

**CHAPTER 33-03-24.1  
BASIC CARE FACILITIES**

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**33-03-24.1-01. Definitions.**

1. "Abuse" includes the willful infliction of mental, physical, sexual, and verbal abuse which could result in temporary or permanent mental, physical, emotional, or psychological injury or harm. Mental abuse includes humiliation, harassment, intimidation, threats of punishment, or deprivation. Physical abuse includes hitting, slapping, pinching, kicking, unreasonable confinement, and deprivation, by an individual, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. It also includes controlling behavior through corporal punishment. Sexual abuse includes sexual harassment, sexual coercion, sexual contact, or sexual assault. Verbal abuse includes any use of oral, written, or gestured language that includes disparaging and derogatory terms to residents or their families, used within their hearing distance to describe the residents, regardless of their age, ability to comprehend, or disability.
2. "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including eating, nutrition, dressing, personal hygiene, mobility, toileting, and behavior management.
  - a. "Assistance" means the resident is able to help with most of an

activity, but cannot do it entirely alone. The resident may need prompting, encouragement, or the minimal hands-on assistance of the personal care attendant.

- b. "Independent" means the resident can perform the activities of daily living without help.
3. "Activity staff" means an employee who is responsible for providing an activity program.
4. "Adult day care services" means the provision of basic care facility services to meet the needs of individuals who do not remain in the facility overnight.
5. "Basic care facility" means a facility licensed by the department under North Dakota Century Code chapter 23-09.3 whose focus is to provide room and board and health, social, and personal care to assist the residents to attain or maintain their highest level of functioning, consistent with the resident assessment and care plan to five or more residents not related by blood or marriage to the owner or manager. These services shall be provided on a twenty-four hour basis within the facility, either directly or through contract, and shall include assistance with activities of daily living and instrumental activities of daily living; provision of leisure, recreational, and therapeutic activities; and supervision of nutritional needs and medication administration.
6. "Capable of self-preservation" means a resident's ability, with or without assistance, to evacuate the facility or relocate from the point of occupancy to a point of safety in case of fire in compliance with the requirements of this chapter.
7. "Department" means the North Dakota state department of health.
8. "End of life care" means a program of palliative and supportive care for a resident with a physician or nurse practitioner's order identifying a terminal illness or condition with a limited prognosis of six or fewer months to live that has elected to receive hospice services through a licensed and Medicare certified hospice agency.
- ~~8- 9.~~ "Facility" means a basic care facility.
- ~~9-10.~~ "Governing body" means the entity legally responsible for the operation of a basic care facility.
- ~~10- 11.~~ "Instrumental activities of daily living" includes preparing meals, shopping, managing money, housework, laundry, transportation, use of telephone, and mobility outside the basic care facility.
- ~~11- 12.~~ "Licensed health care practitioner" means an individual who is licensed or certified to provide medical, medically related, or advanced registered nursing care to individuals in North Dakota.

- ~~12.~~ 13. "Medication administration" means an act in which a drug or biological is given to a resident by an individual who is authorized in accordance with state laws and regulations governing such acts.
- ~~13.~~ 14. "Misappropriation of resident property" means the deliberate misplacement, exploitation, or wrongful temporary or permanent taking or use of a resident's belongings or money, or both.
- ~~14.~~ 15. "Neglect" includes failure to carry out resident services as directed or ordered by the licensed health care practitioner or other authorized personnel, or failure to give proper attention to residents.
- ~~15.~~ 16. "Personal care" means assistance with activities of daily living and instrumental activities of daily living and general supervision of physical or mental well-being.
- ~~16.~~ 17. "Resident" means an individual admitted and retained in a facility in order to receive room and board and health, social, and personal care who is capable of self-preservation, and whose condition does not require continuous, twenty-four-hour a day onsite availability of nursing or medical care.
- ~~17.~~ 18. "Secured unit" means a specific area of the facility that is kept, used, maintained, advertised, or held out to the public as an Alzheimer's, dementia, or special memory care unit that has a restricting device separating the residents in the unit from the residents in the remainder of the facility.
- ~~18.~~ 19. "Secured facility" means a facility that is kept, used, maintained, advertised, or held out to the public as an Alzheimer's, dementia, or special memory care facility that has restricting device(s) to restrict residents from freely exiting the building.

**History:** Effective January 1, 1995; amended effective January 1, 2008.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3

**33-03-24.1-03. Issuance of license.** A facility meeting the definition of a basic care facility as outlined in North Dakota Century Code chapter 23-09.3, North Dakota Administrative Code chapter 33-03-24.2, and this chapter must obtain a license from the department in order to operate in North Dakota.

1. Application to operate a facility must be made to the department prior to opening a facility, prior to change in ownership, annually, and upon determination by the department that a facility meets the definition of a basic care facility.
2. Floor plans must be submitted to the department for review and approval prior to opening a facility and prior to making structural alterations, including those which increase or decrease resident bed capacity.
3. Upon receipt of an application for an initial license, the department may schedule an inspection. ~~The department may request the assistance of the state fire marshal in the inspection.~~ Upon completion of the inspection and consideration of the findings the department may issue an initial or provisional license, or deny the application.
4. An initial license is valid for a period not to exceed one year and shall expire on December thirty-first of the year issued
5. Licenses must be issued on a calendar year basis and expire on December thirty-first of each year. An application for licensure renewal must be received by the department with sufficient time prior to the beginning of the licensure period to process.
6. A provisional license may be issued to a facility that does not comply with this chapter if practices in the facility do not pose a danger to the health and safety of the residents, as determined by the department.
  - a. A provisional license must be accompanied by a written statement of the specific rules or statues violated and the expiration date of the license, which is not to exceed three months from the date of issuance.
  - b. If compliance with the requirements has been determined by the department prior to the expiration of the provisional license, an annual license may be issued. If an acceptable plan of correction has been approved by the department but compliance has not yet been achieved, the provisional license may be renewed no more than one time for an additional period up to three months at the discretion of the department.
7. Once issued, the facility shall display the license in a conspicuous place. A license is not subject to sale, assignment, or other transfer, voluntary or involuntary. A license is not valid for any premises other than those for which originally issued.

8. The department may, at any time, inspect a facility that the department determines meets the definition of a basic care facility as described in North Dakota Century Code chapter 23-09.3 and this chapter.
9. The facility must provide the department access to any material and information necessary, as determined by the department, for determining compliance with these requirements.
10. Information regarding facilities is public information and is available upon request through the department.

**History:** Effective January 1, 1995; amended effective January 1, 2008.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC23-09.3-04, 23-09.3-05

**33-03-24.1-05. Plans of correction.**

1. A basic care facility must submit a plan of correction within ten days of receipt of the notification of deficiencies pursuant to this chapter.
2. The plan of correction must address how each deficiency will be corrected, what the facility will put in place to assure continued compliance, and the date upon which the corrective action will be completed.
3. The department may accept, reject, negotiate modifications to, or direct the plan of correction. A directed plan of correction is a plan of correction which has been developed in coordination with the department.
4. Correction of deficiencies must be completed within sixty days of the survey completion date, unless an alternative schedule of correction has been approved by the department.
5. The department shall determine, based on the review of the facility's plan of correction, what follow up is necessary to verify the correction of deficiencies has been completed. Follow up may occur by telephone, mail, or onsite revisit.
6. The department shall make available to the public, on the department's website, the deficiency statement and accepted plan of correction, following verification of correction.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1), 23-09.3-11

**Law Implemented:** NDCC 23-09.3-05

**33-03-24.1-06. Enforcement actions.**

1. Facilities are subject to one or more enforcement actions, which include a ban or limitation on admissions, suspension or revocation of a license, or a denial to license, for the following reasons:
  - a. Noncompliance with the requirements of this chapter or chapter 33-03-24.2 have been identified which:
    - (1) Present imminent danger to residents. These conditions or practices must be abated or eliminated immediately or within a fixed period of time as specified by the department;
    - (2) Have a direct or immediate negative relationship to the health, safety, or security of the residents; or
    - (3) Have a potential for jeopardizing resident health, safety, or security if left uncorrected.
  - b. Recurrence of the same or substantially same deficient practice in a thirty-six-month period.
  - c. Failure to provide an acceptable plan of correction or to correct any deficiency pursuant to an approved plan of correction.
  - d. Refusal to allow a survey of the facility by representatives of the department.
  - e. Gross incompetence, negligence, or misconduct in operating the facility as determined through department investigation or by a court of law.
  - f. Fraud, deceit, misrepresentation, or bribery in obtaining or attempting to obtain a license.
  - g. Knowingly aiding and abetting in any way the improper granting of a license.
2. The effective date of the enforcement action must be ninety days from the date the department notifies the facility in writing of the department's decision to initiate an enforcement action, unless the department determines there is imminent danger to the residents.
3. The notice to the facility must include the basis of the department's decision and the effective date of the enforcement action and must also advise the facility of their right to:
  - a. Request a review by the department.
    - (1) A request for a review by the department to verify correction of the deficient practices must be submitted by the facility to the department within forty-five days from the date the department notifies the facility in writing of its decision to

initiate an enforcement action.

- (2) The facility must submit written documentation to the department with the request for a review to verify correction of the deficient practices that were cited. The department shall determine, based on review of the documentation submitted, if an onsite revisit is warranted. The department review and onsite revisit, if conducted, must take place within sixty days of the date the department notified the facility in writing of its decision to initiate an enforcement action.
  - (3) If the department determines, based on the review of the facility documentation and the onsite revisit, if conducted, that the deficient practices have been corrected, the enforcement action may be halted. The department shall notify the facility in writing of the decision within ten days of this determination.
  - (4) If the department determines, based on the review of the facility documentation and the onsite revisit, if conducted, that the deficient practices were not corrected, the enforcement action will be imposed. If imposed, the enforcement action will, at a minimum, remain in effect until the department determines that the conditions leading to the enforcement action have been corrected.
- b. Request a reconsideration of an enforcement action consistent with section 33-03-24.1-07.
4. If the department sustains the decision, the department shall publish a public notice in the local newspaper not less than fifteen days prior to the imposition of the enforcement action stating the name of the facility, the enforcement action to be imposed, the reason for the action, the date on which the enforcement action will be effective, and the length of time for which it will be imposed.
  5. The department of human services and the county social service office in the county in which the facility is located will be notified in writing by the department regarding the enforcement action.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3



### 33-03-24.1-09. Governing body.

1. The governing body is legally responsible for the quality of resident services; for resident health, safety, and security; and to ensure the overall operation of the facility is in compliance with all applicable federal, state, and local laws.
2. The governing body is responsible for approval and implementation of effective resident care and administrative policies and procedures for the operation of the facility. These policies and procedures must be in writing, signed, dated, reviewed annually, and revised as necessary, and shall address:
  - a. All services provided by the facility to meet the needs of the residents, including admission, transfer, discharger, discharge planning, and referral services.
  - b. Protocols developed by appropriately licensed professionals for use in the event of serious health-threatening conditions, emergencies, or temporary illnesses. These protocols must include provisions for:
    - (1) Designation of a licensed health care practitioner for each resident and arrangements to secure the services of another licensed health care practitioner if the resident's designated licensed healthcare practitioner is not available.
    - (2) Notification of an appropriately licensed professional in the event of an illness or injury of a resident.
  - c. Provisions for pharmacy and medication services developed in consultation with a registered pharmacist, including:
    - (1) Assisting residents in obtaining individually prescribed medications from a pharmacist of the resident's choice.
    - (2) Disposing of medications that are no longer used or are outdated, consistent with applicable federal state laws.
    - (3) Allowing the resident to be totally responsible for the resident's own medication upon resident request and based on the assessment of the resident's capabilities with respect to this function by an appropriately licensed professional.
  - d. Infection control practices, including provision of a sanitary environment and an active program for the prevention, investigation, management, and control of infections and communicable diseases in residents and staff members.
  - e. Prohibition of resident abuse, neglect, and misappropriation of resident property, including investigation, reporting to the department, and follow up action.

f. Reporting to the department significant medication administration errors by a facility staff member which result in a negative outcome to a resident or a pattern of medication errors.

f. g. A process for handling complaints made by residents or on behalf of residents.

~~g.~~ h. Resident rights which comply with North Dakota Century Code chapter 50-10.2.

~~h.~~ i. Personnel policies to include checking state registries and licensure boards prior to employment for findings of inappropriate conduct, employment, disciplinary actions, and termination.

~~i.~~ j. Personnel record to include job descriptions, verification of credentials where applicable and records of training and education.

3. If the facility provides any clinical laboratory testing services to an individual, regardless of the frequency or the complexity of the testing the governing body is responsible to obtain and maintain compliance with the applicable parts of the clinical laboratory improvement amendments of 1988, 42 CFR part 493.
4. The governing body shall appoint an administrator to be in charge of the general administration of the facility. Provisions must be made for a staff member to be identified in writing to be responsible for the onsite operation of the facility in the absence of the administrator.
5. The governing body shall ensure sufficient trained and competent staff are employed to meet the residents' needs. Staff must be in the facility, awake and prepared to assist residents twenty-four hours a day.

**History:** Effective January 1, 1995.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3-04

**33-03-24.1-10. Fire safety.** The fire safety provisions located in section 33-03-24.2-08 apply to this chapter.

- ~~1. The facility shall comply with the national fire protection association life safety code, 1988 edition, chapter twenty-one, residential board and care occupancy, slow evacuation capability, or a greater level of fire safety.~~
- ~~2. Fire drills must be held monthly with a minimum of twelve per year, alternating with all workshifts. Residents and staff, as a group, shall either evacuate the building or relocate to an assembly point identified in the fire evacuation plan. At least once a year, a fire drill must be conducted during which all staff and residents evacuate the building.~~
- ~~3. Fire evacuation plans must be posted in a conspicuous place in the facility.~~
- ~~4. Written records of fire drills must be maintained. These records must include dates, times, duration, names of staff and residents participating and those absent and why, and a brief description of the drill including the escape path used and evidence of simulation of a call to the fire department.~~
- ~~5. Each resident shall receive an individual fire drill walk-through within five days of admission.~~
- ~~6. Any variation to compliance with the fire safety requirements must be approved in writing by the department.~~
- ~~7. Residents of facilities meeting a greater level of fire safety must meet the fire-drill requirements of that occupancy classification.~~

**History:** Effective January 1, 1995; amended effective July 1, 1996; October 1, 1998.

**General Authority:** NDCC 23-09.3-19

**Law Implemented:** NDCC 18-01-03.2, 23-09.3-09

**33-03-24.1-22. General building requirements.** Repealed effective \_\_\_\_\_.—The facility must be operated in conformance with all state and local laws, rules, and ordinances concerning fire safety and sanitation.

1. ~~Lounge and activity space must be provided at a minimum of fifteen square feet [1.39 square meters] per licensed bed for recreation, visiting, and an activity program. The lounge and activity area may be used to accommodate religious services and activities. Each lounge area for resident use must be provided with an adequate number of reading lamps, tables, and chairs or couches. These furnishings must be well constructed and accommodate the needs of the residents.~~
2. ~~All corridors and stairways used by residents must have sturdy handrails on one side to provide for safety with ambulation.~~
3. ~~Kitchen. Dietary areas and equipment must be designed to accommodate the requirements for sanitary storage, processing, and handling.~~
4. ~~Dining area.~~
  - a. ~~A minimum of fifteen square feet [1.39 square meters] per licensed bed must be provided for dining. Activity and dining areas must be separate.~~
  - b. ~~Dining room furnishings must be well constructed, comfortable, in good repair, and must accommodate the needs of the residents. There must be a sufficient number of tables of suitable design to accommodate the needs of all residents using wheelchairs.~~
5. ~~Resident bedrooms.~~
  - a. ~~All bedrooms used for residents must be dry, well ventilated, naturally lighted, and otherwise suitable for occupancy. Each room must have direct access to a corridor and have an outside wall. Resident bedrooms licensed after the effective date of these rules must be at or above grade level.~~
  - b. ~~The glazed areas of the window may not be less than one-tenth of the floor area of the room. Windows must be easily opened and must be provided with screens.~~
  - c. ~~Room size will vary depending on the number of beds, but minimum floor dimensions may not be less than ten feet [3.05 meters]. In computing floor area, only usable floor space may be included. Single rooms must provide at least one hundred square feet [9.29 square meters]. Double rooms must provide at least eighty square feet [7.43 square meters] per bed.~~

~~Rooms for three or more persons must provide at least seventy square feet [6.50 square meters] per bed.~~

- ~~d. Each resident must be provided with a bed. Cots, rollaways, or folding beds may not be used. Double beds may be used if requested by the resident and there is adequate space. Each bed must be provided with springs in good repair and a clean, firm, comfortable mattress of appropriate size for the bed, as well as a minimum of one clean, comfortable pillow.~~
  - ~~e. Each bedroom window must have window shades, or an equivalent, in good repair.~~
  - ~~f. Light levels to meet the needs of residents and to allow for reading and safety must be provided.~~
  - ~~g. Each bedroom must be provided with a mirror unless there is a mirror in a toilet room opening into the bedroom. Each resident lavatory~~
  - ~~h. For each bed there must be furnished a minimum of two adequately sized dresser drawers, a chair, a bedside table or stand, an individual towel rack, and closet, locker, or wardrobe space for hanging clothing within the room.~~
- ~~6. Toilet rooms and bathing facilities.~~
- ~~a. At least one toilet for every four residents or fraction thereof must be provided.~~
  - ~~b. Separate toilets for public use must be provided.~~
  - ~~c. Facilities housing residents using wheelchairs must provide at least one toilet room for every four residents using wheelchairs which is in compliance with the guidelines adopted in North Dakota Century Code section 54-21.3-04.1.~~
  - ~~d. A bathtub or shower equipped with grab bars must be available in a ratio of one for fifteen residents.~~
  - ~~e. Each bath and toilet room must be well lighted.~~
- ~~7. The facility shall provide for adequate ventilation throughout to assure an odor-free, comfortable environment.~~
- ~~8. Office spaces and other areas must be furnished with desks, chairs, lamps, cabinets, benches, worktables, and other furnishings essential to the proper use of the area.~~

**History:** Effective January 1, 2005.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3-04.

**33-03-24.1-21. Optional End of Life Care Service.** A facility that intends to retain residents who require end of life care must comply with the requirements of this section, apply on an application as specified by the department, and receive written approval from the department prior to providing the services. The facility must meet the following requirements:

1. A facility may not retain residents who require more than intermittent nursing care unless the resident requires and elects to receive end of life care from a licensed and Medicare certified hospice agency and the facility is licensed to provide end of life care.
2. A facility providing end of life care must employ or contract with a registered nurse to supervise resident care to meet the needs of the residents at all times, either directly or indirectly. The facility must employ a licensed nurse who is on the premises at least 40 hours per week to identify and respond to resident needs, care plan accordingly, provide oversight related to care, and review and document the resident's individual needs and care provided.
3. Individuals in need of end of life care who require skilled nursing care or are not capable of self preservation may not be admitted.
4. The facility and the licensed and Medicare certified hospice agency shall enter into an agreement that delineates responsibilities, with the licensed and Medicare certified hospice agency retaining the professional management responsibility for the hospice service.
5. The facility and licensed and Medicare certified hospice agency in consultation with the resident shall develop and implement an interdisciplinary care plan that identifies how the resident's needs are met and includes the following:
  - a. What services are to be provided;
  - b. Who will provide the services, the facility or hospice agency;
  - c. How the services will be provided;
  - d. Delineation of the roles of facility staff and the hospice agency in the care plan process;
  - e. Documentation of the care and services that are provided with the signature of the person who provided the care and services; and
  - f. A list of the current medications or biologicals the resident receives and who is authorized to administer the medications.
6. The facility shall notify the department within 48 hours of election the name of the resident that has elected hospice, the date the hospice was elected, and the name of the hospice agency

servicing the resident.

7. The facility shall notify the department within 48 hours of the hospice resident's discharge, transfer, death, or when the resident is no longer capable of self preservation.
8. A facility that retains a resident requiring end of life care that is not capable of self preservation shall be equipped with an approved automatic sprinkler system designed to comply with the national fire protection association standard 13 or 13R, or shall meet the national fire protection association 101 life safety code, 2012 edition, health care occupancy requirements.
9. Facility evacuation or E scores shall be completed at a minimum of weekly and when there is a significant change in the resident's capability for self evacuation when a resident is receiving end of life care. Facility staffing must be adjusted consistent with the E scores to maintain a slow evacuation capability. Hospice staff, family members, volunteers, or other non-facility staff cannot replace required facility staff.
10. A facility approved to provide end of life care shall ensure training and competency evaluation is completed for all nursing and personal care staff members specific to the care and services necessary to meet the needs of the terminally ill resident, and the hospice philosophy and services. The training and competency evaluation may be completed, and documented, by the facility registered nurse, a registered nurse consultant, or a hospice agency nurse. Nursing and personal care staff members shall complete the above training and competency evaluation:
  - a. Prior to facility approval from the department to provide end of life care;
  - b. Within 30 days of employment, and
  - c. Annually.
11. A facility that intends to retain residents who require end of life care shall comply with the additional requirements in this section and request and receive approval on a printed new license from the department, prior to providing end of life care to residents.
12. The facility approved and licensed to retain residents in need of end life care remains responsible for the appropriate delivery of end of life care in coordination with the licensed and Medicare certified hospice agency. If the facility is unable, or becomes unable, to meet the needs of the resident requiring end of life care, the resident rescinds election of the hospice benefit, or the facility is unable to comply with these requirements, the facility shall promptly make arrangements to discharge or transfer the

resident to a safe and appropriate placement consistent with the level of care required to meet the resident's needs.

**History:**

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** 23-09.3-04, 23-09.3-09



Just Case

**CHAPTER 33-03-24.2**  
**GENERAL STANDARD FOR CONSTRUCTION AND EQUIPMENT FOR**  
**BASIC CARE FACILITIES**

**33-03-24.2-01. Definitions.** The definitions located in section 33-03-24.1-01 apply to this chapter.

**History:** Effective

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3

**33-03-24.2-02. Waiver provision.** The waiver provision located in section 33-03-24.1-04 applies to this chapter.

**History:** Effective

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3-09

**33-03-24.2-03. Access and surveillance by the department.** The provisions located in section 33-03-24.1-03 apply to this chapter.

**History:** Effective

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3-04, 23-09.3-05

**33-03-24.2-04. Plans of correction.** The provisions located in section 33-03-24.1-05 apply to this chapter.

**History:** Effective.

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 23-09.3-09

**33-03-24.2-05. Emanating services.**

1. Sufficient information on the design of other types of facilities physically attached to the basic care facility must be submitted to the department so as to determine that safety from fire and the adequacy of the spaces and services of the facility are not compromised.
2. Occupants of other types of facilities may use service spaces such as dining and activities in the facility only when the size of such spaces exceeds the standards of this chapter by providing a minimum of 15 square feet per additional occupant using the space.

**History:** Effective.

**General Authority:** NDCC NDCC 23-09.3-09, 28-32-02.1

**Law Implemented:** NDCC 23-09.3-09

### 33-03-24.2-06. Plans and specifications.

1. A facility shall contact the department prior to any substantial changes in or alterations to any portion of the structure to determine to what extent it is subject to review. A substantial change includes alterations affecting the fire safety or structural integrity of the building, changes in service areas or services provided within a service area, changes in bed capacity, or any other change governed by the standards of this chapter. The department may request plans, specifications, or other information as may be required and shall make the final determination on those areas subject to review.
2. A facility shall submit plans and specifications to the department for all construction, remodeling, and installations subject to review. The plans and specifications must be prepared by an architect or engineer licensed in North Dakota, unless otherwise determined by the department.
3. Start of construction prior to approval by the department of the final plans and specifications is not permitted.
4. All construction, remodeling, and installations must be in accordance with the final plans and specifications approved by the department. Modifications or deviations from the approved plans and specifications must be submitted to and approved by the department.
5. The department may make inspections of construction, remodeling, or installations and arrange conferences with the facility to ensure conformance with approved plans and specifications.
6. The construction specifications must require the contractor to perform tests to ensure all systems conform to the approved plans and specifications.
7. Routine maintenance does not require the submission of plans and specifications. For the purpose of this subsection, routine maintenance means repair or replacement of existing equipment, room finishes and furnishings, and similar activities.

**History:** Effective.

**General Authority:** NDCC 23-09.3-09, 28-32-02.1

**Law Implemented:** NDCC 23-09.3-09

**33-03.24.2-07. Codes and standards.**

1. A basic care facility must be designed, constructed, equipped, maintained, and operated in compliance with:
  - a. This chapter;
  - b. The guidelines for residential health, care and support facilities, 2014 edition, compiled by the facility guidelines institute;
  - c. The national fire protection association 101 life safety code, 2012 edition;
  - d. North Dakota Century Code section 54-21.3-04.1, relating to accessibility for disabled persons;
  - e. The requirements for food and beverage establishments issued by the department;
  - f. Article 62-03.1 relating to plumbing standards;
  - g. Article 24-02 relating to electrical wiring standards;
  - h. Article 45-12 relating to boiler rules and regulations;
  - i. Article 33-15 governing air pollution control, relating to incinerators;  
and
  - j. Article 33-10 relating to radiological health.
2. A basic care facility must comply with all applicable building codes, ordinances, and rules of city, county, or state jurisdictions.
3. These standards are established to bring about a desired performance result. If specific limits are prescribed, equivalent solutions may be acceptable if approved in writing by the department as meeting the intent of these standards.

**History:** Effective.

**General Authority:** NDCC 23-09.3-09, 28-32-02.1

**Law Implemented:** NDCC 23-09.3-09

### 33-03-24.2-08. Fire safety.

1. The basic care facility shall comply with the national fire protection association life safety code, 2012 edition, chapters thirty-two and thirty-three, residential board and care occupancy, slow evacuation capability, or a greater level of fire safety.
2. Fire drills must be held monthly with a minimum of twelve per year, alternating with all workshifts. Residents and staff, as a group, shall either evacuate the building or relocate to an assembly point identified in the fire evacuation plan. At least once a year, a fire drill must be conducted during which all staff and residents evacuate the building.
3. Fire evacuation plans must be posted in a conspicuous place in the facility.
4. Written records of fire drills must be maintained. These records must include dates, times, duration, names of staff and residents participating and those absent and why, and a brief description of the drill including the escape path used and evidence of simulation of a call to the fire department.
5. Each resident shall receive an individual fire drill walk-through within five days of admission.
6. Any variation to compliance with the fire safety requirements must be approved in writing by the department.
7. Residents of facilities meeting a greater level of fire safety must meet the fire drill requirements of that occupancy classification.

**History:** Effective

**General Authority:** NDCC 23-09.3-09, 28-32-02(1)

**Law Implemented:** NDCC 18-01-03.2, 23-09.3-09

**33-03-24.2-09. General building requirements.** The basic care facility must be operated in conformance with all state and local laws, rules, and ordinances concerning fire safety and sanitation.

1. Lounge and activity space must be provided at a minimum of fifteen square feet [1.39 square meters] per licensed bed for recreation, visiting, and an activity program. The lounge and activity area may be used to accommodate religious services and activities. Each lounge area for resident use must be provided with an adequate number of reading lamps, tables, and chairs or couches. These furnishings must be well-constructed and accommodate the needs of the residents.
2. Kitchen. Dietary areas and equipment must be designed to accommodate the requirements for sanitary storage, processing, and handling.

3. Dining area.

- a. A minimum of fifteen square feet [1.39 square meters] per licensed bed must be provided for dining. Activity and dining areas must be separate.
- b. Dining room furnishings must be well-constructed, comfortable, in good repair, and must accommodate the needs of the residents. There must be a sufficient number of tables of suitable design to accommodate the needs of all residents using wheelchairs.

4. Resident bedrooms.

- a. All bedrooms used for residents must be dry, well-ventilated, and otherwise suitable for occupancy. Each room must have direct access to a corridor and have an outside wall with natural light provided by a window. Resident bedrooms licensed after the effective date of these rules must be at or above grade level.
- b. The glazed areas of the window may not be less than one-tenth of the floor area of the room. Windows must be easily opened and must be provided with screens.
- c. Room size will vary depending on the number of beds, but minimum floor dimensions may not be less than ten feet [3.05 meters]. In computing floor area, only usable floor space may be included. Single rooms must provide at least one hundred square feet [9.29 square meters]. Double rooms must provide at least eighty square feet [7.43 square meters] per bed.
- d. Each resident must be provided with a bed. Cots, rollaways, or folding beds may not be used. Double beds may be used if requested by the resident and there is adequate space. Each bed must be provided with springs in good repair and a clean, firm, comfortable mattress of appropriate size for the bed, as well as a minimum of one clean, comfortable pillow.
- e. Each bedroom window must have window shades, or an equivalent, in good repair.
- f. Light levels to meet the needs of residents and to allow for reading and safety must be provided.
- g. Each bedroom must be provided with a mirror unless there is a mirror in a toilet room opening into the bedroom. Each resident lavatory must be provided with a mirror.
- h. For each bed there must be furnished a minimum of two adequately sized dresser drawers, a chair, a bedside table or stand, an individual towel rack, and closet, locker, or

wardrobe space for hanging clothing within the room.

5. Toilet rooms and bathing facilities.
  - a. Separate toilets for public use must be provided.
  - b. Each bath and toilet room must be well-lighted.
6. The facility shall provide for adequate ventilation throughout to assure an odor-free, comfortable environment.
7. Office spaces and other areas must be furnished with desks, chairs, lamps, cabinets, benches, worktables, or other furnishings essential to the proper use of the area.

**History:** Effective

**General Authority:** NDCC 23-09.3-09, 28-32-02.1

**Law Implemented:** NDCC 23-09.3-04

**33-07-04.2-09. Codes and standards.**

1. A nursing facility must be designed, constructed, equipped, maintained, and operated in compliance with:
  - a. This chapter;
  - b. ~~The guidelines for construction and equipment of hospital and medical facilities, 1992-93 edition, compiled by the American institute of architects committee on architecture for health with the exception of the section related to design temperatures~~ residential health, care and support facilities, 2014 edition, compiled by the facility guidelines institute;
  - c. The national fire protection association 101 life safety code, ~~1985~~ 2012 edition;
  - d. North Dakota Century Code section 54-21.3-04.1, relating to accessibility for disabled persons;
  - e. ~~The food service sanitation manual~~ requirements for food and beverage establishments issued by the department;
  - f. Article 62-03.1 relating to plumbing standards;
  - g. Article 24-02 relating to electrical wiring standards;
  - h. Article 45-12 relating to boiler rules and regulations;
  - i. Article 33-15 governing air pollution control, relating to incinerators;  
and
  - j. Article 33-10 relating to radiological health.
2. A nursing facility must comply with all applicable building codes, ordinances, and rules of city, county, or state jurisdictions.
3. These standards are established to bring about a desired performance result. If specific limits are prescribed, equivalent solutions may be acceptable if approved in writing by the department as meeting the intent of these standards.

**History:** Effective July 1, 1996.

**General Authority:** NDCC 23-01-03, 28-32-02

**Law Implemented:** NDCC 23-16-01, 28-32-02

### 33-07-02.1-03. Codes and standards.

1. Hospitals must be designed, constructed, equipped, maintained, and operated in compliance with:
  - a. This chapter.
  - b. ~~The Guidelines for Construction and Equipment of Hospital and Medical Facilities, 1992-93 Edition, compiled by the American institute of architects committee on architecture for health~~ guidelines for hospitals and outpatient facilities, 2014 edition, compiled by the facility guidelines institute.
  - c. The national fire protection association 101 Life Safety Code, 1985 2012 Edition.
  - d. North Dakota Century Code section 54-21.3-04.1, relating to accessibility for disabled persons.
  - e. ~~Chapter 33-09-03 relating to certificate of need.~~
  - f. ~~Chapter 47-04-03.1 relating to sanitary requirements for food establishments~~ The requirements for food and beverage establishments issued by the department.
  - g. ~~Article 62-03.1~~ Article 62-03.1 relating to plumbing standards.
  - h. ~~Article 24-02~~ Article 24-02 relating to electrical wiring standards.
  - i. ~~The rules adopted by the insurance commissioner relating to boiler inspection~~ Article 45-12 relating to boiler rules and regulations.
  - jj. Article 33-15 governing air pollution control, relating to incinerators.
  - kj. Article 33-10 relating to radiological health.
2. Hospitals shall comply with all applicable building codes, ordinances, and rules of city, county, or state jurisdictions.
3. These minimum standards are established to bring about a desired performance result. If specific limits are prescribed, equivalent solutions will be acceptable if they are approved in writing by the department as meeting the intent of these standards.

**History:** Effective April 1, 1994.

**General Authority:** NDCC 23-01-03(3)(4), 28-32-02

**Law Implemented:** NDCC 23-16-05



**33-07-02.1-07. Conflict with federal requirements.** If any part of this chapter is found to conflict with federal requirements, the more stringent shall apply. Such a finding or determination shall be made by the department and shall not affect the remainder of this chapter.

**History:**

**General Authority:**

**Law Implemented:**