

**CHAPTER 75-03-21
LICENSING OF FOSTER HOMES FOR ADULTS**

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SECTION 1: Section 75-03-21-02 is amended as follows:

75-03-21-02. Application.

1. An application for a license to operate a facility must be made to the county agency in the county where the applicant proposes to provide care department.
2. An application must be made in the form and manner prescribed by the department.
3. ~~A fee of fifty dollars must accompany the application for an initial license to operate a facility. A fee of twenty five dollars must accompany the application to renew a license to operate a facility. The fees will be retained by the county agency and used for training and education of the county~~

~~agency staff who administer the license program.~~

4. — An application for a license must be filed immediately upon change of provider or location.

5.4. An application is not complete until all required information and verifications are submitted to the department, including:

- a. Fire inspections by the state fire marshal or local fire inspector, if required under subsection 7 of section 75-03-21-06;
- b. A self-declaration of medical history and, when requested by the department, a report of a physician's examination;
- c. A report of psychological examinations, when requested by the department;
- d. Proof of age and relationship, when requested by the department;
- e. Sanitation and safety inspection reports, when requested by the department;
- f. Completed application form;
- g. Drug and alcohol evaluation report, when requested by the department;
- h. Licensing study report assessing the applicant's compliance with this chapter and North Dakota Century Code chapter 50-11;
- i. Documentation of completion of a course related to fire prevention and safety;
- j. Fire safety self-declaration form;
- k. Evidence that all caregivers are properly qualified to provide care as provided in section 75-03-21-08;
- l. A successfully completed criminal background check as specified in North Dakota Century Code sections 50-11-02.4, 50-11-06.8, and 50-11-06.9;
- m. Examples of service logs to be used to account for service time and tasks performed for each resident;
- n. An evacuation disaster plan; and

- o. A sample menu plan compliant with dietary guidelines outlined in subsection 4 of section 75-03-21-11.

History: Effective May 1, 1992; amended effective May 1, 1995; September 1, 2004; January 1, 2009; October 1, 2012; October 1, 2016; July 1, 2020.

General Authority: NDCC 50-06-16, 50-11

Law Implemented: NDCC 50-01-09(6), 50-11-03

SECTION 2: Section 75-03-21-09.1 is amended as follows:

75-03-21-09.1. Criminal conviction - Effect on licensure and operation of a facility.

1. An applicant may not be an individual who has, and may not permit an individual, except a resident, to reside in the facility or act as a caregiver in the facility if the individual has been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code ~~chapters~~chapter 12.1-16, homicide; ~~12.1-17, assaults—threats—coercion—harassment; or~~ 12.1-18, kidnapping; 12.1-27.2, sexual performance by children; or 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or North Dakota Century Code sections section 12.1-17-01, simple assault, if a class C felony under subdivision a of subsection 2 of that section; 12.1-17-01.1, assault; 12.1-17-01.2, domestic violence; 12.1-17-02, aggravated assault; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-17-12, assault or homicide while fleeing peace officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a child; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-05.1, luring minors by computer or other electronic means; 12.1-20-06, sexual abuse of wards; 12.1-20-06.1, sexual exploitation by therapist; 12.1-20-07, sexual assault; ~~12.1-20-11, incest; 12.1-20-12.1, indecent exposure; 12.1-20-12.2, surreptitious intrusion; 12.1-20-12.3, sexual extortion; 12.1-21-01, arson; 12.1-22-01, robbery; or~~ 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; ~~North Dakota Century Code chapter 12.1-27.2, sexual performances by children; North Dakota Century Code sections~~ 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; ~~or~~ 12.1-31-07, endangering an eligible adult; 12.1-31-07.1, exploitation of a vulnerableeligible adult; ~~North Dakota Century Code chapter 12.1-41, Uniform Act on Prevention of and Remedies for Human Trafficking; or North Dakota Century Code sections~~ 14-09-22, abuse of child; ~~or~~ 14-09-22.1, neglect of child; subsection 1 of

section 26.1-02.1-02.1, fraudulent insurance acts; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

- b. An offense, other than an offense identified in subdivision a, if the department determines that the individual has not been sufficiently rehabilitated.
2. For purposes of subdivision b of subsection 1, the department shall:
 - a. May not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment without subsequent charge or conviction has elapsed, unless sufficient evidence is provided of rehabilitation; and
 - b. Shall treat completion of a period of ~~five~~three years after final discharge or release from any term of probation, parole, or other form of community corrections, or from imprisonment, without subsequent conviction, as prima facie evidence of sufficient rehabilitation.
 3. In the case of an offense described in North Dakota Century Code section 12.1-17-01, simple assault, if a felony; 12.1-17-01.1, assault; 12.1-17-01.2, domestic violence, if a misdemeanor; 12.1-17-03, reckless endangerment; 12.1-17-04, terrorizing; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 12.1-18-03, unlawful imprisonment; 12.1-20-05, corruption or solicitation of minors, if a misdemeanor; 12.1-20-07, sexual assault, if a misdemeanor; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that the individual has been sufficiently rehabilitated if five years have elapsed after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment, without subsequent convictions.
 4. The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing on an individual's ability to serve the public in any capacity involving the provision of foster care to adults.

History: Effective April 1, 1999; amended effective September 1, 2004; January 1, 2009; October 1, 2012; October 1, 2016; July 1, 2020.

General Authority: NDCC 50-11-03

Law Implemented: NDCC 50-11

SECTION 3: Subsection 3 of section 75-03-21-13 is amended as follows:

3. 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 department staff responsible for licensing must be contacted by the county agency prior to the department making the decision to waive the thirty-day requirement.~~

History: Effective May 1, 1992; amended effective May 1, 1995; January 1, 2009; October 1, 2012; October 1, 2016; July 1, 2020.

General Authority: NDCC 50-06-16, 50-11

Law Implemented: NDCC 50-11-03