

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

21. “Unsecured 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 without restricting devices to restrict residents from freely exiting the building.
22. Unsecured unit” means a specific area of the facility that is kept, used, maintained, advertised, or held out to the public as an Alzhiemer’s, dementia, or special memory care unit that is separate from the residents in the remainder of the facility without a restricting device.

### **33-03-24.1-24. Optional Alzheimer’s, dementia, special memory care, or traumatic brain injury facility or unit services.**

A basic care facility or unit that admits or retains only residents with Alzheimer’s, dementia or special memory care needs in a secured or unsecured facility or unit, or a facility that admits and retains only residents with traumatic brain injury must comply with the additional 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. A basic care facility may not advertise or hold itself out to the public to provide specialized care to residents with Alzheimer’s, dementia, memory loss, or care for residents with traumatic brain injury unless licensed consistent with this section. The facility must meet the following requirements:

1. A basic care facility licensed to provide specialized services to residents in this section may admit and retain residents who require twenty-four hour per day dedicated personal care staff, however do not need more than intermittent nursing or medical care.
2. Residents with Alzheimer’s, dementia or special memory care needs, or traumatic brain injury admitted and retained must meet the basic care functional level of care and be capable of self-preservation.
3. The facility or unit licensed to provide specialized care and services to residents under this section shall provide:
  - a. Care of residents with chronic moderate to severe memory loss or an individual who has a significant emotional, behavioral, or cognitive impairments and needs services that may include independent living skills, support and training to promote and develop relationships, participate in the social life of the community, and develop behavioral skills as determined necessary based on assessment and careplan;
  - b. Protective oversight and supervision in a structured environment that is staffed with sufficient personal care and intermittent licensed nursing staff to monitor, evaluate and accommodate an individual’s changing needs;
  - c. Service in which assistance with activities of daily living and independent activities of daily living, therapeutic, social, and recreational programming is provided; and

- d. Care furnished in a way that fosters the maintenance or improvement, as appropriate, to promote independence of the resident.
4. The facility must develop a written policy related to resident rights and provide their policy to the resident or designee, verbally and in writing. The facility must ensure each resident's right to privacy, dignity and respect, and freedom from coercion and restraint by promoting individual initiative, autonomy, and independence in making life choices related to daily activities, physical environment, and with whom to interact. The facility or unit must comply with residents rights in North Dakota Century Code chapter 50-10.2, and:
  - a. Residents must be provided privacy in their sleeping or living area including entrance doors lockable by the individual, with only appropriate staff having keys to the doors;
  - b. Residents sharing a room with another resident must have a choice of roommate in that setting;
  - c. Residents must be granted the freedom to furnish and decorate their sleeping unit or living area to the extent allowable based on facility policy and fire code requirements;
  - d. Residents must have the freedom and support to control their schedules and activities and have access to food any time and eat where they choose;
  - e. Residents are allowed to have visitors of their choosing at any time;
  - f. Must have access to the community; and
  - g. Residents with Alzheimer's, dementia, or memory care needs must have access to a secured outdoor space.
5. The facility must develop a person centered care plan for each resident. The care plan must be completed following the functional assessment and be based on input from the resident, or designee.
6. The person-centered care plans must be reviewed quarterly, and anytime there is a change in need by the resident based on the assessment, and modified as needed.
7. A Basic care facility licensed to provide specialized services to residents in this section 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 residents. A minimum of eight educational hours on the following topics must be completed within three months from the date of hire. Nursing and personal care staff may not be assigned to work independently until they have successfully completed a competency evaluation. The areas to be covered include:
  - a. Dementia education, including progression of the disease, memory loss, and psychiatric and behavioral symptoms;
  - b. Techniques for understanding and approaching behavioral symptoms such as aggravating behaviors, sexual behaviors, and wandering, including alternatives to chemical and physical restraints;
  - c. Positive therapeutic interventions;
  - d. Strategies for addressing social needs and providing options for meaningful activities;

- e. Information on how to address aspects of care and safety such as pain, food, fluid, and wandering;
  - f. Communication issues;
  - g. Resident rights, including dignity, respect, choice, independence, and privacy; and
  - h. Strategies for providing person centered care.
8. Each nursing or personal care staff member shall annually receive a minimum of four hours of educational training in two or more of the topics identified in subsection 6 of this section.
  9. Nursing or personal care staff members must successfully complete a competency evaluation in the areas identified in subsection 7 of this section annually.
  10. For other staff members hired to work in a facility or unit licensed under this section, training upon hire and annual training shall include at a minimum an overview of dementia and communication issues, and may include other topics identified in subsection 6 of this section as needed.
  11. A basic care facility licensed to provide specialized services to residents in this section shall comply with the additional requirements in this section and receive approval on a printed new license from the department, prior to providing services to residents.
  12. The department may issue existing facilities a provisional license not to exceed one year to complete construction or remodel to come into compliance with environmental requirements if it does not pose a danger to the health and safety of the residents. An additional provisional license for no more than 6 months may be granted at the discretion of the department to complete the project.
  13. If the facility or unit is unable to meet the needs of the resident, or the resident no longer meets the criteria for retention, 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

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