

NOV 06 2015

Legal Advisory Unit



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Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

November 6, 2015

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-17
Psychiatric Residential Treatment Facilities for Children

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 14, 2015, beginning at 10:00 a.m. and continuing until 11:30 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,

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

Jonathan Alm
Legal Advisory Unit

JA/jl

cc: Stacie Dailey, MHSA

Enclosures



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-03-17
PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-03-17 at 10:00 a.m. on Monday, December 14, 2015, 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 chapter 75-03-17, Psychiatric Residential Treatment Facilities for Children, are necessary to comply with 2015 Senate Bills No. 2046 and 2047, to address changes in practice, to address consistency in rules, to comply with applicable federal regulations, and to address obsolete language.

The proposed changes are as follows:

Section 75-03-17-01 is amended to add the definition of "employee", "nonemployee", "out-based program", and "solo activity" to be consistent with chapter 75-03-16; to modify the definition of "mental health professional" to comply with Senate Bill No. 2046; to modify the definition of "person with a mental illness" to include people first language; to modify the definition of "serious occurrence" and "special treatment procedures"; and to remove the definition of "qualified mental health professional" in response to Senate Bill No. 2047.

Subdivision e of subsection 1 of section 75-03-17-02 is amended to remove "qualified mental health professionals" in response to Senate Bill No. 2047.

Subdivision b of subsection 1 and subsections 5, 6, and 7 of section 75-03-17-03 are amended to further establish the role of the Department in licensing; to ensure the quality of services; and to create consistency with chapter 75-03-16 in regards to outcomes and data collection.

Section 75-03-17-04 is amended to clarify the admission process regarding certification of need; to ensure the admission process is in compliance with title 42, Code of Federal Regulations, part 441, section 153 and section 75-02-02-10.1; and to provide a non-discrimination statement consistent with chapter 75-03-16.

Subsections 1 and 3 of sections 75-03-17-05 are amended to reduce the time period to provide a progress report; to clarify the requirements of information included in an individual person-centered treatment plan; to clarify who must develop an individual person-centered treatment plan to ensure compliance with title 42, Code of Federal Regulations, part 441, section 156; to remove language

in response to Senate Bill No. 2047; to remove outdated language regarding diagnostic and statistical manual of mental disorders; and to ensure compliance with Senate Bill No. 2047 regarding the use of qualified mental health professionals.

Section 75-03-17-06 is amended to ensure compliance with title 42, Code of Federal Regulations, part 483 by adding a requirement that the facility inform the identified individuals on its policies regarding restraint and seclusion procedures; to update outdated language regarding the use of “staff”; to allow for a mental health professional to order the use of physical restraint or seclusion and to ensure that a physician will review and sign the physical restraint or seclusion order; and to clarify and require the facility to perform certain procedures after the use of seclusion or physical restraint to ensure compliance with title 42, Code of Federal Regulations, part 483, sections 366 and 370.

Subsection 5 and subdivisions a and c of subsection 9 of section 75-03-17-07 are amended to update outdated language regarding the use of “staff”.

Subsections 2 and 3 of section 75-03-17-10 are amended to update outdated language regarding the use of “staff”, “volunteers”, and “interns” and to add a requirement for certification to document competencies to ensure compliance with title 42, Code of Federal Regulations, part 483, section 376.

Subsections 2, 5, and 6 of section 75-03-17-12 are amended to clarify a facility’s responsibilities and procedures regarding discharge and to ensure compliance with discharge planning standards located in title 42, Code of Federal Regulations, part 441, section 155.

Section 75-03-17-14 is amended to update outdated language regarding the use of “staff”, “volunteers”, and “interns”.

Section 75-03-17-15 is amended to update outdated language regarding the use of “staff” and to add a minimum ratio of employees-to children for out-based and solo activities.

Section 75-03-17-16 is amended to update outdated language regarding the use of “staff”; to require certain policies to apply to nonemployees; to remove the criminal background check process information; to establish employee and nonemployee individual file documentation requirements; and to create greater consistency with chapter 75-03-16.

Subsection 1 and 4 of section 75-03-17-16.1 are amended to update outdated language regarding the use of “staff”, “interns”, “volunteers”, and “student placement workers”.

Section 75-03-17-16.2 is created to reinsert the criminal background check process information that was removed from section 75-03-17-16; to ensure consistency with chapter 75-03-16; to establish that an individual is not sufficiently rehabilitated until any term or probation, parole, or other form of community corrections has elapsed; to allow the Department to discontinue processing a request for criminal background check for any individual who provides false or misleading information; to establish the criteria as to when an offense is known; to require a facility to have policy regarding criminal histories; and to establish the ability for the Department to excuse a person from providing fingerprints.

Section 75-03-17-17 is amended to update outdated language regarding the use of "staff" and "volunteers".

Subdivisions f and h of subsection 3 of section 75-03-17-18 are amended to update outdated language regarding the use of "staff".

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 Thursday, December 24, 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 6th day of November, 2015.



Jack Dalrymple, Governor
Maggie D. Anderson, Executive Director

November 6, 2015

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-17
Psychiatric Residential Treatment Facilities for Children

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-17, Psychiatric Residential Treatment Facilities for Children. 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 24, 2015.

The department has scheduled an oral hearing for December 14, 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,


Maggie D. Anderson,
Executive Director

MDA/rs

Attachments

cc: Vonette Richter, Legislative Council
Stacie Dailey, MHSA