CHAPTER 75-03-16
LICENSING OF GROUP HOMES AND RESIDENTIAL CHILD CARE FACILITIES

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Section 1. Section 75-03-16-01 is amended as follows:

75-03-16-01. Definitions. As used in this chapter:

1. "Department" means the North Dakota department of human services.
2. "Facility" means a residential child care facility or group home.
3. "Employee" means an individual compensated by the facility to work in a part-time, full-time, intermittent, or seasonal capacity for the facility. This definition is not inclusive to contracted service providers who come onsite to conduct trainings, treatment groups, individual therapy, or other program services.
4. "Nonemployee" means an individual who is not compensated by the facility, such as a volunteer or student intern.
5. "Out-based program" means a sequence of planned activities designed to provide therapeutic outdoor physical, environmental educational, athletic, or other activities which:
   a. Involve physical and psychological challenges;
   b. Are designed to:
      (1) Stimulate competence and personal growth;
      (2) Expand individual capabilities;
      (3) Develop self-confidence and insight; or
      (4) Improve interpersonal skills and relationships; and
   c. Take place in a setting of twenty-four-hour participant supervision.
6. "Overnight hours" means from eleven p.m. until seven a.m.
~~4~~7. "Participant" means a child participating in an out-based program.
~~5~~8. "Solo activity" means an experience in which an individual cares for himself or herself in a solitary setting away from others, but under ~~staff~~ employee supervision.
~~6~~9. "Utilization review" means a process that applies established criteria to evaluate the services provided in terms of cost-effectiveness, necessity, and effective use of resources.

History: Effective July 1, 1987; amended effective January 1, 1995; March 1, 1999; April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-03

Section 2. Section 75-03-16-02.6 is created as follows:

75-03-16-02.6. Increase or decrease bed capacity.

1. A facility may not increase or decrease bed capacity without approval of the department. A facility requesting a bed capacity change shall submit a request and projected twelve-month budget based on predictable funds for the forthcoming year of operation to the department licensor:
   a. At the time of the license renewal; or

b. In the event of a natural disaster.

2. To qualify for an increase, a facility must:
   a. Be in compliance with this chapter; and
   b. Submit a plan for the use of its beds.
3. The department shall review the facility's request and may approve or deny the request considering the programming need for the beds and the number of beds available.

History: Effective April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 25-03.2-03.1

Section 3. Section 75-03-16-12.1 is amended as follows:

75-03-16-12.1. Criminal conviction - Effect on operation of facility or employment by facility.

1. A facility operator may not be, and a facility may not employ, in any capacity that involves or permits contact between the employee and any child cared for by the facility, an individual who is known to have been found guilty of, pled guilty to, or pled no contest to:
   a. An offense described in North Dakota Century Code ~~chapter~~ chapters 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code ~~section~~ sections 12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 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; or North Dakota Century Code section 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; 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.
      (1) The department will 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.
      (2) An offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community corrections or imprisonment,

without subsequent conviction, is prima facie evidence of sufficient rehabilitation.

2. The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing on the individual's ability to serve the public in a capacity involving the provision of foster care to children.
3. In the case of a misdemeanor simple assault described in North Dakota Century Code section 12.1-17-01, 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 ~~fifteen~~ 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 charge or conviction. The department may not be compelled to make such determination.
4. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
   a. Common knowledge in the community;
   b. Acknowledged by the individual; or
   c. Reported to the facility as the result of an employee background check.
5. A facility shall establish written policies and engage in practices that conform to those policies, to effectively implement this section, North Dakota Century Code section 50-11-06.8, and subsection 4 of North Dakota Century Code section 50-11-07.

History: Effective March 1, 1999; amended effective April 1, 2004; April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 4. Section 75-03-16-13 is amended as follows:

75-03-16-13. Minimum ~~staff~~ employee requirements.

1. For purposes of this section:
   a. "Reside" means to sleep and keep personal effects; and
   b. "Structure" means a building that is or may be free standing. The existence of a walkway, tunnel, or other connecting device on, above, or below ground is not effective to make one structure from two or more component structures.
2. For purposes of this section, social service, program director, and administrator ~~staff~~ positions are expressed in full-time equivalents.
3. ~~Every~~ Each facility shall adopt a policy declaring ~~the normal sleeping~~ employee coverage for overnight hours ~~for~~ in the facility ~~which shall not exceed eight hours per day~~.
4. Each facility shall comply with the following minimum ~~staff-to-child~~ employee-to-child ratio requirements for social service ~~staff~~ employees, program director, and administrator:

a. One social service ~~staff~~ employee and a half-time administrator for a facility providing services for one to nine children; and
b. No less than one social service ~~staff~~ employee for each sixteen children, one program director, and one administrator for a facility providing services for ten or more children.

5. During ~~waking~~ awake hours each facility shall have:
   a. One ~~child care staff~~ direct care employee on duty during times when one to nine children are present in the facility; and
   b. No less than one ~~child care staff~~ direct care employee on duty for each eight children during times when ten or more children are present in the facility.
6. During ~~sleeping~~ overnight hours each facility shall have:
   a. Awake direct care employees;
   b. ~~no~~ No less than one ~~child care staff~~ direct care employee on duty for each sixteen children who are present in the facility; and
   c. A policy describing how often employees will check on children in placement during overnight hours.
7. During ~~sleeping~~ overnight hours each facility structure in which ~~a child resides~~ children reside must meet ~~staff-to-child ratio for child care staff~~ the employee-to-child ratio requirements.
8. A facility which operates more than one structure in which children reside shall count the children in all structures collectively for purposes of determining the number of children for which the facility provides services, the need to employ a program director, ~~and~~ the required number of social service ~~staff~~ employees, and to determine the appropriate employee-to-child ratios.
9. Educational ~~staff~~ program employees may not be counted as ~~child care staff~~ direct care employees, social service ~~staff~~ employees, an administrator, or a program director during any time ~~the educational staff provides~~ educational services are provided.
~~10. Subsections 4, 5, 6, and 8 are effective January 1, 2000, with respect to any facility licensed as of the effective date of this subsection provided that facility maintains staff-to-child ratios no less than those in effect on the effective date of this subsection. This subsection is ineffective after December 31, 1999.~~

History: Effective July 1, 1987; amended effective March 1, 1999; April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 5. Section 75-03-16-19.1 is created as follows:

75-03-16-19.1. Sentinel event reporting.

1. Facilities shall immediately notify the child's custodian, parent, or guardian and the human service center regional child welfare supervisor of a sentinel event.

2. A sentinel event is an unexpected occurrence involving death or serious physical or psychological injury that is not related to the natural course of a child in placement's illness or underlying condition, including any process variation for which a recurrence would carry a significant chance of a serious adverse outcome. Serious injury includes inappropriate sexual contact.

History: Effective April 1, 2014
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 6. Section 75-03-16-19.2 is created as follows:

75-03-16-19.2 Suicide prevention. The facility shall develop a suicide prevention plan that addresses several key components including:

1. Employee training;
2. Initial and on-going child assessments;
3. Levels of supervision for children in placement;
4. Intervention options;
5. Facility communication, notification, and referral procedures;
6. Reporting and documentation; and
7. Sentinel event debriefing procedures.

History: Effective April 1, 2014
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 7. Section 75-03-16-23 is amended as follows:

75-03-16-23. Medical care.

1. The facility shall adopt a comprehensive written plan of preventive, routine, and emergency medical care including first aid, dental care, and administration of prescription and nonprescription medicine.
2. ~~A~~ The facility shall maintain first-aid supplies, including the red cross first-aid manual, in quantities and locations so that they are reasonably accessible at all times.
3. ~~Any serious accident or illness requiring hospitalization or resulting in death must be reported to the parent, guardian, or legal custodian. Any death must be reported immediately to the department.~~ The facility shall have policies governing the use of psychotropic medications. The custodian, parent, or guardian of a child in placement must each be informed of benefits, risks, side effects, and potential effects of psychotropic medications prescribed for the child. Written consent for use of the medication must be obtained and placed in the child's file. When a psychotropic medication is prescribed or discontinued for a child in placement; the child's medication regime must be reviewed by a psychiatrist or prescribing medical doctor weekly for the first thirty days.

4. A record must be kept of prescription and nonprescription medication dispensed to ~~each child~~ children in placement, including the physician's medication order, the time, means, and frequency of administration, and the individual administering such medication.
5. All prescription and nonprescription medicines ~~and drugs~~ must be labeled and stored in a locked ~~compartments except those~~ storage compartment at the facility and during transport. Medication requiring refrigeration ~~which~~ must be properly stored and locked at the proper temperature.
6. ~~Facility staff shall retain possession of nonprescription medications.~~
7. ~~All pet inoculations must comply with local and state requirements.~~
8. Unless effective measures are taken to prevent transmission, any child suffering from a serious communicable disease must be isolated from other children who have not been infected.

History: Effective July 1, 1987; amended effective March 1, 1999; April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 8. Section 75-03-16-29 is amended as follows:

75-03-16-29. Buildings, grounds, and equipment.

1. A facility shall comply with all state, county, and local building and zoning codes and ordinances as well as all applicable state, county, and local safety, sanitation laws, codes, and ordinances.
2. A facility must be inspected annually by the local fire department or the state fire marshal's office. A facility shall correct any deficiencies found during these inspections. The facility shall keep a written report of the annual inspection ~~on file at the facility or other designated location,~~ and provide a copy ~~sent~~ to the ~~licensing authority~~ department.
3. All chimneys, flues, and vent attachments to combustion-type devices must be structurally sound, appropriate to the unit or units attached to them, and cleaned and maintained as necessary to provide safe operation. The heating system of each facility, including chimneys and flues, must be inspected at least once each year by a qualified individual.
4. There shall be at least one 2A 10BC fire extinguisher on each floor and in or immediately adjacent to the kitchen, incinerator, and combustion-type heating units. Additional fire extinguishers must be provided so it is never necessary to travel more than seventy-five feet [22.86 meters] to an extinguisher. Fire extinguishers must be mounted on a wall or a post where they are clearly visible and at a readily accessible height. All required fire extinguishers must be checked once a year and serviced as needed. Each fire extinguisher must have a tag or label securely attached indicating the month and year the maintenance check was performed last and identifying the individual who performed the service.
5. The facility shall provide the following smoke detectors:
   a. One unit for each bedroom hallway;
   b. One unit at the top of each interior stairway; and

c. One unit for each room with a furnace or other heat source.

6. Battery-operated smoke detectors must signal when the battery is exhausted or missing, and be tested at least once a month.

7. A facility shall have written plans and procedures for meeting disasters and emergencies.
   a. ~~Staff members~~ Employees must know all plans and procedures for meeting disasters and emergencies.
   b. The facility shall advise ~~each child in the facility~~ children in placement of all emergency and evacuation procedures upon admission to the facility. These procedures shall be reviewed ~~with the children~~ every ~~two months~~ month, including the performance and documentation of fire evacuation drills.
   c. The facility shall have telephones centrally located and readily available for ~~staff~~ use in each living unit of the facility. Emergency numbers including the fire department, police, hospital, physician, and ambulance must be written and posted by each telephone. There must be telephone service in all buildings housing children in placement.
   d. There must be at least two independent exits from every floor. The exits must be located so that children in placement can exit from each floor in two separate directions, without going through a furnace room, storage room, or other hazardous area.
   e. Flashlights must be available ~~to all staff~~ for emergency purposes.

8. Any vehicle used by a facility for the transportation of children ~~or staff~~ in placement, employees, or nonemployees must be licensed in accordance with the laws of North Dakota and must be maintained and periodically inspected to ensure its safe operating condition.
   a. Vehicles used to transport children in placement must be covered by liability insurance.
   b. The number of persons in a vehicle used to transport children in placement may not exceed the number of available seats. All individuals shall wear seatbelts in vehicles that are equipped with seatbelts.
   c. Any operator of any vehicle shall hold a valid driver's license of the appropriate class from the operator's jurisdiction of residence.

9. All buildings must be equipped with furnishings suitable to needs of the children in placement. Recreational space and equipment must be safe, functional, and available for all children ~~in the facility~~ in placement.

10. The facility shall have one centrally located living room for the informal use of children in placement.

11. The facility shall have a dining room area large enough to accommodate the number of individuals who normally are served.

12. A facility shall provide space and privacy for individual interviewing and counseling sessions. This space must be separate and apart from rooms used for ongoing program activities.

13. A facility shall have bedroom accommodations for the children in

placement.

a. The facility shall have at least one bedroom for each four children in placement.
b. The facility may not permit nonambulatory children in placement to sleep above or below the ground floor.
c. There must be no more than one child in placement per bed. Triple bunks may not be used.
d. No child in placement six years of age or older may share a bedroom with a child in placement of the opposite sex.
e. All bedrooms must have at least one window which opens to the outside.
f. No sleeping room may be in an unfinished attic, hallway, or other room not normally used for sleeping purposes.
g. A basement which has over half its outside walls below grade and no door opening directly to the outside may not be used for bedrooms.
h. Furnishings must be safe, attractive, easy to maintain, and selected for suitability to the age and development of the children in ~~care~~ placement.
i. A facility shall have sufficient individual storage areas to accommodate ~~each child's~~ children in placement's clothing and other personal belongings.

14. A facility shall have one complete bathroom for each six ~~residents~~ children in placement. A complete bathroom includes toilet, washbasin, and a tub or shower.
    a. All bathroom facilities must be indoors, equipped with hot and cold running water, and kept clean.
    b. When bathroom units contain more than one toilet, tub, or shower, each must be in a separate compartment.
    c. The facility shall provide bathrooms with nonslip surfaces in showers or tubs.
15. Facilities shall ensure that kitchen equipment and area meet the standards prescribed by the state department of health for food and beverage establishments. Compliance with these standards must be documented annually and ~~the~~ inspection documentation ~~kept on file at the facility for other designated location within the state of North Dakota~~ shall be provided to the department.
    a. Food storage space must be clean and containers must be covered and stored off the floor.
    b. Dishes, cups, and drinking glasses used by the children in placement must be free of chips, cracks, and other defects, and must be sanitized after every use by a washing process, sanitization solution, and air-drying or commercial dishwasher.
    c. Kitchen floors must be reasonably impervious to water, slip-resistant, and maintained in a clean and dry condition.
16. Laundry facilities must be located in an area separate from areas

occupied by children in placement. Space for sorting, drying, and ironing must be made available to children in placement who are capable of handling personal laundry.

17. The water supply of a facility must be from an approved municipal system where available. Where a municipal system is not available, the facility shall obtain approval for the water supply from the state department of health. Each water outlet accessible to children in placement must be supplied with safe and potable water.
18. All agricultural chemicals, pesticides, and other poisons must be stored in a locked cabinet.
19. Firearms are prohibited in program or living areas of a facility premises. Firearms kept at any other location on the facility premises must be stored in a locked and secure area.
20. A facility shall have a quiet area to be used for studying and furnished for that purpose.
21. All rooms in a facility must have adequate lights, heat, and ventilation. All baths and toilet rooms must have a window which opens to the outside or exhaust ventilation.
22. Buildings and grounds of a facility must be maintained in a clean, comfortable, sanitary, and safe condition.
    a. The facility may not be located within three hundred feet [91.44 meters] of an aboveground storage tank containing flammable liquids used in connection with a bulk storage or other similar hazards.
    b. The grounds must be attractive, well-kept, and spacious enough to accommodate recreational areas that take into consideration the age and interest levels of ~~the~~ children in placement.
    c. Rooms, exterior walls, exterior doors, skylights, and windows must be weathertight and watertight.
    d. Stairways, porches, and elevated walks and ramps must have structurally sound and safe handrails.
    e. Buildings must be free of unabated asbestos.
    f. Lead paint may not be used within a building or on the exterior, grounds, or recreational equipment.
23. Any non-housing buildings located on the facility property must be locked when not in use by facility employees, nonemployees, or children in placement. Children in placement must be supervised by an employee when entering a non-housing building.
24. All pet inoculations must comply with the local and state requirements.
25. A facility must immediately notify the ~~responsible placing agency~~ custodian, parent, or guardian and the department of a fire or other disaster which endangers or requires the removal of children for reasons of health and safety.

History: Effective July 1, 1987; amended effective March 1, 1999; April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

Section 9. Section 75-03-16-31 is created as follows:

75-03-16-31. ~~[Reserved]~~ Outcomes Data Collection. The department may require a facility to engage in data management practices to collect and report outcomes every six months. Data collection efforts will offer facilities a continuous improvement process that measures and monitors the safety, well-being, and service delivery provided to children in placement. Facilities must have written policy to identify a plan to implement, collect, and measure outcomes data requirements.

History: Effective April 1, 2014.
General Authority: NDCC 50-11-03
Law Implemented: NDCC 50-11-02

CHAPTER 75-03-17
PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN

SECTION 10. Section 75-03-17-01 is amended as follows:

75-03-17-01. Definitions.

1. "Applicant" means the entity requesting licensure as a psychiatric residential treatment facility for children under this chapter.
2. "Child" or "children" means a person or persons under the age of twenty-one.
3. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery provided by qualified mental health professionals.
4. "Department" means the department of human services.
5. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a ~~mentally ill~~ person with a mental illness using diagnostic, interview, and other relevant assessment techniques provided by a mental health professional.
6. "Discharge planning" means the multi-disciplinary process that begins at the time of admission that identifies the child's and family's needed services and supports upon discharge.
7. "Family-driven" means the family has a primary decision-making role in

the care of its own children.

8. "Individual person-centered treatment plan" means a written plan of intervention, treatment, and services ~~for a mentally ill person~~ that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.

~~7.~~9. "Initial license" means a license for a new facility that is in effect for one year.

~~8.~~10. "Mental health professional" means:

a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota state board of psychologist examiners;

b. A social worker with a master's degree in social work from an accredited program;

c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program;

d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a registered nurse, as defined by subdivision c, or an expert examiner;

e. A licensed addiction counselor; or

f. A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond a master's degree, as required by the national academy of mental health counselors, or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.

~~9.~~11. "~~Mentally ill person~~ Person with a mental illness" means an individual with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. "~~Mentally ill person~~ Person with a mental illness" does not include an individual with intellectual disabilities of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although an individual who has intellectual disabilities may suffer from a mental illness. Chemical dependency does not constitute mental illness, although an individual suffering from that condition may be suffering from mental illness.

~~10.~~12. "Residential treatment facility for children" means a facility or a distinct part of a facility that provides to children and adolescents a total, twenty-four-hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less restrictive setting. The facility must be in

compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441.

~~11.~~13. "Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board-certified diplomat in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.

~~12.~~14. "Residential treatment" means a twenty-four-hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of ~~mentally ill~~ persons with mental illness.

15. "Serious injury" means any significant impairment of the physical condition of the child as determined by qualified medical personnel. This includes burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

16. "Serious occurrence" means an incident in which a resident has died, has sustained a serious injury, or has attempted suicide.

~~13.~~17. "Special treatment procedures" are defined as follows:

a. "Drug used as a restraint" means any drug that:
   (1) Is administered to manage a resident's behavior in a way that reduces the safety risk to the resident or others;
   (2) Has a temporary effect of restricting the resident's freedom of movement; and
   (3) Is not a standard treatment for the resident's medical or psychiatric condition.

b. "Emergency safety interventions" means the use of restraint or seclusion as an immediate response to an emergency safety situation.

c. "Emergency safety situation" means unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.

d. "Mechanical restraint" means any device attached or adjacent to the resident's body that the resident cannot easily remove that restricts freedom of movement or normal access to the resident's body.

e. "Personal restraint" means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort the resident, or holding a resident's hand to safely escort a resident from one area to another.

f. "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a resident who is acting out to walk to a safe location.

g. "Restraint" means a personal restraint, mechanical restraint, or drug used as a restraint.

h. "Seclusion" means the voluntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

i. ~~"Serious injury" means any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.~~

~~j.~~ "Timeout" means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

18. "Trauma-informed" means an understanding of the prevalence of traumatic experiences in a child who receives mental health services and of the profound neurological, biological, psychological, and social effect of trauma and violence on the child being treated.

19. "Youth-guided" means a child has the right to be empowered, educated, and given a decision-making role in the care of the child's own life.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; July 1, 2012; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-01, 25-03.2-03

SECTION 11. Section 75-03-17-02 is amended as follows:

75-03-17-02. Procedures for licensing.

1. **Application.** An application for license or for renewal as a facility must be submitted to the department ~~which~~. The department shall determine the suitability of the applicant for licensure under this chapter. The application must contain any materials ~~that~~ the department may require, including:
   a. An architectural plan;
   b. A comprehensive list and description of the program plan which includes:
      (1) A plan demonstrating compliance with this chapter;
      (2) A copy of current accreditation certification, accreditation letter, and findings report.
      (3) The facility's organizational chart.
      (4) The treatment modalities offered, including milieu therapy, family therapy, psychopharmacology, and psychotherapy;
      ~~(3)~~(5) Prohibited treatment modalities; and
      ~~(4)~~(6) The services provided directly by the facility and those provided by other community resources, including special education as required by law and contracted services;
   c. The funding base for building and operating the facility, including a

projected twelve-month budget based on predictable funds and, for a new facility, a statement of available funds or documentation of available credit sufficient to meet the operating costs for the first twelve months of operation; ~~and~~

d. A copy of all policies and procedures as required by this chapter with a comprehensive plan for their implementation.

e. A list of qualified mental health professionals and mental health professional staff employed or to be employed by the facility.

~~f.~~

2. The license to operate a psychiatric residential treatment facility for children must specify:

~~(1)~~a. The name of the licensee;

~~(2)~~b. The premises ~~to~~ for which the license is applicable;

~~(3)~~c. The number of children who may ~~be received in~~ reside at the ~~premises~~ facility at any one time; ~~and~~

~~(4)~~d. The date of expiration of the license;

e. The facility license number, and

f. The name of the accreditation body.

~~2.~~3. **Initial license and license renewal.**

a. An initial license for a new facility is in effect for one year. Subsequent licenses shall be renewed at least once every two years, either through a full onsite license review or the facility may receive deemed status, at the discretion of the department.

b. The license ~~must identify the number and age groupings of children who may receive care,~~ is valid only on the premises indicated~~,~~ and is not transferable.

c. License renewals are based on the outcomes of the department's licensure reviews, the facility's ongoing compliance with the licensure rules set forth in this chapter, and the facility's accreditation standings. The facility must list the department as a confidential inquiry for the accrediting body on their accreditation intent to survey prior to each accreditation review. If the accrediting body determines a facility to not be in good standing, the facility shall report that determination to the department within five working days after the facility has learned of that determination.

d. A facility shall submit a license renewal application on a form required by the department to the department licensor forty-five days prior to the date the department has notified the facility will be the date the facility's licensure review will begin.

~~3.~~4. **Provisional license.** ~~A~~ The department may issue a provisional license, effective for up to ninety days, to a facility ~~may receive a provisional license for ninety days if the facility~~ that has failed to comply with any of the standards of this chapter or with any other state law or regulation, compliance with which is required for licensure ~~is cause for issuance of a provisional license~~. The facility will have ~~ninety~~ thirty days from the issuance of the provisional license to submit a written plan of correction for

the department's review and approval. The department may perform an onsite ~~followup~~ follow-up visit to assure that the standards have been met by the facility.

a. The department may renew a provisional license if the licensee demonstrates to the department that it has made progress towards compliance and can be fully compliant within the next ninety days. A provisional license may be renewed but may not exceed one hundred eighty consecutive days.

b. When a facility operating under a provisional license notifies the department that it has corrected its deficiencies, the department must ascertain whether all deficiencies have been corrected. Upon finding compliance and sustainability, the department shall issue an unrestricted license for the balance of the licensing period.

c. The department may apply restrictions to a provisional license to limit the number of children in residence or the ages of the children in residence while the provisional license is in effect.

~~4.~~5. A facility shall display its license in a conspicuous place within the facility.

6. A facility shall notify the department in writing at least thirty days before any of the following changes occurs:

a. Transfer of or change in ownership.

b. Transfer of operating rights, including a lease of the facility where the lessor retains no control of the operation or management of the facility.

c. Change in the name of the facility.

~~4.~~7. **Denial and revocation of a license.** Failure to comply with any of the standards of this chapter or other state law or regulation is cause for refusal or revocation of a license. Conviction of an offense by an owner or operator of a facility does not disqualify the facility from licensure unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a psychiatric residential treatment facility for children, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

~~5.~~8. **Appeal.** An applicant may appeal a license denial or a department decision not to allow an increase or decrease in bed capacity in accordance with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code chapter 75-01-03.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-05

SECTION 12. Section 75-03-17-03 is amended as follows:

75-03-17-03. Organization and administration.

1. **Governing body.** The applicant must have a governing body that

designates or assigns responsibility for the operation, policies, program, and practice of the facility. The governing body is responsible for the quality of resident care services; the residents' security and safety; the conduct of operation, obligations of the facility; and assuring compliance with all federal, state and local laws. The governing body shall:

a. Define:
   (1) The facility's philosophy;
   (2) The facility's purpose;
   (3) The facility's function;
   (4) The geographical area served by the facility;
   (5) The ages and types of children accepted for care by the facility; and
   (6) The clinical disorders addressed by the facility's program;

b. Ensure that all policies and procedures required by this chapter are in writing and on file at the facility and are accessible to all staff and residents;

c. Develop a records retention policy and procedures consistent with state and federal law;

d. Assure that all vehicles transporting children are:
   (1) Subject to routine inspection and maintenance;
   (2) Licensed by the state motor vehicle department;
   (3) Equipped with seatbelts for every passenger;
   (4) Equipped with a first-aid kit and a fire extinguisher;
   (5) Carrying no more individuals than the manufacturer's recommended maximum capacity;
   (6) Disability accessible where appropriate; and
   (7) Driven by an individual who holds a valid driver's license, of a class appropriate to the vehicle driven, issued by the driver's jurisdiction of residence; and

e. Obtain sufficient insurance, including:
   (1) Liability insurance covering bodily injury, property damage, personal injury, professional liability; and
   (2) Automobile or vehicle insurance covering property damage, comprehensive, collision, uninsured motorist, bodily injury, and no fault.

2. **Legal status.** The applicant shall provide to the department:

a. A copy of the articles of incorporation, bylaws, partnership agreement, or articles of organization and any evidence of required legal registration of the entity;

b. A current list of partners or members of the governing body and any advisory board, including the address, telephone number, principal occupation, and term of office of each listed person;

c. A statement disclosing the owner of record of any building, facility, or major piece of equipment occupied or used by the applicant, the relationship of the owner to the applicant, the cost of such use, if any, to the applicant, and the identity of the entity responsible for

the maintenance and upkeep of the property; and

d. Whether the owner, operator, or an employee of the facility is or has been found guilty of an offense determined by the department to have a direct bearing on the person's ability to serve as an owner, operator, or employee, or the department determined, following conviction of an offense, that the person is not sufficiently rehabilitated under North Dakota Century Code section 12.1-33-02.1.

3. **Financial plan.** The applicant shall have a financing plan which includes a twelve-month budget, and which shows the facility's financial ability to carry out its purposes and function. A new applicant shall have sufficient funds available for the first year of operation.

4. **Audits.** All financial accounts must be audited annually by a certified public accountant. The facility shall make the audit report ~~must be made~~ a part of the facility's records ~~and~~. The report must contain the accountant's opinion about the facility's present and predicted financial solvency. The facility shall submit the report with an application for license renewal.

5. **Quality assurance.** The applicant shall ~~have~~ implement a quality assurance program ~~that monitors~~ approved by the department for assessing and improving the quality of services and care provided to residents. The applicant shall create policies and procedures and have them in place to implement its facility's quality assurance program. The program must monitor and ~~evaluates~~ evaluate the quality and appropriateness of ~~child~~ care of children, and ~~provides~~ provide a method for problem identification, corrective action, and outcome monitoring. The quality assurance program must include:
   a. A plan for child and staff safety and protection;
   b. A method to evaluate personnel performance and the utilization of personnel;
   c. A system of credentialing, granting, and withholding staff privileges;
   d. A method to review and update policies and procedures assuring the usefulness and appropriateness of policies and procedures;
   e. A method to review the appropriateness of admissions, care provided, and staff utilization;
   f. A plan for the review of individual treatment plans;
   g. A plan for program evaluations that includes measurements of progress toward the facility's stated goals and objectives; and
   h. A method to evaluate and monitor standards of resident care.

6. **Occupancy Rates.** On or after July 1, 2016, a facility licensed under this chapter must operate at a ninety percent occupancy rate. To progress to the ninety percent occupancy rate, a facility must demonstrate an eighty percent occupancy rate by July 1, 2014, and an eighty-five percent occupancy rate by July 1, 2015. If a facility reduces its bed capacity to meet the ninety percent occupancy standard, the facility may increase its bed capacity only by adding the unlicensed beds back upon request, and with department approval, at the facility's biennial licensure review.

7. **Children's case records.** ~~The applicant~~ The facility shall ~~maintain~~ establish and implement policies and procedures to ensure the facility maintains a confidential record for each child which must be current and reviewed monthly. Each record must contain:
   a. An application for service;
   b. A social history;
   c. A release of information and medical treatment consent form signed by a person who may lawfully act on behalf of the child and any consent for the use of psychotropic medications as required under subdivision d of subsection 10 of section 75-03-17-07;
   d. The name, address, and telephone number of individuals to be contacted in an emergency;
   e. Reports on medical examinations, including immunizations, any medications received, allergies, dental examinations, and psychological and psychiatric ~~examinations~~ evaluations which occurred prior to the placement;
   f. An explanation of custody and legal responsibility for the child and relevant court documents, including custody or guardianship papers;
   g. Documentation on all medical examinations, including immunizations, all medications received, allergies, dental examinations, psychological and psychiatric evaluations received during placement;
   h. Documentation of medical care given during placement as a result of an admission to the hospital or inpatient care, ~~A record of the medical care given at the facility,~~ including:
      (1) Hospitalization admission and discharge records to include history and physical;
      (2) ~~Prescriptions used~~ Medications administered, with the quantity, directions, physician's name, date of issue, and name of the pharmacy indicated; and
      (3) Significant illnesses or accidents;
   i. Records of the annual medical examination required under section 75-03-17-07; and
   ~~h.~~j. A written agreement between a person who may lawfully act on behalf of the child and the facility and a record that the person who acted on behalf of the child received a copy. The agreement must include:
      (1) A statement as to who has financial responsibility;
      (2) How payments are to be made to cover the cost of care;
      (3) Which items are covered by the normal or regular facility charges for care;
      (4) Medical arrangements, including the cost of medical care;
      (5) Visiting arrangements and expectations;
      (6) Arrangements for clothing and allowances;
      (7) Arrangements for therapeutic leave;

(8) Regulations about gifts permitted;
(9) Arrangements for participation by the person who acted on behalf of the child through regularly scheduled interviews with designated staff;
(10) The facility's policy on personal monetary allowance to be provided to the child at the facility;
(11) Records of special treatment orders; and
(12) Educational arrangements.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 13. Section 75-03-17-04 is amended as follows:

75-03-17-04. Admissions.

1. A child may be admitted to a psychiatric residential treatment facility for children if the child has been diagnosed by a psychiatrist or psychologist as suffering from a mental illness or emotional disturbance and the child is in need of and is able to respond to active psychotherapeutic intervention and cannot be effectively treated in the child's family, in another home, or in a less restrictive setting. The facility shall take into account the age and diagnosis of the child in order to provide an environment that is safe and therapeutic for all children. The facility may admit only those ~~prospective~~ children who are found eligible according to the facility's admission policies. Every facility shall have specific admission policies that describe which professional staff have admission authority and describe the membership of the facility's admission committee or committees. Admission committee membership must include a psychiatrist.
2. a. ~~Admission~~ A facility shall base admission decisions upon:
   (1) A social history which includes presenting problems, family background, developmental history, educational history, and employment;
   (2) A ~~medical~~ psychosocial history which includes current status, any relevant findings of previous physical or psychiatric evaluations, and a list of the ~~prospective~~ child's current medications and allergies ~~and the facility will provide for a medical and psychological assessment of each child within seventy-two hours of admission and thereafter as needed by the child~~; ~~and~~
   (3) Prior psychological and addiction evaluations; and
   (4) Other assessments including trauma, suicide, substance use or abuse, and eating disorders.

   b. The facility shall obtain the child's known history and prior evaluations ~~should be obtained~~ from the referral source before admission~~, and if not obtained before admission, then the~~

~~information must be requested within three working days after admission~~.

3. The facility shall grant or deny admission within fourteen days of receipt of a completed universal application.
4. If admission is denied, the facility shall indicate the reason in writing to the individual or referral source making the application for placement.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-06

SECTION 14. Section 75-03-17-05 is amended as follows:

75-03-17-05. Diagnosis and treatment while at the facility.

1. **Duties of the facility.** The facility shall:
   a. Provide for a medical and psychological assessment of each child within seventy-two hours of admission and thereafter as needed by the child;
   b. Keep the child in contact with the child's family and relatives ~~if possible~~ by initiating family therapy upon admission and developing a plan for continued family therapy throughout placement for timely reunification of the child with the family. The plan must include therapeutic telemedicine options such as web cam, polycom access, phone therapy or other means of electronic contact to provide ongoing therapeutic connection with the child's family;
   ~~b.~~ c. Involve the families and the person who may lawfully act on the behalf of the child in the person-centered treatment plan ~~if possible~~;
   ~~c.~~ d. Provide ~~or arrange for~~ ongoing and consistent family therapy ~~when necessary~~ for all residents with supporting documentation that ties therapeutic treatment to the person-centered plan. When family therapy is not occurring or is not in the best interest of the child, the child's case file must include documentation explaining why family therapy is not occurring;
   ~~d.~~ e. Provide conferences involving the facility, the person who may lawfully act on behalf of the child, the referring agency, and when appropriate, the child, to review the case status and progress on a monthly basis;
   ~~e.~~ f. Provide a progress report to the referring agency, and the person who ~~acted~~ lawfully may act on the child's behalf every three months; ~~and~~
   ~~f.~~ g. Complete ~~a written biopsychosocial assessment~~ for each child admitted for care within five business days ~~and develop~~ an individual person-centered treatment plan that includes:
      1. A psychiatric history;
      2. A mental status examination, including a suicide screening;
      3. A trauma screening;

4. Intelligence and projective tests, as necessary; and
5. A behavioral appraisal; and

h. Therapeutic leave such as weekend overnight visits or day passes with family must be documented in the child's case file and be tied to family therapy and therapeutic goals of the child and family.

2. **Specialists.** The services of specialists in the fields of medicine, psychiatry, nursing, psychology, and education must be used as needed. Each facility shall provide a minimum of one-half hour per week per bed of psychiatric time and twenty hours per week of nursing time.

3. **Individual person-centered treatment plan.**

a. The facility shall develop and implement an individual person-centered treatment plan that includes the child's input giving the child a voice and a choice in the treatment planning and interventions used. The plan must be based upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the family, identifies the goals and objectives of the therapeutic activities and treatment~~,~~. The plan provides a schedule for accomplishing the therapeutic activities and treatment goals and objectives, and identifies the individuals responsible for providing services to children consistent with the individual person-centered treatment plan. Clinical supervision for the individual person-centered treatment plan must be accomplished by full-time or part-time employment of or contracts with qualified mental health professionals. Clinical supervision must be documented by the qualified mental health professionals cosigning individual person-centered treatment plans and by entries in the child's record regarding supervisory activity. ~~To the extent possible, the~~ The child, and the person who ~~acted~~ lawfully may act on the child's behalf, must be involved in all phases of developing and implementing the individual person-centered treatment plan. The child may be excluded from planning if excluding the child is determined to be in the best interest of the child and the reasons for the exclusion are documented in the child's plan.

b. The plan must be:

(1) Based on a determination of a diagnosis using the first three axes of the multiaxial classification of the current Diagnostic and Statistical Manual of Mental Disorders and a biopsychosocial assessment. In cases where a current diagnosis by a mental health professional has been completed within thirty days preceding admission, only updating is necessary;

(2) Developed within five business days of admission; and

(3) Reviewed at least monthly and updated or amended to meet the needs of the child by an interdisciplinary team including one qualified mental health professional.

c. The person-centered treatment plan must identify:

(1) Treatment goals ~~to~~ that address the ~~problems~~ therapeutic treatment needs of the child and family;
(2) Timeframes for achieving the goals;
(3) Indicators of goal achievement;
(4) The individuals responsible for coordinating and implementing child and family treatment goals;
(5) ~~Staff~~ Therapeutic intervention or techniques or both for achieving the child's treatment goals;
(6) The projected length of stay and ~~next placement~~ discharge plan; and
(7) ~~When referrals are~~ Referrals made to other service providers based on treatment needs, and the reasons referrals are made.

4. **Work experience.**
   a. If a facility has a work program, it shall:
      (1) Provide work experience that is appropriate to the age and abilities of the child, therapeutically relevant to the child's treatment plan and treatment needs, and approved by the treatment team;
      (2) Differentiate between the chores that ~~children are~~ the child is expected to perform as ~~their~~ the child's share in the process of living together, specific work assignments available to ~~children~~ the child as a means of earning money, and jobs performed in or out of the facility to gain vocational training; and
      (3) Give ~~children~~ the child some choice in ~~their~~ the child's chores and offer change from routine duties to provide a variety of experiences.
   b. Work may not interfere with the child's time for school study periods, play, sleep, normal community contacts, or visits with the child's family.
   c. The facility shall obtain written authorization for work experience in writing from a person who lawfully may act on behalf of the child.
5. **Solicitation of funds.** A facility may not use a child for advertising, soliciting funds, or in any other way that may cause harm or embarrassment to a child or the child's family. A facility may not make public or otherwise disclose by electronic, print, or other media for fundraising, publicity, or illustrative purposes, any image or identifying information concerning any child or member of a child's immediate family, without first securing the child's written consent and the written consent of the person who may lawfully act on behalf of the child. The written consent must apply to an event that occurs no later than ninety days ~~from~~ after the date the consent was signed and must specifically identify the image or information that may be disclosed by reference to dates, locations, and other event-specific information. Consent documents that do not identify a specific event are invalid to confer consent for fundraising, publicity, or

illustrative purposes. The duration of an event identified in a consent document may not exceed fourteen days.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 15. Section 75-03-17-06 is amended as follows:

75-03-17-06. Special treatment procedures. A facility shall have written policies and procedures ~~on~~ regarding implementation of special treatment procedures. Special treatment procedures must be therapeutic and meaningful interventions and may not be used for punishment, for the convenience of staff, or as substitute for therapeutic programming. The facility shall provide education to the children, providing ~~instructions~~ each child the opportunity to express the child's opinion and educating the child on alternative ~~behaviors that would have allowed the staff~~ behavior choices to avoid the use of special treatment procedures. ~~Physicians~~ Alternatives to behaviors must be documented in each child's individual person-centered treatment plan. The health, safety, and well-being of children receiving care and treatment in the facility must be properly safeguarded. A physician shall review the use of special treatment procedures.

1. Timeout. ~~Use~~ Staff shall supervise the use of timeout procedures ~~must be supervised by staff~~ at all times and ~~appropriate entries must be documented~~ shall document the use of timeout procedures in the child's file. The use of the resident's bedroom for timeout is prohibited.
2. Physical escort. ~~Use~~ Staff shall supervise the use of physical escort procedures ~~shall be supervised by staff~~ at all times and ~~appropriate entries shall be documented~~ shall document the use of physical escort in the child's file.
3. Physical restraints.
   a. ~~Restraints are~~ Physical restraints must be ordered by a physician and may be imposed only in emergency circumstances and ~~only~~ must be used with extreme caution to ensure the immediate physical safety of the child, a staff member, or others ~~and less restrictive interventions have been determined to be ineffective. The health, safety, and well-being of the children cared for and treated in the facility must be properly safeguarded~~ after all other less intrusive alternatives have failed or have been deemed inappropriate;
   b. All safety holds must be applied by staff ~~trained~~ who are certified in the use of safety holds and emergency safety interventions; and
   c. The facility staff shall have established protocols that require:
      (1) Entries made in the child's file as to the date, time, staff involved, reasons for the use of, and the extent ~~of~~ to which physical restraints were used; and which identify less restrictive measures attempted,;

(2) ~~Timely notification~~ Notification within twenty-four hours of the individual who ~~may~~ lawfully may act on behalf of the child; and

(3) Face-to-face assessment of children in restraint ~~must be~~ completed by a physician, registered nurse, or other licensed health care professional or practitioner who is trained in the use of safety, emergency interventions. The face-to-face assessment must be documented in the child's case file and include assessing the mental and physical well-being of the child. The face-to-face assessment must ~~take place~~ be completed as soon as possible, ~~but in~~ and no ~~case~~ later than one hour after the initiation of restraint or seclusion.

4. Seclusion. Seclusion must be ordered by the attending physician and may be imposed only in emergency circumstances after all other less intrusive alternatives have failed or have been deemed inappropriate. Seclusion is to be used with extreme caution, and only to ensure the immediate physical safety of the child, a staff member, or others ~~and after less restrictive interventions have been determined to be ineffective~~. A child's bedroom may not be used for seclusion. If seclusion is indicated, the facility shall ensure that:

a. The proximity of the staff allows for visual and auditory contact with the child at all times ~~and includes~~ ;

b. Staff conduct assessments of the child every fifteen minutes and document the assessments in the child's case file;

c. The seclusion room is not locked;

~~b.~~ d. All nontherapeutic objects are removed from the ~~child's presence~~ area in which the seclusion occurs;

~~c.~~ e. All fixtures within the room are tamperproof, with switches located outside the room;

~~d.~~ f. Smoke-monitoring or fire-monitoring devices are an inherent part of the seclusion room;

~~e.~~ g. ~~Mattresses are security~~ Security mattresses used are made of fire-resistant material;

~~f.~~ h. The room is properly ventilated;

~~g.~~ i. ~~Timely notification within twenty-four hours~~ Notification of the individual who ~~may~~ lawfully may act on behalf of the child is made within twenty-four hours of a seclusion and is documented in the child's case file;

~~h.~~ j. A child under special treatment procedures is provided the same diet that other children in the facility are receiving;

~~i.~~ k. No child remains in seclusion:

(1) For more than four hours in a twenty-four-hour period; and

(2) Without physician approval;

~~j.~~ l. Seclusion is limited to the maximum timeframe per episode for fifteen minutes for children aged nine and younger and one hour for children aged ten and older;

~~k.~~ ~~Physicians shall review the use of seclusion procedures;~~ and

~~l.~~ m. Face-to-face assessment of children in seclusion is completed by a physician, registered nurse, or other licensed health care professional or practitioner who is trained in the use of safety, emergency interventions and is documented in the child's case file. The face-to-face assessment must include assessing the mental and physical well-being of the child. The face-to-face assessment must ~~take place as soon as possible, but in~~ occur no ~~case~~ later than one hour after the initiation of restraint or seclusion.

5. ~~Following~~ Within twenty-four hours of each use of seclusion or physical restraint, the facility shall conduct a debriefing ~~must be conducted within twenty-four hours that~~ which includes appropriate personnel and the child and which:
   a. Evaluates and documents in the child's case file the well-being of the child served and identifies the need for counseling or other therapeutic services related to the incident;
   b. Identifies antecedent behaviors and modifies the child's individual person-centered treatment plan as appropriate; ~~and~~
   c. Analyzes ~~how~~ the incident ~~was handled~~ and identifies needed changes to policy and procedures ~~or~~, staff training, or both.
6. Special treatment procedure training. Each facility must have ~~a specific~~ policies and procedures regarding annual training in the use of ~~physical restraints and seclusion, which includes training on the needs and behaviors of the population served, relationship building, alternatives to restraint and seclusion, de-escalation methods, conflict resolution, thresholds for restraints and seclusion, the physiological and psychological impact of restraint and seclusion, monitoring physical signs of distress and obtaining medical assistance, legal issues, position asphyxia, escape and evasion techniques, time limits, the process for obtaining approval for continuation of restraints and seclusion, documentation, debriefing techniques, and investigation for injuries and complaints~~ all special treatment procedures listed in this section which complies with the standards set forth by the facility's accrediting body.
7. Reporting requirement for serious occurrences that include a death, serious injury, or ~~death~~ suicide attempt.
   a. Each facility shall notify the medical services division of the department of each ~~death~~ serious occurrence that occurs at ~~each~~ the facility~~.~~
   ~~b.~~ as follows:
      (1) The report must include the name and date of birth of the child involved.
   ~~c.~~ (2) The facility shall provide the report ~~must be provided no later than~~ within twenty-four hours ~~after the time~~ of the ~~child's death~~ serious occurrence.
   ~~d.~~ (3) The report must contain information on the use of ~~seclusion or restraints as related to the child~~ any specialized treatment

procedures for the child involved preceding the serious occurrence.

b. Each facility shall notify its accrediting body of any serious occurrence.

c. Each facility shall notify the regional supervisor of child welfare programs at the human service center serving the region within which the facility is located of any serious occurrence.

d. Each facility shall report all deaths to the committee on protection and advocacy, unless prohibited by state law, by the close of business the day following the date the death was discovered.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 50-11-03, 50-11-03.2

SECTION 16. Section 75-03-17-07 is amended as follows:

75-03-17-07. Medical care. The facility shall institute policies and procedures to address the medical and psychiatric care for each child during placement at the facility including:

1. **Medical examination.** Each child ~~shall~~ must have a medical examination within thirty days prior to admission or within seventy-two hours of admission.
2. **Immunizations.** A Each child ~~shall~~ must have current immunizations as required by North Dakota Century Code section 23-07-17.1.
3. **Medical care arrangements.** A facility shall make arrangements with a physician and a psychiatrist for medical and psychiatric care of ~~children~~ each child.
4. **Annual medical examination.** ~~Every~~ Each child shall have a medical examination at least annually.
5. **Staff instruction.** The facility shall ~~inform~~ train staff members ~~as to~~ what medical care, including first aid, may be given by staff without specific orders from a physician. ~~Staff~~ The facility shall ~~be instructed as to~~ instruct staff how to obtain further medical care and how to handle emergency cases.
   ~~a. At least one staff member on duty shall have satisfactorily completed current first aid, therapeutic crisis intervention and crisis prevention intervention, universal infection control precautions, and cardiopulmonary resuscitation training and have on file at the facility a certificate of satisfactory completion.~~
   ~~b. Each staff member shall be able to recognize the common symptoms of illnesses of children and to note any marked physical defects of children. A sterile clinical thermometer and a complete first-aid kit must be available.~~
6. **Hospital admission.** ~~Arrangements must be~~ Each facility shall institute policies and procedures regarding transfers and discharges from an

admission to the hospital. A facility's policies and procedures must include arrangements made with a hospital for the admission of children from the facility in the event of serious illness or an emergency.

7. **~~Medical records.~~** ~~A child's medical records must include:~~
   - ~~a. Current medical, psychological, or psychiatric records;~~
   - ~~b. A record of the child's immunizations;~~
   - ~~c. The consent for medical care by a person with lawful authority to act on behalf of the child;~~
   - ~~d. Records of the annual medical examination; and~~
   - ~~e. A record of the medical care given at the facility, including:~~
     - ~~(1) Hospitalization records;~~
     - ~~(2) Prescriptions used with the quantity, directions, physician's name, date of issue, and name of the pharmacy indicated; and~~
     - ~~(3) Significant illnesses or accidents.~~

~~8.~~ **Hospitalization or death reports.** ~~Any accident or illness requiring hospitalization must be reported~~ A facility shall report all hospitalizations immediately to an individual who ~~may~~ lawfully may act on behalf of the involved child. ~~Deaths must~~ The facility shall report any death immediately ~~be reported~~ to the department, an individual who ~~may~~ lawfully may act on behalf of the child, a law enforcement agency, and the county coroner. The facility shall document these contacts in the involved child's case file.

~~9.~~ 8. **Prescription labels.** ~~Prescribed drugs and medicines must be obtained~~ The facility shall obtain prescribed medications on an individual prescription basis ~~with the following labeling:~~
   - ~~a. The name of the pharmacy;~~
   - ~~b. The child's name;~~
   - ~~c. The prescription number;~~
   - ~~d. The prescribing practitioner;~~
   - ~~e. The directions for use;~~
   - ~~f. The date of original issue or renewal;~~
   - ~~g. The name of the drug;~~
   - ~~h. The potency of the drug;~~
   - ~~i. The quantity of the drug; and~~
   - ~~j. The expiration date, when applicable~~ and labeled according to state and federal rules.

~~10.~~9. **Administration of medications.**
   a. The facility shall institute policies and procedures for guidance in the administration of all medications. Medications must be administered by a designated staff person ~~in accordance with medical instructions~~ who is medication certified. All medications must be labeled and stored in a locked cabinet, with the keys for the cabinet kept under the supervision of the designated staff person assigned to administer the medications. The medication cabinet must be equipped with separate cubicles, plainly labeled with ~~the~~ each child's name.

b. ~~Medications~~ The facility shall return medications belonging to ~~the~~ a child ~~must be returned~~ to the person who ~~may~~ lawfully may act on behalf of the child upon discharge, or ~~must be destroyed in the presence of a witness by the designated person in charge of medication storage by flushing the medications into the sewer system and removing and destroying the labels from the container and documentation of the return or destruction must be included in the child's file~~ the designated person in charge of medication storage shall dispose of the medications according to the facility's policies and procedures for the disposal of medications. The facility's policies and procedures for the disposal of medications must be in accordance with state and federal requirements for the disposal of medications.

c. The facility may possess a limited quantity of nonprescription medications. The medications must be ordered by a physician and ~~administer them~~ administered under the supervision of ~~designated~~ medication-certified staff.

d. (1) The facility shall obtain written consent from a person who lawfully may act on behalf of the child for all newly prescribed medication prior to administering the medication to the child except in an emergency situation. A person who lawfully may act on behalf of the child who receives medication must be informed of benefits, risks, and the potential side effects of all prescribed medication.

(2) The facility shall obtain verbal or email consent from a person who lawfully may act on behalf of the child prior to administering medication dosage changes. The facility shall obtain written consent within 14 days verifying any verbal consent received. The facility shall document all consents in the child's case file.

(3) The facility shall ~~have~~ institute policies and procedures governing the use of psychotropic medications~~. A person with lawful authority to act on behalf of a child who receives psychotropic medication must be informed of benefits, risks, side effects, and potential effects of medications.~~ which require documentation in the case file justifying the necessity and therapeutic advantages for the child receiving psychotropic medication. Documentation must reflect that a trauma screen has been completed and that the symptomology that the psychotropic medication is attempting to treat is not more effectively treated through therapeutic interventions that specifically address symptomology related to trauma.

(4) ~~Written~~ A facility shall obtain written consent from a person who lawfully may act on behalf of the child, for the use of ~~the~~ a psychotropic medication ~~must be obtained from~~ ~~that~~

~~person~~ or a change in the dosage of a psychotropic medication, prior to administering or changing the dose of the psychotropic medication. The facility shall file all consents and ~~filed~~ authorizations in the child's record.

e. Upon admission, when a new psychotropic medication is prescribed, and when a psychotropic medication is discontinued, a child's psychotropic medication regime must be reviewed by the attending psychiatrist every seven days for the first thirty days and every thirty days thereafter. Additionally, the facility's nursing staff shall complete an abnormal involuntary movement scale prior to the start of, or a change in the dose of, a psychotropic medication. An abnormal involuntary movement scale must be repeated every seven days following completion of the initial abnormal involuntary movement scale to monitor the child for side effects of the psychotropic medication.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 17. Section 75-03-17-09 is amended as follows:

75-03-17-09. General health.

1. **Sleep.** Each child ~~shall have~~ must receive enough sleep for the child's age at regular and reasonable hours, and under conditions conducive to rest.
2. **Personal hygiene.** ~~Children~~ The facility shall ~~be encouraged and helped to keep themselves clean~~ educate children on age-appropriate hygiene.
3. **Bathing facilities.** ~~Bathing~~ The facility shall maintain properly and keep clean toilet facilities ~~must be properly maintained and kept clean~~.
4. **Personal articles.** ~~Each~~ The facility shall ensure that each child ~~shall have~~ has a toothbrush, comb, and an adequate supply of towels, washcloths, and personal toiletry articles.
5. **Daily diet.** ~~Menus must~~ The facility shall provide ~~a varied diet~~ menus for all dietary needs that ~~meets a~~ meet each child's daily nutritional requirements, including special dietary needs such as food allergies and diabetes.
6. **Clothing.** Each child shall have clothing for the child's exclusive use. The clothing must be comfortable and appropriate for current weather conditions.
7. **Play.** The facility shall provide safe, age-appropriate equipment for indoor and outdoor play. The facility shall provide safety instructions on all equipment prior to the child participating in the activity.
8. **Services.** The facility shall provide education on general health and promote positive healthy activities such as sufficient therapeutic treatment, and educational, recreational, and leisure~~, and physical services and facilities must be available to the children in the facility~~ activities.

9. **Spirituality.** The facility shall make a reasonable effort to make opportunities available for children to attend spiritual ceremonies within the area in which the facility is located, giving reasonable consideration to requests by the child or a person with lawful authority to act on behalf of the child. The facility shall respect the spiritual beliefs of the child and the child's family.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 18. Section 75-03-17-10 is amended as follows:

75-03-17-10. Education and training.

1. **Public education.** Any primary or secondary program offered by a facility must be in compliance with standards established by the department of public instruction. The facility shall ensure that children comply with all state school attendance laws.
2. **Staff training.** The facility shall provide ~~annual~~ quarterly training to staff which is relevant to address the changing needs of the ~~client population~~ milieu and according to the requirements of the facility's accrediting body.
   a. All staff members on duty must have satisfactorily completed annual training on current first aid, therapeutic crisis intervention and crisis prevention intervention, suicide awareness and prevention training, universal infection control precautions, and cardiopulmonary resuscitation training and have on file at the facility a certificate of satisfactory completion prior to having direct contact with residents.
   b. Each staff member must be able to recognize the common symptoms of illnesses of children, signs and symptoms of an overdose, and to note any marked physical defects of children. The facility shall ensure a sterile clinical thermometer and a complete first-aid kit are available.
3. **Discipline.** ~~Discipline must be constructive or educational in nature. Discipline may include diversion, separation from a problem situation, and discussion with the child about the situation, and praise for appropriate behavior.~~ A facility shall create a trauma-informed culture that promotes respect, healing, and positive behaviors and which minimizes the use of restrictive behavior management interventions to the extent possible. Discipline must be constructive or educational in nature and follow the discipline guidelines of the facility's accrediting body. A facility shall adopt and implement written policies and procedures for discipline and behavior management consistent with the following:
   a. Only staff members of the facility may prescribe, administer, or supervise the discipline of children. Authority to discipline may not be delegated to children, volunteers, or interns.

b. A child may not be slapped, punched, spanked, shaken, pinched, roughly handled, struck with an object, or ~~otherwise~~ receive any inappropriate physical treatment.

c. Verbal abuse and derogatory actions or remarks about the child, the child's family, religion, or cultural background may not be used or permitted.

d. A child may not be locked in any room ~~or other enclosure unless seclusion is indicated and the procedures under section 75-03-17-06 are followed~~.

e. The facility shall ~~request that a person with lawful authority to act on behalf of the child to assist the facility in the development of~~ develop and implement a youth-guided, family-driven plan of discipline as part of the child's person-centered treatment planning, to include therapeutic interventions, that promote an effective means of discipline. Daily documentation must reflect whether the interventions are effective and if they need revising.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 19. Section 75-03-17-12 is amended as follows:

75-03-17-12. Discharge.

1. ~~The decision that a child no longer needs or cannot benefit from the facility's treatment must be made by a discharge committee comprised of three staff or consultants involved in the child's care and treatment and a~~ Discharge planning for each child must begin during the admission process. The facility shall develop an evolving discharge plan within thirty days of admission that identifies the child's and family's needed services and supports upon discharge and include the discharge plan in the treatment plan. Prior to discharge, the facility shall complete a discharge plan and coordinate related community services with each child's family, school, and community to ensure continuity of care. The discharge plan must address and include:

   a. Psychiatric, medical, educational, psychological, social, behavioral, developmental, and chemical dependency treatment needs;

   b. The reason for discharge;

   c. A progress report, including an update on the child's psychiatric care and treatment recommendations;

   d. An assessment of community based service needs for the child and family~~, the child's and the family's needs and recommended services~~;

   e. A statement that the discharge plan recommendations have been reviewed with the child and the person who lawfully may act on behalf of the child;

f. The name and title of the individual into whose care the child was discharged.

2. As part of the discharge planning requirements, facilities shall ensure the child has a seven-day supply of needed medication and a written prescription for medication to last through the first outpatient visit in the community with a prescribing provider. Prior to discharge, the facility must identify a prescribing provider in the community and schedule an outpatient visit. The facility shall include documentation of the medication plan and arrangements for the outpatient visit in the medical records in the child's case file. If medication has been used during the child's treatment in the facility but is not needed upon discharge, the reason the medication is being discontinued must be documented in the medical records in the child's case file.

3. The discharge committee shall review and approve each discharge from a facility prior to the discharge. The discharge committee must include the following:
   a. Treating psychiatrist;
   b. Attending therapist;
   c. Assigned social worker;
   d. Facility nurse;
   e. Facility educator;
   f. Facility residential staff; and
   g. A person ~~with lawful authority to~~ who lawfully may act on behalf of the child.

~~2.~~4. The facility shall assist the child and the person ~~with lawful authority to~~ who lawfully may act on behalf of the child in preparing for ~~termination of placement in the facility, whether the move is~~ the transition from residential treatment to return the child home, to a foster family, adoptive family, an institution, or to the home of relatives.

~~3.~~5. ~~Prior to discharge, the facility shall complete a discharge plan and coordinate facility services and related community services with partial discharge plans with each child's family, school, and community to ensure continuity of care. The plan must include:~~
   ~~a. A progress report, including an update on the child's psychiatric care and treatment recommendations;~~
   ~~b. The reason for discharge;~~
   ~~c. An assessment of the child's and the family's needs and recommended services;~~
   ~~d. A statement that the discharge plan recommendations have been reviewed with the child and a person with lawful authority to act on behalf of the child;~~
   ~~e. The potential for readmission; and~~
   ~~f. The name and title of the individual to whom the child was discharged~~ A child's discharge from the facility may not be based on the child's need for short-term inpatient treatment at a psychiatric facility.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 20. Section 75-03-17-13 is amended as follows:

75-03-17-13. Responsibility for notification - Elopement of ~~runaway~~ children. When a facility confirms that a child's whereabouts are unknown, the facility shall immediately notify law enforcement officials and the individual who may lawfully act on behalf of the child. The child's return must be reported immediately to law enforcement and the individual who may lawfully act on behalf of the child. The facility shall institute policies and procedures for responding to the elopement of children from the facility.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 21. Subsection 2 of section 75-03-17-14 is amended as follows:

75-03-17-14. Employee health qualifications.

2. ~~Except as specified in subsection 4, the good physical health of each employee must be verified by~~ All personnel must have a health screening~~,~~ ~~including~~ that includes a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or thirty days after employment. The individual performing the screening shall sign a report indicating the presence of any health condition that would create a hazard to children of the facility or other staff members.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-04, 25-03.2-07

SECTION 22. Section 75-03-17-15 is amended as follows:

75-03-17-15. Staff to child ratio.

1. The ratio of staff to children ~~during~~ must meet the standards of the facility's accrediting body and be included in the facility's policies and procedures. The facility shall follow the staff to child ratio set by its accrediting body, or the ratios set forth in this subsection, if the ratios set forth in this subsection require a greater number of staff to children than the ratios set by the accrediting body. The staff to child ratio for waking hours is

dependent on the needs of the children and the requirements of the ~~individualized~~ individual person-centered treatment plans, but may not be less than ~~two~~:

a. Two direct care staff ~~members~~ must be present for one to six residents.
b. Three direct care staff must be present for seven to nine residents.
c. Four direct care staff must be present for ten to twelve residents
d. Five direct care staff must be present for thirteen to sixteen residents.

2. At night, from 10:30 p.m. until 6:00 a.m., the ratio of staff to children is dependent on the needs of the children and the requirements of the individualized treatment plans and must meet the minimum standards of the accrediting body. All night staff must be awake and within hearing distance of children and other staff must be available to be summoned in an emergency. Evening and night staff shall perform bedroom checks at a minimum of every 15 minutes to assure that each child is in his or her assigned room and is safe.

~~2.~~3. The ratio of professional staff to children is dependent on the needs of the children.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 23. Section 75-03-17-16 is amended as follows:

75-03-17-16. Personnel policies.

1. The facility shall have clearly written personnel policies. The policies must be made available to each employee and must include:
   a. A staff training and development plan;
   b. Procedures for reporting suspected child abuse and neglect;
   c. Procedures for staff evaluation, disciplinary actions, and termination;
   d. A prohibition of sexual contact between staff and children in accordance with the Prison Rape Elimination Act of 2003 [Pub. L. 108-79];
   e. Procedures for employee grievances;
   f. Both oral and written instructions regarding employee responsibility for preserving confidentiality;
   g. Evaluation procedures that include a written evaluation following the probationary period for new staff and at least annually thereafter; and
   h. A plan for review of the personnel policies and practices with staff participation at least once every three years, or more often if necessary.
2. A facility operator may not be, and a facility may not employ, in any

capacity, that involves or permits contact between the employee and any child of the facility, any individual who has been found guilty of, pled guilty to, or pled no contest to:

a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; ~~12.1-17, assaults - threats - coercion; or~~ 12.1-18, kidnapping; 12.1-27.2, sexual performances by children; or 12.1-40, human trafficking; or in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-01.1, assault; 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 a police officer; 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of 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; 12.1-20-07, sexual assault; 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; or North Dakota Century Code sections~~ 12.1-29-01, promoting ~~–~~prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or ~~an~~ 14-09-22, abuse or neglect of a child;

b. 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~~ offenses identified in subdivision a; or

~~b.~~c. An offense, other than an offense identified in subdivision a or b, if the department, in the case of the facility operator, or the facility, in the case of an employee, determines that the individual has not been sufficiently rehabilitated.

3. A facility shall establish written policies, and engage in practices that conform to those policies, to effectively implement subsection 2.

4. For purposes of subdivision ~~b~~ c of subsection 2, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.

5. The department has determined that the offenses enumerated in ~~subdivision~~ subdivisions a and b of subsection 2 have a direct bearing on ~~the~~ an individual's ability to serve the public as a facility operator or employee.

6. In the case of a misdemeanor offense described in North Dakota Century Code sections 12.1-17-01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07.1, stalking; 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 conviction.

7. Interns, volunteers, and student placement workers are subject to ~~the provisions of~~ this section.

~~7.~~8 a. A prospective employee shall consent to and have completed background checks in criminal conviction records and child abuse or neglect records prior to direct care and contact with children residing in the facility. The facility shall complete a background check prior to employing and individual and annually for all employees.

b. All employees of psychiatric residential treatment facilities shall have background checks that meet the requirements of subsection 2.

~~8. When a position involves transporting children by motor vehicle, the prospective employee must authorize release of a complete motor vehicle operator's license background report.~~

9. If a prospective employee has previously been employed by one or more group homes, residential child care facilities, or facilities, the facility shall request a reference from all previous group home, residential child care facility, and facility employers regarding the existence of any determination or incident of reported child abuse or neglect in which the prospective employee is the perpetrator subject.

10. ~~The department may~~ The facility shall perform a background check for reported suspected child abuse or neglect each year on each facility employee.

11. A facility shall maintain an individual personnel file on each employee. ~~The personnel file~~ which must include:

a. The application for employment, including a record of previous employment, and the applicant's answer to the question, "Have you been convicted of a crime?";

b. Annual performance evaluations;

c. Annual staff development and training records, including first-aid training, cardiopulmonary resuscitation training, universal infection control precautions training, and therapeutic crisis intervention or crisis prevention intervention training records. "Record" means documentation, including with respect to development or training presentations the:

(1) Name of presenter;

(2) Date of presentation;

(3) Length of presentation; and

(4) Topic of presentation;

d. Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records;

e. Any other evaluation or background check deemed necessary by

the administrator of the facility;

f. Documentation of the existence of any license or qualification for position or the tasks assigned to the employee; and

g. All direct care staff not currently under orientation status must have satisfactorily completed first aid, therapeutic crisis intervention or crisis prevention intervention, universal infection control precautions, and cardiopulmonary resuscitation and have on file at the facility a certificate of completion.

12. a. A facility shall maintain an individual personnel file on each volunteer, student, and intern~~. The personnel file~~ which must include:

~~a.~~(1) Personal identification information; and

~~b.~~(2) Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records.

b. When a position involves transporting children by motor vehicle, the prospective employee must authorize release of a complete motor vehicle operator's license background report.

13. The facility shall adopt a policy regarding the retention of personnel records.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 24. Subsection 5 of section 75-03-17-16.1 is created as follows:

75-03-17-16.1. Child abuse and neglect reporting.

5. The facility shall notify the licensor in writing of an "indicated" finding by the state institutional child protection team that includes the corrective action that the facility has taken, or plans to take, to comply with the institutional child protection team's recommendations within thirty days of the written notification of the institutional child protection team's findings.

History: Effective September 1, 1998; amended effective April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 25. Subsection 3 of section 75-03-17-18 is amended as follows:

3. **Buildings and grounds.** The facility must have sufficient outdoor recreational space, and the facility's buildings must meet the following standards:

a. Bedrooms. Each child must have eighty square feet [7.43 square meters] in a single sleeping room, and sixty square feet [5.57

square meters] per individual in a multiple occupancy sleeping room; the child's own bed, and bed covering in good condition; and a private area to store the child's personal belongings. A facility may not permit more than two children in each sleeping room; children to sleep in basements or attics; nonambulatory children to sleep above the first floor; and a child to share a bedroom with a child of the opposite sex.

b. Bathrooms. The facility's bathroom facilities must have an adequate supply of hot and cold water; be maintained in a sanitary condition; have separate toilet and bath facilities for male and female children, and employees; and have one bathroom that contains a toilet, washbasin, and tub or shower with hot and cold water for every four children.

c. Dining and living rooms must have suitably equipped furnishings designed for use by children within the age range of children served by the facility.

d. The facility shall provide sufficient space for indoor quiet play and active group play.

e. ~~Adequate~~ The facility shall provide adequate heating, lighting, and ventilation ~~must be provided~~.

f. Staff quarters must be separate from those of children, although near enough to assure proper supervision of children.

g. A facility shall provide a quiet area for studying.

h. A facility shall lock all out buildings on the property at all times when not in use by facility staff.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03, 25-03.2-07

SECTION 26. Section 75-03-17-20 is amended as follows:

75-03-17-20. Rights and obligations of the applicant.

1. **Right to apply for license.** An applicant has the right to apply to receive a license to operate a facility under this chapter.
2. **Entry and inspection.**
   a. The department may evaluate a facility's compliance with this chapter at any time through:
      (1) An announced or unannounced onsite review, or
      (2) A request for written documentation verifying compliance.
   b. The applicant shall allow authorized representatives of the department to enter any of the applicant's buildings or facilities ~~in order~~ to determine the extent to which the applicant is in compliance with the rules of the department, to verify information submitted with an application for licensure or license renewal, and to investigate complaints. Inspections must be scheduled for the

mutual convenience of the department and the facility unless the effectiveness of the inspection would be substantially diminished by prearrangement.

3. **Access to records.** The applicant shall allow duly authorized representatives of the department to inspect the records of the applicant, to facilitate verification of the information submitted with an application for licensure, and to determine the extent to which the applicant is in compliance with the rules of the department.
4. **Denial of access to facilities and records.** Any applicant or licensee which denies access, by the authorized representative of the department, to a facility or records for the purpose of determining the applicant's or licensee's state of compliance with the rules of the department shall have its license revoked or application denied.
5. **License refusal or revocation.** Failure to comply with any of the standards of this chapter or other state law or regulation is cause for refusal or revocation of a license. Conviction of an offense by an owner or operator of a facility does not disqualify the facility from licensure unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a psychiatric residential treatment facility for children or that, following conviction of any offense, the person is not sufficiently rehabilitated under North Dakota Century Code section 12.1-33-02.1.
6. **Appeal.** An applicant may appeal a license denial in accordance with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code chapter 75-01-03.
7. **Deemed status.** The department ~~recognizes~~ may recognize "deemed status" for those providers who are accredited by nationally recognized bodies who review and certify providers of psychiatric residential treatment services for children. When applying for licensure or licensure renewal, proof of accreditation or "deemed status" in the form of the accreditation agency's most recent review and certification must be submitted to the department. "Deemed status" means status conferred on a program accredited by a national accreditation body based on standards that exceed the standards set forth in these licensure rules.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008; April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-07, 25-03.2-08, 25-03.2-09

SECTION 27. Section 75-03-17-21 is created as follows:

75-03-17-21. Increase or decrease in the number of licensed beds in a facility.

1. A facility may not increase or decrease bed capacity without approval of the department. A facility requesting a bed capacity change shall submit a request to the department licensor at the time of the renewal license

request. The request must be made at least forty-five days before the licensure review date of which the department has notified the facility in writing. A facility must include the completed license renewal application for an increase or decrease in the facility's treatment bed capacity at the time of license renewal. To qualify for an increase, a facility must:

a. Be in compliance with this chapter.

b. Submit a plan for the use of its beds.

2. The department shall review the facility's request and may approve or deny the request considering the programming need for the beds and the number of beds available.

History: Effective April 1, 2014.
General Authority: NDCC 25-03.2-10
Law Implemented: NDCC 25-03.2-03.1