of health and safety concerns must be documented and justified in the person-centered service plan or service and rental agreement.
3. There may be no more than fourteen hours between the conclusion of the evening meal and service of breakfast.
4. Each meal must be nutritious and well balanced in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.
5. Adequate amounts of food must be available at all meals.
6. The special dietary needs of the residents must be considered in all menu planning, food selection, and meal preparation.
7. Consideration must be given to residents' cultural, ethnic, and religious backgrounds in food preparation.
8. Meals must be regularly and routinely prepared in the facility where the residents live.
9. Charges imposed for resident meals provided by persons or facilities other than the provider must be paid by the provider unless the provider made a meal available at the facility.

Standards for Insurance 660-05-30-40

(Revised 11/1/19 ML 3567)

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The provider must provide documentation of insurance coverage for an initial license and upon license renewal. Minimum standards for insurance are as follows:

1. The provider must maintain adequate liability insurance, uninsured motorist coverage, and underinsured motorist coverage on all vehicles, operated by the provider or members of the provider's household, in which residents may be a passenger.
 - a. The provider shall maintain liability coverage at least twenty-five thousand dollars for bodily injury or death to one person in any one accident and fifty thousand dollars for bodily injury to or death of two or more persons in any one accident and twenty-five thousand dollars for injury to or destruction of property of others in any one accident.
 - b. The provider shall maintain uninsured motorist coverage and underinsured motorist coverage of at least twenty-five thousand dollars for bodily injury or death to one person in any one accident and fifty thousand dollars for bodily injury to or death of two or more persons in any one accident.

**Standards for Service and Rental Agreement
660-05-30-45**

(Revised 1/1/20 ML 3572)

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Standards for Service and Rental Agreement are as follows:

1. The provider shall furnish each prospective resident, or the resident's legal representative and the HCBS Case Manager with a signed copy of the provider's Service and Rental Agreement prior to the resident entering the facility. A copy signed by the resident or resident's legal representative and the provider must be kept in the resident's record. A copy is to be sent to the Aging Services Division. The following is to be addressed in the Service and Rental Agreement.
 - a. Landlord tenant eviction and appeals process.
 - b. Resident's rights to unrestricted telephone access, unless otherwise documented and justified in the person-centered care plan.
 - c. Sample menus of meals served and plan for access to food available at any time, unless otherwise documented and justified in the person-centered care plan.
 - d. Procedure concerning the use and management of resident funds.
 - e. Any relevant expectations with which the resident is expected to comply, including restrictions on the use of alcohol or tobacco in the facility.
 - f. Procedure used for billing, collecting, and reimbursing the charge for board, room, and care.
 - g. Plan for furnishing of non-emergency resident transportation by the provider.
 - h. Resident's right to furnish and decorate their bedroom as desires, unless otherwise documented and justified in the person-centered care plan.
 - i. Resident's right to control their own schedules and activities, unless otherwise documented and justified in the person-centered care plan.

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- j. Resident's right to have visitors of their choosing at any time, unless otherwise documented and justified in the person-centered care plan.
 - k. Accurate and complete information regarding the extent and nature of the care available from the provider including whether or not the client requires twenty-four (24) hour supervision or the appropriate length of time the resident may be safely left alone.
 - l. Procedure for the distribution of mail and for sending mail.
 - m. Resident's right to be free from coercion and restraint.
2. All agreement modifications must be supported by a specific assessed need of the resident and documented and justified in the person-centered care plan or service and rental agreement. The Service and Rental Agreement must be reviewed by the provider and HCBS Case Manager at license renewal.
3. All agreement modifications made after the date the initial agreement was signed must be in writing and signed by the resident or resident's legal representative and the provider. The provider shall furnish the resident, or the resident's legal representative, the HCBS Case Manager, and the Aging Services Division with a signed copy of the modifications. A copy of the modifications must be kept in the resident's records.

Standards for Record Keeping 660-05-30-50
(Revised 5/1/19 ML 3549)

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An individualized file shall be maintained for each resident in the facility.
At a minimum, the file must contain:

1. The resident's full name and birth date.
2. The name, address, and telephone number of the resident's legal representative when one exists and an emergency contact.
3. Names, addresses, and telephone numbers of persons who can assume responsibility for the resident if the legal representative cannot be reached immediately in an emergency.
4. The daily personal care that is needed and provided to the resident and the name of the individual or individuals who provided the personal care.
5. A single daily entry that itemizes all "routine tasks" completed on a daily basis for a calendar month meets documentation requirements for Adult Foster Care unless there was a disruption in the routine care i.e. use of respite care, client hospitalization, etc.
6. A record of any Critical Incident's as required to be reported to the Department.
 - Abuse (physical, emotional, sexual), neglect, or exploitation;
 - Rights violations through omission or commission, the failure to comply with the rights to which an individual is entitled as established by law, rule, regulation, or policy;
 - Serious injury or medical emergency, which would not be routinely provided by a primary care provider;
 - Wandering or elopement;
 - Restraint violations;
 - Death of a resident and cause (including death by suicide);
 - Report of all medication errors or omissions; and
 - Any event that has the potential to jeopardize the resident's health, safety or security if not corrected.

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7. An accounting of any real or personal property the resident or resident's family gives, sells, or otherwise transfers to the provider or provider's family.

**Standards for Provider Termination of Care 660-05-30-55
(Revised 1/1/20 ML 3572)**

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Providers must follow these standards for termination of care:

1. The provider shall terminate care of a resident when such care is no longer required or no longer meets the needs and the best interests of the resident.
2. The provider shall terminate care of a resident when the provider is no longer qualified to provide the personal care needed by the resident receiving care.
3. The provider who anticipates the termination of care to a resident shall provide the resident, and the resident's representative, if any, with at least thirty (30) days written notice of the termination. The provider shall refer or transfer the resident to a setting more appropriate to the resident's needs. The provider can seek the assistance of the HCBS Case Manager or Aging Services Division for termination planning for a resident. The provider shall comply with the provider's service and rental agreement and ND landlord tenant eviction laws.
4. If an emergency placement outside of the facility is needed or a resident is hospitalized and the resident's condition has changed to the extent that the provider is no longer able to provide the resident's care, consideration will be given to waiving the thirty-day written notice required under subsection 2 provided keeping the resident or returning the resident to the facility would negatively impact the health and well-being of the resident, other residents living in the facility, or the provider. The Aging Services Division must be contacted by the HCBS Case Manager prior to making the decision to waive the thirty-day (30) requirement.

**Standards for Voluntary Termination of a License
660-05-30-60**

(Revised 1/1/20 ML 3572)

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Standards for voluntary termination of a license are as follows:

1. Providers that voluntarily close or surrender their Adult Foster Care License should notify the HCBS Case Manager or the agency that completed the licensing study, residents, and the resident's legal representative, if any, in writing at least thirty (30) days prior to the termination date.
2. The HCBS Case Manager that completed the licensing study shall immediately notify the Aging Services Division of the providers' intent to voluntarily terminate their license.

Complaints 660-05-35

(Revised 11/15/21 ML #3641)

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Any person who believes that the policies, rules, or statutes governing Adult Foster Care have been violated may file a complaint with the HCBS Case Manager, or Aging Services Division.

The Department has developed a Qualified Service Provider Complaint Protocol. As stated in the protocol, the HCBS Case Manager must be contacted for all Adult Foster Care complaints. The case manager will report the complaint to the appropriate Aging Services Division staff. The HCBS Case Manager will assist with all complaints by providing follow-up reports and prompt unannounced visits to the Adult Foster Care Facility upon request.

The Aging Services Division staff shall investigate all complaints. Findings must be reported to the HCBS Case Manager.

The Aging Services Division following consultation with the Department, HCBS Case Manager shall notify the provider and the HCBS Case Manager of the results of the investigation and any proposed action. The Aging Services Division shall review all documentation prior to being sent to the provider.

Correction Orders 660-05-40

(Revised 1/1/20 ML 3572)

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Whenever Aging Services Division, in consultation with the HCBS Case Manager, determines that a provider holding an unrestricted and current license for Adult Foster Care is not in compliance with state statute, rules, or policies, a notice of denial or revocation, or a correction order must be issued.

The Correction Order will be sent to the provider by the Aging Services Division after review and consultation with legal advisory unit. A copy of the Correction Order will be sent to the HCBS Case Manager.

**Content of a Correction Order 660-05-40-05
(Revised 1/1/20 ML 3572)**

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1. A Correction Order must:
 - a. Cite the statute, rule, or policy violated.
 - b. State the factual basis of the violation.
 - c. Specify the time allowed for correction.
 - d. Specify the amount of any fiscal sanction to be assessed if the Correction Order is not complied with in a timely manner.

2. A Correction Order may also state a suggested method of correction or require the submission of a corrective action plan.

If a corrective action plan is required from the provider, it must specify a date by which the corrective action plan must be submitted.

If a corrective action plan is required from the provider, the provider will be instructed to send their plan to the HCBS Case Manager. The corrective action plan and resolution of the Correction Order will be reviewed and discussed with the Aging Services Division.

Time Period for Corrections 660-05-40-10
(Revised 5/1/19 ML 3549)

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The following time periods are established for correction of deficiencies identified in the correction order:

1. For a deficiency requiring a provider or substitute caregiver to provide written documentation of qualification to provide Adult Foster Care, a period of up to thirty (30) days must be allowed to correct the deficiency.
2. For a deficiency that requires an inspection for compliance with fire, safety, and sanitation a period of up to thirty days must be allowed to correct the deficiency.
3. For a deficiency that requires obtaining and providing the results of a drug and alcohol evaluation, psychological evaluation, or a physical examination a period of up to sixty (60) days must be allowed to correct the deficiency.
4. For deficiencies which require building remodeling, renovation, or change a period of sixty (60) days must be allowed to correct the deficiency.
5. For all other deficiencies a period of up to thirty (30) days must be allowed to correct the deficiency.

All time periods must commence with the date the correction order is received by the provider.

The Department may grant extensions for a period of one half the original allowable time to correct a deficiency upon demonstration by the provider that the need for an extension exists.

Reinspection 660-05-40-15

(Revised 11/15/21 ML #3641)

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The licensed Adult Foster Home must be inspected at the end of the period allowed for correction by the HCBS Case Manager. Results of the inspection shall be reviewed with the HCBS Case Manager and the Aging Services Division.

If, upon inspection, it is determined that the provider has not corrected a deficiency identified in the correction order, the Aging Services Division must send a notice of noncompliance with the correction order to the licensed provider. The notice must specify the uncorrected violations and the penalties assessed.

Fiscal Sanctions 660-05-40-20**(Revised 1/1/20 ML 3572)**[View Archives](#)

A licensed provider, if issued a notice of noncompliance with a correction order, must be assessed fiscal sanctions in the following manner:

1. The following deficiencies will result in a twenty-five (25) dollar per day fiscal sanction:
 - a. Warped or damaged floors, loose or unsecured floor coverings, loose tiles, broken or damaged windows, loose or broken handrails, broken light bulbs, and other such hazards that would affect the safety of an adult residing in the facility.
 - b. Offensive odors, vermin, dampness.
 - c. The facility is not maintained to prevent crawling and flying pests from entering the facility through the windows.
 - d. Stairways are not equipped with handrails.
 - e. Shower enclosures are not equipped with nonporous surfaces and the bottom of bathtubs and floor of showers are not equipped with safety mats or slip preventing materials.
 - f. Rubbish, garbage, and other refuse is not stored in readily cleanable containers and removed from the facility at least every second day. Rubbish, garbage, and other refuse kept outside of the facility is not stored in readily cleanable, rodent proof containers and disposed of weekly.
 - g. The facility is not kept reasonably free of animal feces, urine, and hair.
 - h. Firearms are not stored, unloaded, in a locked cabinet and the firearms cabinet is not located in an area of the facility that is not readily accessible to residents.
 - i. Interior doors with locking mechanisms cannot be unlocked from either side.
 - j. The heating and electrical system has not been inspected periodically as requested by the Department.
 - k. Food preparation areas, equipment, and food storage areas are not clean, free of offensive odors, and in sound working condition.

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- l. Meals are not nutritious and well balanced in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences.
 - m. Restricted access to food at any time and adequate amounts of food or choices are not available at all meals.
 - n. The provider has not terminated care of a resident when such care is no longer required or when the provider is no longer qualified to provide the care needed by the resident receiving Adult Foster Care.
 - o. Bedrooms occupied by one resident have less than seventy (70) square feet of usable floor space or bedrooms occupied by two residents have less than one hundred-twenty (120) feet of usable floor space.
 - p. Bedroom ceilings are not at least six (6) feet and eight (8) inches above the finished floor surface at the ceiling's lowest point.
 - q. Bedrooms occupied by residents that are located below grade level do not have two means of egress, one which leads to the outside of the facility.
 - r. The facility does not have a telecommunication device on the main floor that is available for use by the residents.
 - s. Septic tanks or other non-municipal sewage disposal systems do not meet the plumbing code.
 - t. Drinking water is not obtained from an approved community water system or from a source tested by a certified laboratory and approved by the State Department of Health.
 - u. Milk is not obtained from an approved commercial source.
 - v. Information related to the resident was not kept confidential.
 - w. The providers respite providers or substitute caregivers do not meet the required qualifications.
 - x. The facility is not maintained by a central heating system set at a temperature of at least sixty-eight (68) degrees.
2. The following deficiencies will result in a fifteen-dollar (15) per day fiscal sanction:
 - a. More than two residents have been assigned to one bedroom.
 - b. The provider is refusing to cooperate with the HCBS Case Manager Department or Aging Services Division in inspections, complaint investigations, planning for the care of a resident,

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- application procedures, and other necessary activities that relate to the wellbeing of a resident.
- c. The provider does not have available a signed copy of the Service and Rental Agreement on file for each resident.
 - d. A toilet or bathing facility is not available on the same floor as any bedroom occupied by a resident.
3. All other deficiencies will be assessed a five-dollar (15) per day fiscal sanction.

Fiscal sanctions must be assessed for each day the Adult Foster Care facility remains out of compliance after the allowable time for the correction of deficiencies ends and must continue until a notice of correction is received by the Aging Services Division. Fiscal sanctions must be received by the Aging Services Division every fifteen (15) days after receipt of the notice of noncompliance and at fifteen-day (15) intervals thereafter, as the fiscal sanctions accrue.

Recovery of an assessed fiscal sanction must be stayed if the provider makes written request to the Aging Services Division for an administrative hearing within ten (10) days after mailing or delivery of the notice of noncompliance.

Any fiscal sanction collected for any violation of the Adult Foster Care state statute, rule, or policy must be paid into the state treasury for the general fund after the costs of recovering the fiscal sanction are deducted.

Critical Incident Reporting 660-05-43
(NEW 11/15/21 ML 3641)

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A critical incident is any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well-being of any client receiving HCBS. See section 525-05-42 in Home & Community Based Services Policies and Procedures.

To assure the necessary safeguards are in place to protect the health, safety, welfare of all clients receiving HCBS, all critical incidents (as defined in this chapter) must be reported and reviewed (as described in this chapter). The goal of the incident management system is to proactively respond to incidents and implement actions that reduce the risk of likelihood of future incidents.

Reportable incidents

1. Abuse (physical, emotional, sexual), neglect, or exploitation;
2. Rights violations through omission or commission, the failure to comply with the rights to which an individual is entitled as established by law, rule, regulation, or policy;
3. Serious injury or medical emergency, which would not be routinely provided by a primary care provider;
4. Wandering or elopement;
5. Restraint violations;
6. Death of a client and cause (including death by suicide);
7. Report of all medication errors or omissions; and
8. Any event that has the potential to jeopardize the client's health, safety or security if left uncorrected.
9. Changes in health or behavior that may jeopardize continued services.
10. Illnesses or injuries that resulted from unsafe or unsanitary conditions. HCBS Case Manager will follow up with all reported critical incidents. If HCBS Case Manager has first-hand knowledge of a critical incident, follow incident reporting requirements.

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If the case involves abuse, neglect or exploitation, a formal VAPS (Vulnerable Adult Protective Services) referral will be initiated according to ND Century Code 50-25.2-03. VAPS will be responsible for independent review and follow up.

If the incident involves a provider, the complaint protocol will be followed to determine the next steps, which may include involving law enforcement. Incident reporting requirements Any paid provider or family member who is with a client, involved, witnessed, or responded to an event that is defined as a reportable incident, is required to report the critical incident.

A General Event Report (GER) is a Critical Incident Report (CIR) in the Therap case management system.

As soon as a paid provider or paid family member learns of a critical incident involving a client, the incident must be:

1. Reported to the HCBS Case Manager and
2. Complete a Critical Incident Report (CIR) using the General Event Report (GER) within Therap.
 - a. The completed CIR is to be submitted within 24 hours of the incident.
 - b. If the QSP does not have access to Therap, the GER offline forms will be completed and submitted to the HCBS case manager.
 - i. The offline forms can be accessed here.
 - ii. The GER Event Report along with the GER Event Type form (e.g. medication error, injury, etc.) are to be completed and submitted together.
 - c. The HCBS Case Manager and program administrator will receive the incident report once submitted for review in Therap. If the GER offline form is used, the HCBS Case Manager will fax the form to (701) 328-4875 or email: dhshcbs@nd.gov. The program administrator will then enter the GER Event Report and Event Type into Therap.

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Examples

Example 1: If a client falls while the QSP is in the room, but the client didn't sustain injury or require medical attention, a critical incident report is not required.

Example 2: If a family member informs the case manager that a client is in the hospital due to a stroke, a critical incident report is not required because the case manager nor QSP witnessed or responded to the event.

Example 3: If a QSP comes to a client's home and the client is found on the floor and the QSP calls 911 so the client may receive medical attention, a critical incident report is required because the client required medical attention AND the QSP responded to the event (fall).

Example 4: If a QSP is present while the client is participating in illegal activity (e.g. drug use), a critical incident is required as the behavior is jeopardizing services.

Example 5: If the QSP finds bed bugs in the client's bed and notices the client has bug bites resulting in the need to seek medical attention, a critical incident would be required as this is an unsanitary condition resulting in illness or injury.

Department Responsibilities

The department will submit a medical case incident report into the ND Risk Management Incident Reporting system received from the HCBS case manager within 24 hours of receiving the report.

The program administrator will enter GER offline reports into Therap within 24 hours of receiving report or 1 business day.

The department will hold quarterly critical incident team meetings to review all critical incident reports for trends, need for increased training and education, additional services, and to ensure proper protocol has been followed. The team consists of the ND DHS Aging Services Division Director, HCBS program administrator(s), HCBS nurse administrators,

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Vulnerable Adult Protective Services (VAPS) staff, LTC Ombudsmen, and the DHS risk manager.

The Department of Justice (DOJ) agreement coordinator (Aging Services Division Director) is responsible to report critical incidents as described in the settlement agreement to the DOJ and the subject matter expert (SME) within 7 days of the receipt of the critical incident.

Remediation Plan

A remediation plan is required to be developed and implemented for each incident except for death by natural causes as required by the DOJ and the Aging Services Department. The department will be responsible to monitor and follow up as necessary to assure the remediation plan was implemented.

The remediation plan will include corrective actions taken, a plan of future corrective actions, and a timeline to complete the plan if applicable. The HCBS case manager and program administrator are responsible to follow up with the QSP to ensure the remediation plan is acceptable.

Revocation or Denial 660-05-45**(Revised 11/1/19 ML 3567)**[View Archives](#)

The denial of an application or the revocation of an Adult Foster Care license applies to all individuals who applied to be licensed at the facility or who are listed as providers on the license.

A license for Adult Foster Care may be denied or revoked for reasons listed below. See Sections 660-05-65-35, 660-05-65-40, and 660-05-65-45 for forms to be completed.

An applicant or provider has the right to a hearing as outlined in the letter of denial/revocation. At the hearing for denial or revocation, the evidence submitted by the Aging Services Division in support of its denial or revocation of the applicant's or provider's license must be limited to supporting only those reasons, which were given by the Aging Services Division in its original notice of denial or revocation. Therefore, it is imperative that all applicable reasons for denial or revocation be listed in the original notice.

It is the responsibility of Aging Services Division to provide the applicant or provider with instructions, forms, and assistance in filing an appeal.

Reasons for denying or revoking a license include:

1. The premises of the facility are not in fit sanitary condition and properly equipped to provide good care.
2. The provider or substitute provider is not qualified.
3. The provider is not providing care with due regard for the health and wellbeing of the residents.
4. The facility is not maintained according to standards prescribed by rules and regulation of the Department.
5. The license application or supporting documents contain fraudulent or misleading material information or the applicant intentionally withheld material information.

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6. The provider, substitute caregiver, respite care provider, or agent of the facility is not in compliance with the rules, policies, and state statutes governing Adult Foster Care.
7. The provider fails or refuses to comply with a Correction Order.
8. The license was issued upon false, misleading, or intentionally withheld material information.
9. An applicant, licensee, caregiver, employee, or agent of the facility has been convicted of an offense determined by the Aging Services Division to have a direct bearing upon the individual's ability to serve the public or residents of the facility. Or, the Department determines, following conviction of any other offense, the individual is not sufficiently rehabilitated under NDCC section 12.133-02.1.

**Continued Operation Pending Revocation 660-05-45-05
(Revised 5/1/19 ML 3549)**

[View Archives](#)

A provider who receives a notice of revocation, and who makes a timely appeal of that notice, may continue to operate the facility pending a final administrative appeal decision, unless the revocation is based upon reasons which present an imminent danger to the health, welfare, or safety of residents receiving care in the facility or unless the license expires.

**Distribution of Notice of Denial or Revocation
660-05-45-10**

(Revised 5/1/19 ML 3549)

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A copy of the notice of revocation or a notice of denial of a license application may be provided to any resident, any person who resides in a place under circumstances which may require that place to be licensed as a facility for care of that person, to any guardian, conservator, placement agency, or person making placement of such a resident or person, and to any placement agency which has placed residents for care in the facility or in other licensed facilities in the region.

The applicant for a license to operate an Adult Foster Home and a person holding such a license may appeal to the district court any decision of the Department of Human Services denying an application or revoking a license.

**Reapplication After Denial or Revocation 660-05-45-15
(Revised 1/1/08 ML 3118)**

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A provider or proposed provider whose license has been revoked or whose application has been denied may not reapply without the written permission of the Department:

1. Until a final, unappealable determination has been made with respect to the denial or revocation; and
2. For two years after the date of an unappealable denial of a license application or an unappealable revocation of a license, or the date of a final, unappealable decision affirming the appealed denial of a license application or appealed revocation of a license, whichever occurs latest.

Injunctive Relief 660-05-50

(Revised 5/1/19 ML 3549)

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Effective August 1, 2001, the Department has the authority to petition the district court for an injunction to stop or prevent a violation of this Chapter or of Administrative Rules. Contact the Program Administrator at the Aging Services Division prior to pursuing this action.

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Funding Sources 660-05-55

(Revised 5/1/19 ML 3549)

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In a private pay situation, the recipient of Adult Foster Care Service, or other person paying on behalf of the recipient is the funding source. The service rate is the amount negotiated between the recipient or their representative, and the licensed Adult Foster Care provider.

Respite care providers who are caring for residents whose services are funded by the county or state are limited to the respite care service-funding cap. AFC residents whose care is being paid for by the county or state can only receive respite care from an individual who is enrolled as a qualified service provider of respite care by the Department. Respite care providers must bill the department for time spent caring for residents whose care is being paid for by a country or state agency.

**Allowable Tasks/Activities - Adult Foster Care Service
660-05-60**

(Revised 5/1/19 ML 3549)

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Under the provisions of this service chapter, only tasks and service activities outlined in the "Individual Qualified Service Provider/Adult Foster Care Handbook" may be provided to recipients of Adult Foster Care.

Copies of the Handbook are available at the on the Department of Human Services manual website.

**Resident Out-of-Facility with Foster Care Provider
660-05-60-05**

(Revised 1/1/20 ML 3572)

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A provider may claim payment for care of the resident when the resident vacations with the foster care provider if the resident has continuously lived with the foster family for a substantial period of time and the resident made an independent choice to vacation with the family. The provider must report the following to the HCBS Case Manager prior to departure:

1. The dates the resident will be vacationing with the foster family;
2. The telephone number(s) where they can be reached;
3. The names and addresses of individuals who they will be visiting, if applicable; and
4. A travel itinerary, if applicable.

The resident must remain in the care of the foster care provider. Care of the client cannot be transferred to other family, friends, or anyone else during that time.

Employment Outside of the Facility 660-05-60-10
(Revised 1/1/20 ML 3572)

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Adult Foster Care is an inclusive 24-hour service. Therefore, employment outside of the home is generally not allowable. An adult foster care provider may be employed outside the home if the license to provide adult foster care was issued to more than one individual and at least one of the licensed individuals remains in the facility to provide the care.

If an AFC resident is enrolled in a day-program (documented in the resident's plan of care) and is out of the facility, outside employment by the AFC provider may be considered during the hours the resident is away. However, resident care cannot be compromised.

Employing individuals other than those who meet the definition of a respite provider or substitute caregiver is not permitted. Employing respite care providers or substitute caregivers to assist in the daily operation of the adult foster care is also prohibited. Respite care and substitute caregivers may provide care only in the absence of the provider.

The HCBS Case Manager must be informed of outside employment to evaluate whether resident care would be negatively impacted.

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**Application to Provide Adult Foster Care, SFN 1013
660-05-65-05**

(Revised 1/1/20 ML 3572)

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This is the initial application for an Adult Foster Care license. The applicant is responsible to complete this [form](#). The application must be submitted to the HCBS Case Manager. A copy of the application must be sent to the Aging Services Division.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms/>.

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**Initial Licensing Study/Adult Foster Care, SFN 669
660-05-65-10**

(Revised 1/1/20 ML 3572)

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This form is required for an initial Adult Foster Care application. It is the responsibility of the HCBS Case Manager to complete this form with the applicant. A copy of this application must be submitted by the HCBS Case Manager to the Aging Services Division.

An electronic copy of this form may be obtained at
<http://www.nd.gov/eforms/>.

**Relicensing Study - Adult Foster Care, SFN 1031
660-05-65-15**

(Revised 1/1/20 ML 3572)

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The form is required to renew an Adult Foster Care license.

It is the responsibility of the applicant to complete this form and return it to the HCBS Case Manager 30 days prior to the expiration of the license. A copy of the application must be sent to the Aging Services Division.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms/>.

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Fire Safety Self Declaration, SFN 800 660-05-65-20 (Revised 1/1/20 ML 3572)

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This form is required for both an initial license and to renew a license.

It is the responsibility of the applicant or provider to complete this form and submit it to the HCBS Case Manager. A copy of this form must be sent to the Aging Services Division.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms/>.

**Reference Letter for Applicant Family 660-05-65-25
(Revised 1/1/20 ML 3572)**

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A request may be made for a sample of a reference letter for use upon the initial application for a license from the Aging Services Division.

It is the applicant's responsibility to obtain three letters of reference.

The letters of reference are required for the initial application and must be sent to the HCBS Case Manager. A copy of each reference letter must be sent to the Aging Services Division.

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License to Provide Adult Foster Care, SFN 1020 660-05-65-30

(Revised 1/1/20 ML 3572)

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This license authorizes an individual to be an Adult Foster Care provider.

The Aging Services Division issues this license, SFN 1020, upon completion of the initial application process and the license renewal application process.

The original goes to the applicant/provider with a copy to the HCBS Case Manager.

This form is in a pdf format through the Aging Services Division.

Denial Notice and Notification of Rights 660-05-65-35
(Revised 5/1/19 ML 3549)

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To deny an application for a license, a letter must be written by the Aging Services Division and sent to the applicant along with the documents listed below.

1. The Aging Services Division shall notify the applicant of the intent to deny an application by certified mail, return requested.
2. A copy of the statutes and Department rules authorizing denial must be given to the applicant.
3. Specific reasons for denial must be cited in writing. List each reason in the letter to the provider. A copy of applicable statutes and Department rules must be given to the applicant.
4. The applicant must be given notice in writing of their rights. The letter must address all requirements of the law (N.D.C.C. Section 50-11-08) regarding the applicant's rights.

The Aging Services Division must retain a copy of the letter.

Copies of this letter can be obtained from the Aging Services Division.

**Revocation Notice and Notification of Rights
660-05-65-40**

(Revised 11/1/19 ML 3567)

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Before any revocation of a license takes place, a revocation notice must be sent to the provider along with the documents listed below by the Aging Services Division.

1. The Aging Services Division shall notify the provider of the intent to revoke a license by certified mail, return requested. (The return requested is essential to validate twenty calendar daytime period.)*
2. A copy of the statutes and Department rules authorizing revocation must be given to the provider.
3. Specific reasons must be cited in writing. List each reason in the letter to the provider. A copy of applicable statutes and Department rules must be given to the provider.
4. The provider must be given notice in writing of their rights. The letter must address all requirements of the law (N.D.C.C. Section 50-11-08) regarding the provider's rights.

The Aging Services Division must retain a copy of this letter.

Copies of this letter can be obtained from the Aging Services Division.

* In computing the twenty-day time period, the day the intended revocation issued is not included. The last day of the period is included, unless it is a Saturday, a Sunday, or a legal holiday; then it is the next working day.

Reference: Administrative Code Chapter 75-01-03-06.1 (Appeals and Hearings) Computation of time.

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Appeal Form, SFN 747 600-05-65-45 (Revised 1/1/20 ML 3572)

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The purpose of this form is for the provider to request an appeal in the event of a license denial or revocation.

It is the responsibility of the provider to complete this form with the assistance of the HCBS Case Manager or the Department.

A copy of this form must be sent to the Aging Services Division.

Copies of this form can be obtained at <http://www.nd.gov/eforms/>.

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**Adult Foster Care Affidavit of Standard of Compliance-In
Lieu of License, SFN 915 660-05-65-50**

(Revised 5/1/19 ML 3549)

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Adult Foster Care that is provided on Federal Reservations such as an Indian Reservation or Military base may be approved, if requests for such approvals are made by the appropriate reservation authority (i.e. Military Base Commander or Tribal Council) to the North Dakota Department of Human Services and all the licensing standards of the Department have been met.

A copy of this [form](#) must be sent to the Department and the Aging Services Division.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms/>.

Correction Order (Sample Letter) 660-05-65-55
(Revised 1/1/20 ML 3572)

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The Aging Services Division issues a Correction Order when there has been a violation. The Aging Services Division completes the Correction Order. The order is sent to the provider with copies to the HCBS Case Manager.

Cover Letter for Provisional License (Sample Letter)
660-05-65-60

(Revised 1/1/20 ML 3572)

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The Aging Services Division, may issue a provisional license for up to six months for an initial applicant or renewal of a license. A copy of the provisional license must be sent to the HCBS Case Manager.

This letter may be duplicated.

**Provisional License Agreement (Sample Form or SFN
1020 pdf format) 660-05-65-65**

(Revised 1/1/20 ML 3572)

[View Archives](#)

A provisional license shall be issued only to an applicant who has in writing waived:

1. The right to a written statement of changes as to the reasons for the denial of an unrestricted license; and
2. Waived the right to an administrative hearing, in the manner provided in the North Dakota Century Code chapter 28-32, concerning non-issuance of an unrestricted license.

Any provisional license issued shall be accompanied by a written statement of the violations signed by the Aging Services Division or their designee and, in writing acknowledged by the applicant/provider.

Copies of the provisional license must be sent to the HCBS Case Manager.

SFN 1020 pdf format is available through Aging Services Division.

Fire Prevention and Safety Course (Sample Form)
660-05-65-70

(Revised 1/1/20 ML 3572)

[View Archives](#)

An applicant must complete a Department approved "Fire Prevention and Safety Course." Completion of the course is also required for renewal of a license.

Information is available about the course from the HCBS Case Manager.

A copy of the form verifying completion of the course must be sent to the Aging Services Division.

This [form](#) may be duplicated.

**Background Check Address Disclosure, SFN 466
660-05-65-75**

(Revised 1/1/20 ML 3572)

[View Archives](#)

All applicants/providers and anyone age 18 or over living in the foster facility, other than foster care recipients, are subject to mandatory state and nationwide background checks. Individuals who provide respite care in the facility of a provider or those acting as substitute caregivers are also subject to the state and nationwide background check requirement.

Applicants are required to complete the form and return to the HCBS Case Manager. The HCBS Case Manager will review for completion and send the form to the Aging Services Division for processing.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms>.

**Personal Authorization for Criminal Record Inquiry, SFN
467 660-05-65-80**

(Revised 1/1/20 ML 3572)

[View Archives](#)

All applicants/providers and anyone age 18 or over living in the foster facility, other than foster care recipients, are subject to mandatory state and nationwide background checks. Individuals who provide respite care in the facility of a provider or those acting as substitute caregivers are also subject to the state and nationwide background check requirement.

The applicant is responsible to complete the form and return to the HCBS Case Manager. The form is reviewed for completion and is sent to the Aging Services Division for processing.

An electronic copy of this form may be obtained at <http://www.nd.gov/eforms/>.

**Fingerprint Requirement for Background Check, FD-258
660-05-65-85**

(Revised 1/1/20 ML 3572)

[View Archives](#)

All applicants/providers and anyone the age of 18 or over living in the foster facility, other than foster care recipients, are subject to mandatory state and nationwide background checks. Individuals who provide respite care in the facility of a provider or those acting substitute caregivers are also subject to the state and nationwide background check requirement.

Fingerprints need not be taken and a nationwide background check need not be made if an individual:

- Has resided continuously in this state for eleven years or since reaching age 18, whichever is less;
- Is on active United States military duty or has resided continuously in this state since receiving an honorable discharge; or
- Is excused from providing fingerprints under rules adopted by the Department.

The fee for fingerprinting is the responsibility of the individual. The individual is responsible to complete the fingerprint cards, in addition to SFN 466 and SFN 467, and return all three forms to the HCBS Case Manager. The forms are reviewed for completion and are sent to the Aging Service Division for processing.

Fingerprint cards can be completed at their local Police or Sheriff's office or local Human Service Center. There is a small fee for fingerprinting services. The fee for fingerprinting is the responsibility of the applicant/provider.

Copies of this form can be obtained from the Aging Services Division Office by contacting the AFC Program Administrator.

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**Evacuation Disaster Plan-Adult Foster Care, SFN 823
660-05-65-90**

(Revised 5/1/19 ML 3549)

[View Archives](#)

This form is completed by the applicant/provider as part of the application process for an initial license or if moving to a new facility.

An electronic copy of this form may be obtained at
<http://www.nd.gov/eforms/>.

**Provider Service Logs (Sample Forms) 660-05-65-95
(Revised 5/1/19 ML 3549)**

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As a part of the Adult Foster Care licensing process, applicants are required to provide examples of service logs that will be used to account for service time and tasks performed.

A provider may create their own service log provided it meets the standards for accounting of services provided.

An example service log must be completed by the applicant and kept in the provider's file. A copy must be sent to the Aging Services Division for their records.

For AFC providers caring for individuals on public pay programs, specific information will be required on the provider service log. Providers will receive provider service logs from Medical Services/Home and Community Based Services.

These forms may be duplicated.

Storage, access, handling, and retention of criminal history record information policy 660-05-70

(New 8/26/19 ML 3560)

[View Archives](#)

Purpose:

To prevent unauthorized or improper access, use or dissemination and release of Criminal History Record Information (CHRI) received from the ND Bureau of Criminal Investigations that the Department of Human Services, Aging Services Division requested.

Limits:

CHRI is to be used for the specific purpose for which it was requested (employment, licensing, volunteers, etc.) For the Department of Human Services, Aging Services Division it is used for Adult Foster Care licensing. It is not public record and may not be released to the public. The department may neither confirm nor deny the existence or non-existence of an individual's criminal history record to the public or to any unauthorized individual or agency.

Outsourcing CHRI to a third party to perform noncriminal justice administrative functions (making fitness determinations/recommendations, storage of CHRI, etc.) is not allowed in the state of North Dakota.

Communication of the CHRI will be shared with the applicant only. The applicant may not receive a copy of their CHRI upon request. CHRI cannot be emailed or otherwise electronically transmitted, sent electronically via cell phone or any other handheld device and may not be faxed.

Authority

State

North Dakota Century Code (NDCC) 12-60-24(2) allows the ND BCI to provide each agency, official or entity who has requested a statewide and

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nationwide criminal history record check, the response of the FBI and any statewide criminal history record information that may lawfully be made.

Pursuant to NDCC 12.1-13-01, knowingly disclosing confidential information, which was acquired as a public servant, is a class C felony.

Pursuant to NDCC 12-60-16.10, any willful violation as defined in section 12.1-02-02 of any provision of sections 12-60-16.9 relating to reporting or disseminating CHRI, is a class A misdemeanor.

Federal

Pursuant to Public Law (Pub. L.)92-544 the results of the record check cannot be released outside the receiving governmental department or related governmental agency.

Title 5, USC 552a, Privacy Act of 1974, requires that agencies maintain a system of records which establish appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records.

Title 28, USC 534, authorizes dissemination of CHRI and provides that access to CHRI is subject to cancellation if dissemination is made outside of the authorized recipient.

Title 28, CFR, 50.12(b), references the exchange of FBI identification records obtained under this authority may be used solely for the purpose requested and cannot be disseminated outside the receiving departments, related agencies or other authorized entities.

Definitions:

1. "Bureau" means the bureau of criminal investigation. BCI is the state's central repository for criminal history information. It compiles records of arrests and prosecutions or individual offenders for use by law enforcement, the courts and the public.

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2. "Criminal history record information (CHRI)" includes information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrest. Detention, prosecution, correctional supervision, rehabilitation, or release of persons suspected in, charge with., or convicted of a crime.
3. "Department" means the North Dakota department of human services (DHS).
4. " Disseminate" means to transmit criminal history record information (CHRI) in any oral or written form. The term does not include:
 - a. The transmittal of the information within a criminal justice agency.
 - b. The reporting of the information as required by section 12-60-16.2.
 - c. The transmittal of the information between criminal justice agencies in order to permit the initiation of subsequent criminal justice proceedings against a person relating to the same offense.
5. "National Agency Coordinator" means the primary liaison between the department and ND BCI and is responsible for coordinating agency compliance with all federal and state laws/regulations pertaining to the access, use, handling, dissemination and destruction of CHRI.
6. "Noncriminal justice agency" means an entity that is not a criminal justice agency such as the Department of Human Services Aging Services Division.

Procedure:

1. Only authorized personnel have access to the CHRI. A list of the authorized personnel is maintained by the department and a current listing is required to be on file with BCI audit department by the National Agency Coordinator (NAC). Terminated employees or those removed from the authorized personnel list will have their access privileges revoked.
2. All persons who have access to Criminal Justice Information (CJI) and all appropriate IT personnel shall receive Criminal Justice Information

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Services (CJIS) Security and Awareness training every 2 years. The initial training should be done within the first six months of hire.

3. All training records must be kept current and be maintained by the State, Federal or local agency office. The training records will be maintained by the NAC and kept in the NAC's office in a locked cabinet. The key to the cabinet will be maintained by the NAC.
4. The CHRI will be delivered to Aging Services Division's mailbox in sealed envelope from NDBCI. The envelope with the contents will be delivered to the NAC office.
5. CHRI will be maintained in a locked file in the NAC's office for 42 months after a licensing agency closes or is terminated and will be destroyed by shredding or burning. CHRI cannot be thrown away. The shredder is in the Aging Services Administrative Assistant's office and will be witnessed by two authorized personnel.
6. When CHRI is stored on electronic media such as diskettes, tapes, ribbons, CDs, DVDs, hard drives or USB flash drives, physical destruction is recommended. However, at a minimum it must be overwritten multiple times to prevent unauthorized access to previously stored data.
7. Any security incident should be reported to the NAC and all personnel are required to report any suspected security incident. Information should include name of person reporting the incident, date of the incident and date of the report, phone number or email of person reporting, location of the incident, description, system affected and description, method of detection and actions taken. This will be submitted to the NDBCI within twenty-four hours in accordance with the CJIS Security policy.
8. All authorized personnel are made aware of the guidelines, consequences and liabilities that could occur from unauthorized use of CHRI. Misuse of the CHRI is a misdemeanor or felony depending on the circumstances of the release. See NDCC 12.1-13-01 and 12-60-16.10 for an explanation of the consequences of misuse for the State of North Dakota.