

July 26, 2021

Jill Grossman, Counsel
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1
In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services

Dear Ms. Grossman:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in each official county newspaper which will notify the public that an oral hearing on these rules will be held on Wednesday, September 8, 2021, beginning at 9:30 a.m. and continuing until 11:00 a.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm
Legal Advisory Unit

JA/rv

cc: Cory Pedersen, Children and Family Services
Carmen Traeholt, Children and Family Services
Jessica Thomasson, Executive Policy Director

Enclosures

LEGAL ADVISORY UNIT

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NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTERS 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11
AND 75-03-11.1, IN-HOME CHILD CARE EARLY CHILDHOOD SERVICES, SELF-
DECLARATION PROVIDERS EARLY CHILDHOOD SERVICES, FAMILY CHILD CARE
EARLY CHILDHOOD SERVICES, GROUP CHILD CARE EARLY CHILDHOOD
SERVICES, CHILD CARE CENTER EARLY CHILDHOOD SERVICES, PRESCHOOL
EARLY CHILDHOOD SERVICES, AND SCHOOL-AGE CHILD CARE PROGRAM
EARLY CHILDHOOD SERVICES

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1 at 9:30 a.m. on Wednesday, September 8, 2021, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1, Early Childhood Services, are necessary to comply with 2021 Senate Bill No. 2083.

The proposed changes are as follows:

Section 75-03-07-04 is amended to replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083, and to add language clarifying the number of children an in-home provider may provide services to in a private residence.

Section 75-03-07-06 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants or providers, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding the fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-07.1-00.1 is amended to add a definition for “application”.

Section 75-03-07.1-02 is amended to require a current self-declaration document be displayed prominently on the premises, clarify that current emergency numbers for parents and first responders must be posted, and to require liability insurance when transportation is provided by a provider.

Section 75-03-07.1-06 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, providers,

LEGAL ADVISORY UNIT

emergency designees, and household members; to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; to update the language regarding the fingerprint-based and non-fingerprint-based criminal history record check process; and replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083.

Section 75-03-07.1-10 is amended to establish a refutation process for a correction order, including a timeline.

Section 75-03-07.1-13 is amended to specify what must be included within emergency disaster plans.

Section 75-03-08-03 is amended to add a definition for “application”.

Section 75-03-08-09 is amended to remove obsolete language concerning McGruff safe house, block house, or certified safe house program during an emergency.

Section 75-03-08-15 is amended to require liability insurance when transportation is provided by a provider.

Section 75-03-08-16 is amended to specify what must be included within emergency disaster plans.

Section 75-03-08-22 is amended to clarify that the provider is required to maintain current business and personal telephone numbers for a child’s parents.

Section 75-03-08-27 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, providers, emergency designees, staff members, or household members, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding the fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-08-28 is amended to replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083.

Section 75-03-08-29 is amended to establish a refutation process for a correction order, including a timeline.

Section 75-03-09-03 is amended to add a definition for “application”.

Section 75-03-09-07 is amended to remove obsolete language.

Section 75-03-09-09 is amended to clarify that the department’s waiver review is annually and to remove obsolete language concerning McGruff safe house, block house, or certified safe house program during an emergency.

Section 75-03-09-16 is amended to specify what must be included within emergency disaster plans.

Section 75-03-09-22 is amended to clarify that the provider is required to maintain current business and personal telephone numbers for a child’s parents.

Section 75-03-09-27 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, providers, emergency designees, staff members, or household members, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding the fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-09-28 is amended to replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083.

Section 75-03-09-29 is amended to establish a refutation process for a correction order, including a timeline.

Section 75-03-10-03 is amended to add a definition for “application”.

Section 75-03-10-07 is amended to remove obsolete language.

Section 75-03-10-08 is amended to remove obsolete language regarding the maximum group size exemption that ended on January 1, 2015, to remove obsolete language concerning McGruff safe house, block house, or certified safe house program during an emergency, and to clarify that the department’s waiver review is annually.

Section 75-03-10-16 is amended to specify what must be included within emergency disaster plans.

Section 75-03-10-22 is amended to clarify that the provider is required to maintain current business and personal telephone numbers for a child's parents.

Section 75-03-10-27 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, operators, staff members, or emergency designees, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding the fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-10-28 is amended to replace "services required decision" with "confirmed decision" in response to 2021 Senate Bill No. 2083.

Section 75-03-10-29 is amended to establish a refutation process for a correction order, including a timeline.

Section 75-03-11-03 is amended to add a definition for "application".

Section 75-03-11-07 is amended to remove obsolete language.

Section 75-03-11-09 is amended to remove obsolete language concerning McGruff safe house, block house, or certified safe house program during an emergency.

Section 75-03-11-16 is amended to specify what must be included within emergency disaster plans.

Section 75-03-11-19 is amended to require an appropriate minimum outdoor space per child, class, or group and to exempt operators holding a current license.

Section 75-03-11-22 is amended to clarify that the provider is required to maintain current business and personal telephone numbers for a child's parents

Section 75-03-11-27 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, operators, emergency designees, or staff members, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding the

fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-11-28 is amended to replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083.

Section 75-03-11-29 is amended to establish a refutation process for a correction order, including a timeline.

Section 75-03-11.1-03 is amended to add a definition for “application” and remove the definition of “school-age child care program satellite”.

Subsection 3 of section 75-03-11.1-04 is amended to remove language regarding satellite locations.

Section 75-03-11.1-07 is amended to remove obsolete language.

Subsection 1 of section 75-03-11.1-08 is amended to remove language regarding satellite locations and to add language permitting a single operator to use a director across two or more school-age child care programs.

Section 75-03-11.1-09 is amended to change staffing and group size requirements, with new language stating that one staff member may care for or teach a maximum of twenty children, with a maximum group size of forty children and to remove obsolete language regarding the maximum group size exemption that ended on January 1, 2015 and concerning McGruff safe house, block house, or certified safe house program during an emergency.

Section 75-03-11.1-16 is amended to specify what must be included within emergency disaster plans.

Section 75-03-11.1-22 is amended to remove language regarding satellite sites and to clarify that the provider is required to maintain current business and personal telephone numbers for a child’s parents

Section 75-03-11.1-27 is amended to add domestic violence and harassment to the list of direct bearing offenses for applicants, operators, emergency designees, and staff members, to permit the department to determine that an individual has been sufficiently rehabilitated if convicted of domestic violence or harassment; and to update the language regarding

the fingerprint-based and non-fingerprint-based criminal history record check process.

Section 75-03-11,1-28 is amended to replace “services required decision” with “confirmed decision” in response to 2021 Senate Bill No. 2083.

Section 75-03-11.1-29 is amended to remove language regarding satellite location and to establish a refutation process for a correction order, including a timeline.

The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at human service zones and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Monday, September 20, 2021.

ATTENTION PERSONS WITH DISABILITIES: If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 26th day of July, 2021.

July 26, 2021

RE: Proposed amendments to N.D. Admin. Code chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1
In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1, In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Monday, September 20, 2021.

The department has scheduled an oral hearing for Wednesday, September 8, 2021. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Christopher Jones,
Executive Director

Enclosures

cc: Jill Grossman, Legislative Council
Cory Pedersen, Children and Family Services
Carmen Traeholt, Children and Family Services
Jessica Thomasson, Executive Policy Director

EXECUTIVE OFFICE

GOVERNOR
Doug Burgum

EXECUTIVE DIRECTOR
Christopher Jones