

**Legal Advisory Unit**

(701) 328-2311  
Fax (701) 328-2173  
Toll Free (800) 472-2622  
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Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

November 4, 2015

Vonette Richter, Assistant Code Revisor  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-14, 75-03-16 and  
75-03-36  
Family Foster Home for Children, Licensing of Group Homes and Residential  
Child Care Facilities and Licensing of Child-Placing Agencies

Dear Ms. Richter:

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 December 9, 2015, beginning at 3:30 p.m. and continuing until 5:00 p.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,

A handwritten signature in black ink, appearing to read "Jonathan Alm", is written over a horizontal line.

Jonathan Alm  
Legal Advisory Unit

JA/jgl

cc: Kelsey Bless, Children and Family Services

Enclosures



## Legal Advisory Unit

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NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTERS 75-03-14, 75-03-16 AND 75-03-36  
FAMILY FOSTER HOME FOR CHILDREN, LICENSING OF GROUP HOMES AND  
RESIDENTIAL CHILD CARE FACILITIES AND LICENSING OF CHILD-PLACING  
AGENCIES

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 75-03-14, 75-03-16 and 75-03-36 at 3:30 p.m. on Wednesday, December 9, 2015, in Bismarck, N.D. in Room 212, located on the second floor of the Judicial Wing of the State Capitol.

The proposed changes are as follows:

**Section 75-03-14-01** is amended to add the definition of reasonable and prudent parent standard in response to P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act.

**Subsection 8 of section 75-03-14-03** is amended to allow for additional flexibility of where water samples can be tested.

**Subsections 8 and 9 of section 75-03-14-04** are amended to add the federal requirements of P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act, regarding foster parents and potential foster parents demonstrating a working knowledge of the reasonable and prudent parent standard and to require all foster parents to engage in the reasonable and prudent parent standard.

**Section 75-03-14-04.1** is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks, and to allow the Department to discontinue processing a request for criminal background check for any individual who provides false or misleading information.

**Section 75-03-14-08** is amended to create consistency regarding excusing fingerprinting requirements across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36.

**Section 75-03-16-01** is amended to clarify the definition of facility and to add a definition of reasonable and prudent parent standard in response to P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act.

**Subdivision d of subsection 1 and subdivisions a and b of subsection 2 of section 75-03-16-05** are amended to remove behavior management and crisis management from the list of trainings documented in an employee's file and to correct the use of a conjunction and punctuation.

**Subsection 4 of section 75-03-16-06** is amended to ensure that facilities will have at least one employee who is responsible to meet the P.L. 113-183, Preventing Sex Trafficking and Strengthening Families Act, requirements of reasonable and prudent parent standard.

**Section 75-03-16-10.1** is created to require a residential child care facility to provide for a licensed nurse to accommodate the medical needs of children in placement onsite and to establish policy.

**Section 75-03-16-12.1** is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks, to allow the Department to discontinue processing a request for criminal background check for any individual who provides false or misleading information, to address policy requirements for criminal histories on current employees and nonemployees, and to create consistency regarding excusing fingerprinting requirements across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36.

**Section 75-03-16-13** is amended to lower the staff-to-child ratios, to add a requirement for a residential child care facility to provide onsite nursing services, and to require a facility to notify the Department if minimum employee-to-child ratios are not met.

**Section 75-03-16-14** is amended to clarify language, to create consistency in terms used throughout chapter 75-03-16, to require classroom trainings for four of the identified trainings, and to require training documentation and retention to maintain safety and wellbeing for children in placement.

**Subsections 3, 5, and 6 of section 75-03-16-15** are amended to clarify language, to add a corrective action notification requirement, and to require policy development regarding child abuse and neglect situations.

**Section 75-03-16-16** is amended to clarify language, to clarify the admission and discharge procedures, and to add a requirement for the facility to develop an intake screening process.

**Section 75-03-16-31** is amended to clarify the need for facilities to develop and implement a facility improvement plan.

**Section 75-03-16-32** is created to specify the normalcy activity policy documentation requirements.

**Section 75-03-36-01** is amended to add the definitions of authorized agent and department.

**Subsection 6 of section 75-03-36-12** is amended to remove the duplicate language regarding the excuse of fingerprints if unusable prints occur.

**Section 75-03-36-13** is amended to clarify language, to create consistency across chapters 75-03-14, 75-03-16, 75-03-17, and 75-03-36 regarding criminal background checks and to when an offense is known, and to address criminal background check policy requirements.

**Subdivision f of section 1 of section 75-03-36-14** is amended to clarify that volunteers are required to have criminal background checks and to remove unnecessarily language.

**Subsection 3 of section 75-03-36-26** is amended to allow agencies to make a legal risk adoption placement into a home beyond thirty days.

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 county social services offices 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, December 21, 2015.

**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 4<sup>th</sup> day of November, 2015.



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Jack Dalrymple, Governor  
Maggie D. Anderson, Executive Director

November 4, 2015

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-14, 75-03-16 and 75-03-36  
Family Foster Home for Children, Licensing of Group Homes and Residential Child Care Facilities and Licensing of Child-Placing Agencies

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapters 75-03-14, 75-03-16 and 75-03-36, Family Foster Home for Children, Licensing of Group Homes and Residential Child Care Facilities and Licensing of Child-Placing Agencies. 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 December 21<sup>st</sup>, 2015.

The department has scheduled an oral hearing for December 9<sup>th</sup>, 2015. 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,

A handwritten signature in black ink that reads "Maggie D. Anderson". The signature is fluid and cursive, with the first name being the most prominent.

Maggie D. Anderson,  
Executive Director

MDA/jgl

Attachments

cc: Vonette Richter, Legislative Council  
Kelsey Bless, Children and Family Services