

**CHAPTER 75-03-07  
IN-HOME CHILD CARE EARLY CHILDHOOD SERVICES**

Section	
<u>75-03-07-01</u>	<u>Purpose</u> <del>Repealed</del>
<u>75-03-07-02</u>	<u>Objective of Rules</u> <del>Repealed</del>
<u>75-03-07-03</u>	Definitions
<u>75-03-07-04</u>	In-Home Registration and Standards
<u>75-03-07-05</u>	<u>Minimum Requirements for Care of Children with Special Needs</u>
<u>75-03-07-06</u>	<u>Denial or Revocation of In-home Registration</u>
<u>75-03-07-07</u>	<u>Appeals</u>

**SECTION 1.** Section 75-03-07-01 is repealed.

**75-03-07-01. Purpose.** ~~The purpose of this chapter is to establish minimum standards of in-home care and to assure that those standards are maintained~~ Repealed effective October 1, 2010.

**History:** Effective December 1, 1981, repealed effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01

**SECTION 2.** Section 75-03-07-02 is repealed.

**75-03-07-02. Objective of rules.** ~~Under the authority vested in the department pursuant to North Dakota Century Code section 50-11.1-08, the department is empowered to prescribe and promulgate such rules as are necessary to carry out the provisions of North Dakota Century Code chapter 50-11.1~~ Repealed effective October 1, 2010.

**History:** Effective December 1, 1981; amended effective January 1, 1987; repealed effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-06, 50-11.1-08

**SECTION 3.** Section 75-03-07-03 is amended as follows:

**75-03-07-03. Definitions.** ~~Definitions~~ The terms used in this chapter are as defined have the same meanings as in North Dakota Century Code chapter section 50-11.1 50-11.1-02.

**History:** Effective December 1, 1981; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02, 50-11.1-06, 50-11.1-08

**SECTION 4.** Section 75-03-07-04 is amended as follows:

**75-03-07-04. In-home registration and standards.**

1. An application for a registration document ~~shall~~ must be submitted to the ~~county social service board authorized agent~~ in the county wherein the applicant proposes to provide in-home services. Application ~~shall~~ must be made in the form and manner prescribed by the department.
2. ~~Applicants~~ An applicant for an in-home registration document shall be directly responsible for the care, supervision, and guidance of the child or children in the child or children's home and shall comply with the following standards, certifying in the application that the ~~applicants~~ applicant shall:
  - a. ~~Be~~ Is at least ~~fourteen~~ eighteen years of age.
  - b. ~~Be mentally,~~ Is physically, cognitively, socially, and emotionally healthy ~~able to provide adequate care for the children in the applicant's charge and will use mature judgment when making decisions impacting the quality of child care.~~
  - c. ~~Be able to devote~~ Shall devote adequate time and attention to the children in the applicant's ~~charge~~ care and provide an environment that is physically and socially adequate for children.
  - d. ~~Participate~~ Shall participate in specialized training related to child care as if provided by or approved by the department.
  - e. ~~Provide~~ Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture standards which satisfies the dietary needs of the children while in the applicant's ~~charge~~ care.
  - f. ~~Provide~~ Shall provide proper health care, supervision, and protection for children in the applicant's ~~charge~~ care. Supervision means the provider being within sight or hearing range of an infant, toddler, or preschooler at all times so the provider is capable of intervening to protect the health and safety of the child. For the school aged child, it means a provider being available for assistance and care so that the child's health and safety is protected.
  - g. Shall provide for a safe and sanitary environment while children are in care.
  - gh. ~~Not~~ May not use or be under the influence of any illegal drugs or alcoholic beverages except for medical purposes while children are in care.
  - hj. ~~Never~~ May not leave children without supervision.
  - i. Shall ensure that discipline is constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praising appropriate behavior, or gentle physical restraint, such as holding. A child may not be subjected to physical harm, fear, or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure

resulting in physical or emotional injury, or neglect, or abuse, to any child is grounds for denial or revocation of an in-home registration.

- (1) Authority to discipline may not be delegated to children nor may discipline be administered by children.
- (2) Separation, when used as discipline, must be appropriate to the child's development and circumstances. The child must be in a safe, lighted, well-ventilated room within sight and hearing range of the in-home provider. An in-home provider may not isolate a child in a locked room or closet.
- (3) A child may not be punished for lapses in toilet training.
- (4) An in-home provider may not use verbal abuse or make derogatory remarks about a child, or a child's family, race, or religion when addressing the child or in the presence of a child.
- (5) An in-home provider may not use profane, threatening, unduly loud or abusive language in the presence of a child.
- (6) An in-home provider may not force-feed a child or coerce a child to eat, unless medically prescribed and administered under a medical provider's care.
- (7) An in-home provider may not use deprivation of meals or snacks as a form of discipline or punishment.
- (8) An in-home provider may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
- (9) An in-home provider may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
- (10) An in-home provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.

~~ik. Discuss Shall discuss methods of discipline and child management with the parent or parents and shall not engage in any method of punishment which humiliates or frightens a child or causes more than minor transient physical or emotional discomfort, or both.~~

~~j. Provide care on a continuing basis for less than a twenty-four-hour period.~~

3. ~~If the physical or mental, cognitive, social or emotional health capabilities of an in-home applicant or provider appear to be questionable, the department may request-require that the provider-individual to present evidence of capability-his or her ability to provide the required care based on a formal evaluation. The department is not responsible for costs of any required evaluation.~~
4. In-home providers shall ensure safe care for the children receiving services in their care. If there exists a probable cause determination a services required decision made under North Dakota Century Code

chapter 50-25.1 exists, indicating that any a child has been abused or neglected by the applicant or in-home provider, the person that decision has a direct bearing on the applicant's or in-home provider's ability to serve the public in a capacity involving the provision of child care and the application or in-home registration may be denied or revoked. If a services required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists indicating that any child has been abused or neglected by the applicant or in-home provider, the applicant or in-home provider shall furnish information satisfactory to the department, from which the department can determine the applicant's or in-home provider's current ability to provide care that is free of abuse or neglect. The department shall furnish the determination of current ability will be furnished to the operator-applicant or in-home provider and to the regional director of the regional human service center or his the director's designee for consideration and action on the in-home registration document. Each applicant shall complete a department-approved authorization for background check form no later than the first day of employment.

**History:** Effective December 1, 1981; amended effective January 1, 1987; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-02, 50-11.1-06, 50-11.1-07, 50-11.1-08

**SECTION 5.** Section 75-03-07-05 is created as follows:

**75-03-07-05. Minimum requirements for care of children with special needs.** An in-home provider shall make appropriate accommodations, as required by the Americans with Disabilities Act, to meet the needs of children with special needs. The in-home provider must receive documentation of the child's special needs by the parent upon the child's enrollment.

1. When a child with special needs is being cared for, the in-home provider shall consult with the child's parents, and, with the parent's permission, the child's source of professional health care, or, when appropriate, other health and professional consultants to gain an understanding of the child's individual needs. The in-home provider shall receive a written health care plan from the child's medial provider or parent with information related to the child's special needs, such as a description, definition of the diagnosis, and general information for emergency and required care such as usual medications and procedures.
2. In-home providers shall receive proper instructions as to the nature of the child's special needs and potential for growth and development.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-06, 50-11.1-08

SECTION 6. Section 75-03-07-06 is created as follows:

**75-03-07-06. Denial or revocation of in-home registration.**

1. The right to provide early childhood services is dependent upon the applicant's or provider's continuing compliance with the terms of the registration as listed in section 75-03-07-04.
2. A fraudulent or untrue representation is grounds for revocation or denial.
3. The applicant or in-home provider may not have been found guilty of, pled guilty to, or pled no contest to:
  - a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults, threats, coercion, harassment; 12.1-18, kidnapping; or 12.1-27.2 sexual performances by children; or in North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a 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; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; or 14-09-22, abuse or neglect of a child;  
or
  - b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
  - c. An offense, other than an offense identified in subdivision a or b, if the department determines that the individual has not been sufficiently rehabilitated. 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 charge or conviction, is prima facie evidence of sufficient rehabilitation.
  - d. The department has determined that the offenses enumerated in subdivision a and b of subsection 3 have a direct bearing on the applicant's or provider's ability to serve the public in a capacity as a provider.
  - e. In the case of 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 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.
4. If the department determines that a criminal history record check, as described in North Dakota Century Code section 50-11.1-06.2, is

appropriate, the department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department may conduct statewide criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorized for the background check.

5. A provider shall ensure safe care for the children in care. If a services required decision made under North Dakota Century Code chapter 50-25.1 exists, indicating that a child has been abused or neglected by an applicant or provider, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or in-home registration may be denied or revoked. If a services required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists indicating that any child has been abused or neglected by the applicant or provider, the applicant or provider shall furnish information to the department, from which the department can determine the applicant's or provider's ability to provide care that is free of abuse or neglect. The department shall furnish the determination of ability to the applicant or provider and to the director of the regional human service center or the director's designee for consideration and action on the in-home registration. Each applicant or provider shall complete a department-approved authorization for background check form no later than the first day of employment.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-06, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

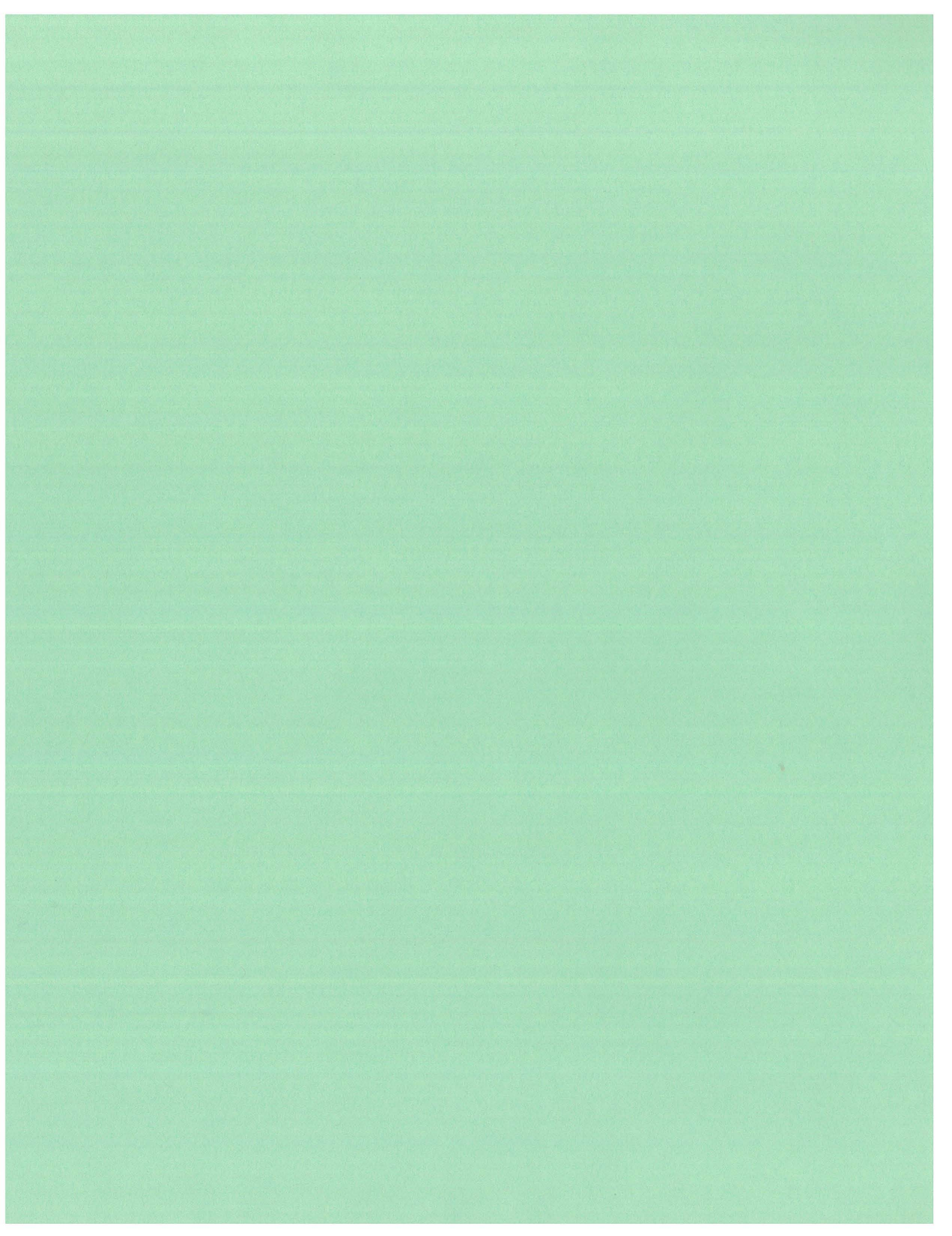
**SECTION 7.** Section 75-03-07-07 is created as follows:

**75-03-07-07. Appeals.** An applicant for an in-home registration or in-home provider may appeal a decision to deny or revoke a registration document by filing a written appeal with the department. The appeal must be postmarked or received by the department within ten calendar days of the in-home registration or in-home provider's receipt of written notice of the decision to deny or revoke the registration document. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-06, 50-11.1-08, 50-11.1-10



**CHAPTER 75-03-07.1**  
**~~AFFIDAVIT OF STANDARD COMPLIANCE AND CHILD CARE PROVIDER~~**  
**CERTIFICATION SELF-DECLARATION PROVIDERS**  
**EARLY CHILDHOOD SERVICES**

Section

<u>75-03-07.1-00</u>	<u>Definitions</u>
<u>75-03-07.1-01</u>	<del>Fees Repealed</del>
<u>75-03-07.1-02</u>	<del>Standard Compliance Certification</del> <u>Self-Declaration Standards</u> - <u>Application</u>
<u>75-03-07.1-03</u>	<del>Smoke-Free Environment Repealed</del>
<u>75-03-07.1-04</u>	<del>Standard Compliance Certification</del> <u>Self-Declaration</u> Restricted to One Per Household or Address <u>Residence</u> - Nontransferability of Early Childhood Services <del>Standard Compliance Certification</del> <u>Self-</u> <u>Declaration and Emergency Designee</u>
<u>75-03-07.1-05</u>	<u>Appeals</u>
<u>75-03-07.1-06</u>	<del>Revocation</del> <u>Denial or Revocation of Standard Compliance</u> <u>Certification Self-Declaration Document</u>
<u>75-03-07.1-07</u>	<u>Minimum Sanitation Requirements</u>
<u>75-03-07.1-08</u>	<u>Infant Care</u>
<u>75-03-07.1-09</u>	<u>Minimum Requirements for the Care of Children with Special</u> <u>Needs</u>
<u>75-03-07.1-10</u>	<u>Correction of Violations</u>
<u>75-03-07.1-11</u>	<u>Fiscal Sanctions</u>

**SECTION 1.** Section 75-03-07.1-00 is created as follows:

**75-03-07.1-00. Definitions.** The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter:

1. "Attendance" means the total number of children present at any one time.
2. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
3. "Emergency designee" means an individual designated by a holder of a self-declaration to be a back-up staff member for emergency assistance or to provide substitute care.
4. "Infant" means a child who is less than twelve months of age.
5. "Provider" means the holder of a self-declaration document.
6. "Supervision" means a provider or staff member being within sight or hearing range of an infant, toddler, or preschooler at all times so that the provider or staff member is capable of intervening to protect the health and safety of the child. For the school aged child, it means a provider or staff member being available for assistance and care so that the child's health and safety is protected.

**History:** Effective October 1, 2010.



General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02, 50-11.1-08, 50-11.1-17

**SECTION 2.** Section 75-03-07.1-01 is repealed.

~~**75-03-07.1-01. Fees.** A fee of fifteen dollars must accompany the affidavit for a standard compliance certification document. The fee will go to the county social service board for training and education of the county social service board for training and education of the county staff who administers the standard compliance certification program. Repealed effective October 1, 2010.~~

**History:** Effective June 1, 1995; repealed effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08, 42-CFR Part 98 50-11.1-16

**Law Implemented:** NDCC 50-11.1-08, 50-11.1-16

**SECTION 3.** Section 75-03-07.1-02 is amended as follows:

~~**75-03-07.1-02. Standard compliance certification**~~ **Self-declaration standards - application.**

1. ~~An affidavit applicant for a standard compliance certification document must be submitted to the county social service board~~ An affidavit applicant for a self-declaration document shall submit the application in the county in which the applicant proposes to provide early childhood services. ~~An affidavit application, including a department-approved authorization for background check for household members age twelve and older, an emergency designee, and an applicant, must be made in the form and manner prescribed by the department. The affidavit application must include the following sworn statement:~~
  - I am not required by North Dakota state law (Chapter 50-11.1) to be licensed to provide early childhood services.
  - a. ~~A license is required if care is provided for six or more children or for four or more infants.~~
  - b. ~~An "infant" means a child who is less than twenty four months of age.~~
2. A provisional self-declaration document may be issued:
  - a. The director of a regional human service center, or the director's designee, in consultation with the department, may issue a provisional self-declaration document although the applicant or self-declaration holder fails to, or is unable to, comply with all applicable standards and rules of the department.
  - b. A provisional self-declaration document must:
    - (1) State that the self-declaration holder has failed to comply with all applicable standards and rules of the department;
    - (2) State the items of noncompliance;
    - (3) Expire at a set date, not to exceed six months from the date of issuance; and

- (4) Be exchanged for an unrestricted self-declaration document, which bears an expiration date of one year from the date of issuance of the provisional self-declaration document, after the applicant or operator demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
- c. The department may issue a provisional self-declaration document only to an applicant or provider who has waived, in writing:
- (1) The right to a written statement of charges as to the reasons for the denial of an unrestricted self-declaration document;  
and
- (2) The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted self-declaration document, either at the time of application or during the period of operation under a provisional self-declaration document.
- d. Any provisional self-declaration document issued must be accompanied by a written statement of violations signed by the director of the regional human service center or the director's designee and must be acknowledged in writing by the provider.
- e. Subject to the exceptions contained in this section, a provisional self-declaration document entitles the holder to all rights and privileges afforded the holder of an unrestricted self-declaration document.
- f. The provider shall display prominently the provisional self-declaration document and agreement.
- g. The provider shall provide parents written notice that the provider is operating on a provisional self-declaration document and the basis for the provisional self-declaration document.
3. Applicants-An applicant for standard compliance certification document-a self-declaration document shall be directly responsible for the care, supervision, and guidance of the child or children and, shall comply with the following standards, certifying and shall certify:
- a. That the applicant:
- (1) Is at least eighteen years of age;
- (2) Is mentally, physically, and emotionally able to provide adequate care for the children in the applicant's charge-~~Shall~~ provide an environment that is physically and socially adequate for the children; and that the applicant is an adult of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
- (3) Is able to-~~Shall~~ devote adequate time and attention to the children in the applicant's charge care;

- (4) ~~Will~~ Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture standards which satisfies the dietary needs of the children while in the applicant's charge care;
  - (5) ~~Will~~ Shall provide proper health care and protection for children in the applicant's charge care;
  - (6) ~~Will~~ May not use or be under the influence of, and will not allow any household member or staff member to use or be under the influence of any illegal drugs or alcoholic beverages except for medical purposes while caring for children are in care;
  - (7) ~~Will~~ May not leave children without supervision;
  - (8) ~~Will~~ provide care on a continuing basis for less than a twenty-four hour period;
  - (9) ~~Will~~ annually check the immunization records of the children in the applicant's care; and Shall verify that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical or moral beliefs, unless the child is a drop-in or school-aged child;
  - (109) ~~Will be certified in cardiopulmonary resuscitation and first aid. If the provider is not certified at the time of initial standard compliance certification, the provider shall be certified in cardiopulmonary resuscitation and first aid at the time of subsequent standard compliance certification renewal. Shall report immediately, as a mandated reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;~~
  - (10) Shall provide a variety of games, toys, books, crafts, and other activities and materials to enhance the child's intellectual and social development and to broaden the child's life experience. Each provider shall have enough play materials and equipment so, that at any one time, each child in attendance may be involved individually;
  - (11) Shall ensure a current health assessment or a health assessment statement completed by the parent is obtained at the time of initial enrollment of the child, which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually; and
  - (12) Shall ensure a child information form completed by the parent is obtained at the time of initial enrollment of the child and annually thereafter.
- b. That discipline will be constructive or educational in nature and may include diversion, separation from the problem situation, ~~talk~~ talking

with the child about the situation, ~~praise for~~ praising appropriate behavior, ~~and or~~ gentle physical restraint such as holding. Children A child may not be subjected to physical harm or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury or neglect or abuse to any child is grounds for denial or revocation of a ~~standard compliance certification~~ self-declaration document.

- (1) ~~No A~~ child may not be kicked, punched, spanked, shaken, pinched, bitten, roughly handled, or struck, mechanically restrained, or physically maltreated by the caretaker provider, staff member, household member, or any other adult in the facility residence.
- (2) Authority to discipline may not be delegated to or be ~~accomplished-administered~~ by children.
- (3) Separation, when used as discipline, must be ~~brief and~~ appropriate to the child's age-development and circumstances, and the child must be in a safe, lighted, well-ventilated room within hearing range of an adult. ~~No A~~ child may not be isolated in a locked room or closet.
- (4) ~~No A~~ child may not be physically punished for lapses in toilet training.
- (5) ~~Verbal A~~ provider may not use verbal abuse or make derogatory remarks about the child, the child's family, race, or religion, ~~or profane, threatening, unduly loud, or abusive language is not to be used~~ when addressing ~~children~~ a child or in the presence of ~~children~~ a child.
- (6) A provider may not use profane, threatening, unduly loud or abusive language in the presence of a child.
- (67) ~~No A~~ child provider may not be ~~force fed~~ force-feed a child or coerce a child to eat unless medically prescribed and administered under a physician's medical provider's care.
- (78) ~~Deprivation~~ A provider may not use deprivation of snacks or meals may not be used as a form of discipline or punishment.
- (9) A provider may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
- (10) A provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.

- c. That a working smoke detector ~~will be~~ is properly installed and in good working order on each floor used by children.
- d. That a fire extinguisher that is inspected annually ~~will be~~ is properly installed in locations, is in good working order, and is located in the area used for child care.

- e. That a working telephone ~~will be available~~ is located in the location used for child care. Emergency numbers for parents and first responders must be posted.
- f. ~~That the child care location have a means of transporting children who are in care at the facility~~ When transportation is provided by a provider, children must be protected by adequate supervision and safety precautions.
  - (1) Drivers must be eighteen years of age or older and must comply with all relevant federal, state and local laws, including child restraint laws.
  - (2) A child must not be left unattended in a vehicle.
- 4. Potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, non-covered electrical outlets, poisonous plants, and open stairways must not be accessible to children. Guns and ammunition must be kept in separate locked storage, or trigger locks must be used. Other weapons and dangerous sporting equipment, such as bows and arrows, must not be accessible to children.
- 35. If the physical, ~~or mental~~ cognitive, social or emotional health capabilities of a ~~an~~ applicant or provider appear to be questionable, the department may ~~request~~ require that the provider ~~individual~~ present evidence of capability to provide the required care based on a formal evaluation. The department is not responsible for costs of any required evaluation.
- 46. ~~A standard compliance certification~~ self-declaration document is only effective for one year.

**History:** Effective June 1, 1995; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08, 42 CFR Part 98

**Law Implemented:** NDCC ~~50-11.1-06~~ 50-11.1-07, 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 4.** Section 75-03-07.1-03 is repealed.

**75-03-07.1-03. ~~Smoke free environment.~~** ~~Smoking is not permitted at any time in an early childhood care facility while a child receives care~~ Repealed effective October 1, 2010.

**History:** Effective June 1, 1995; repealed effective October 1, 2010.

**General Authority:** NDCC 23-12-10, 50-11.1-02.2; 42 CFR Part 98

**Law Implemented:** NDCC 50-11.1-02.2

**SECTION 5.** Section 75-03-07.1-04 is amended as follows:

**75-03-07.1-04. ~~Standard compliance certification~~ Self-declaration restricted to one per household or address residence - ~~Nontransferability of early childhood services standard compliance certification self-declaration and emergency designee.~~**

- 1. ~~Only~~ The department may not authorize more than one standard compliance certification self-declaration per address residence shall be

~~authorized by the department. Only one person residing in or representing an address will be allowed to self-certify as a provider of early child care services at any one time. A residence means real property that is typically used as a single family dwelling. This applies to new self-declarations issued on or after October 1, 2010. Existing providers will be exempt from this provision until October 1, 2015, after which time all providers will be subject to the requirements of this subsection.~~

- ~~2.~~ The applicant shall identify one emergency designee for the self-declaration at the time of the application.
- ~~23.~~ The standard compliance certification provider shall be on the premises supervising the children at all times when children are present, except in situations during which the emergency designee is providing care at all times while children are present.
- ~~34.~~ The standard compliance certification granted to a provider is nontransferable self-declaration is nontransferable to another residence.

**History:** Effective June 1, 1995; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08; ~~42 CFR Part 98~~

**Law Implemented:** ~~NDCC 50-11.1-04~~ 50-11.1-16, 50-11.1-17

**SECTION 6.** Section 75-03-07.1-05 is amended as follows:

**75-03-07.1-05. Appeals.** ~~Applicants~~ An applicant for, or a holder of, a standard compliance certification or holders of a standard compliance certification have self-declaration document has the right to appeal a decision to deny or revoke a standard compliance certification self-declaration document. The A written appeal must be filed in writing with postmarked or received by the department within ten calendar days of the applicant's or holder's receipt of written notice of ~~such a~~ the decision to deny or revoke the document. Upon receipt of a timely appeal, an administrative hearing shall must be conducted in the manner prescribed by chapter 75-01-03.

**History:** Effective June 1, 1995; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08; ~~42 CFR Part 98~~

**Law Implemented:** ~~NDCC 50-11.1-09, 50-11.1-10~~

**SECTION 7.** Section 75-03-07.1-06 is amended as follows:

**75-03-07.1-06. Revocation** Denial or revocation of standard compliance certification self-declaration document.

1. The right to provide early childhood services is dependent upon the applicant's or provider's continuing compliance with the terms of the application affidavit as listed in section 75-03-07.1-02.
2. A fraudulent or untrue application representation is grounds for revocation or denial.
3. The applicant, ~~standard compliance certification self-declaration~~ self-declaration provider, emergency designee, staff members, and ~~or members of the household members may~~ shall not have been found guilty ~~or of, pled guilty of to, or~~

~~pled no contest to: offenses which, in the view of the department, directly impact the ability of the registrant to serve the public as a child care provider. Conviction may be grounds for denial or revocation of the standard compliance certification. The applicant for standard compliance certification shall not have been found guilty of or pled guilty to an offense contained in North Dakota Century Code chapters 12.1-11, perjury—falsification—breach of duty; 12.1-12, bribery—unlawful influence of public servants; 12.1-16, homicide; 12.1-17, assaults—threats—coercion; 12.1-18, kidnapping; 12.1-20, sex offenses; 12.1-21, damaging property or public services; 12.1-22, robbery—breaking and entering offenses; 12.1-23, theft and related offenses; 12.1-24, forgery and counterfeiting; 12.1-27.1, obscenity control; 12.1-27.2, sexual performances by children; 12.1-28, gambling and related offenses; 12.1-28, prostitution; and 12.1-31, disorderly conduct—usury—tobacco to minors.~~

- a. An offense described in North Dakota Century Code chapter 12.1-16, homicide; 12.1-17, assaults, threats, coercion, harassment; 12.1-18, kidnapping; or 12.1-27.2 sexual performances by children; or in North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a 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; 12.1-29-01, promoting prostitution; 12.1-29-02, facilitating prostitution; 12.1-31-05, child procurement; or 14-09-22, abuse or neglect of a child;  
or
- b. An offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the offenses identified in subdivision a; or
- c. An offense, other than an offense identified in subdivision a or b, if the department determines that the individual has not been sufficiently rehabilitated. 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 charge or conviction, is prima facie evidence of sufficient rehabilitation.
- d. The department has determined that the offenses enumerated in subdivision a and b of subsection 3 have a direct bearing on the applicant's, provider's, emergency designee's, or staff member's ability to serve the public in a capacity as a provider, emergency designee, or staff member.
- e. In the case of 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 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.

4. ~~The applicant shall be issued a standard compliance certification, even if the applicant has pled or been found guilty of an offense under subsection 2, if the applicant has been determined by the department to be sufficiently rehabilitated.~~ If the department determines that a criminal history record check, as described in North Dakota Century Code section 50-11.1-06.2, is appropriate, the department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department may conduct statewide criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorized for the background check.
5. ~~Standard compliance certification providers~~ A provider shall ensure safe care for the children receiving services in their facility residence. If a services required decision made under North Dakota Century Code chapter 50-25.1 exists, indicating that a child has been abused or neglected by an applicant, provider, emergency designee, staff member or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or self-declaration document may be denied or revoked. If there exists a probable cause services required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists indicating that any child has been abused or neglected by the standard compliance certification applicant, provider, emergency designee, staff member, or members of the household member, the person applicant or provider shall furnish information to the department, from which the department can determine the applicant's, provider's or staff member's current ability to provide care that is free of abuse or neglect. The department shall furnish the determination of ability to the operator applicant or provider and to the regional director of the regional human service center or his the director's designee for consideration and action on the standard compliance certification document application or self declaration document. Appeal of departmental determinations are under chapters 75-01-03 and 75-03-18. Each applicant, provider, emergency designee and staff member shall complete a department-approved authorization for background check form no later than the first day of employment. Household members over the age of twelve must complete a department-approved authorization for background check form at the time of application or upon obtaining residence at the location of the child care.

**History:** Effective June 1, 1995; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08, 50-11.1-09; 42 CFR Part 98



Law Implemented: NDCC 50-11.1-06.2, 50-11.1-08, 50-11.1-09, 50-11.1-16, 50-11.1-17

SECTION 8. Section 75-03-07.1-07 is created as follows:

**75-03-07.1-07. Minimum sanitation requirements.**

1. The provider shall operate according to the recommendations by the Centers for Disease Control including washing hands, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and individual cloth towels or paper towels must be available at each sink. Clean individual towels must be provided at least daily.
2. The provider shall ensure that the residence, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The provider shall establish routine cleaning procedures to protect the health of the children.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

SECTION 9. Section 75-03-07.1-08 is created as follows:

**75-03-07.1-08. Infant care.**

1. Environment and interactions.
  - a. A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
  - b. The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member or emergency designee such as being held, rocked, talked with, or sung to.
  - c. The provider shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
    - (1) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
    - (2) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
  - d. The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
  - e. The provider shall take children outdoors or to other areas within the child care for a part of each day to provide some change of physical surroundings and to be with other children.

- f. When a child is awake, the provider may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.
- g. The provider shall ensure that infants are not shaken or jostled.
- h. The provider shall ensure that low chairs and tables or high chairs with trays must be provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
- i. The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

2. Feeding.

- a. The provider shall ensure that infants are provided developmentally-appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed in writing by the infant's parent or medical provider.
- b. The provider shall ensure that infants are fed only the specific brand of iron fortified infant formula requested by the parent. The provider shall use brand-specific mixing instructions unless alternative mixing instructions, are directed by a child's medical provider.
- c. The provider shall ensure that mixed formula that has been unrefrigerated more than one hour, is discarded.
- d. The provider shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent at the end of each day.
- e. The provider shall ensure that an infant is not fed by propping a bottle.
- f. The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
- g. The provider shall be within sight and hearing range of an infant during the infant's feeding or eating process.

3. Diapering.

- a. The provider shall ensure that there is a designated cleanable diapering station, located separately from food preparation and serving areas in the child care if children requiring diapering are in care.
- b. The provider shall ensure that diapers are changed promptly when soiled or wet and in a sanitary manner.
- c. Diapers must be changed on a non-porous surface area which must be cleaned and disinfected after each diapering.

- d. The provider shall ensure that soiled or wet diapers are stored in a sanitary, airtight container separate from other garbage and waste until removed from the child care.
4. Sleeping.
- a. The provider shall ensure that infants are placed on their back when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infants face must remain uncovered when sleeping.
  - b. The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
  - c. The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib.
  - d. Waterbeds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
  - e. The provider shall ensure that all items are removed from the crib or portable crib, except for one infant blanket or security item that does not pose a risk of suffocation to the infant.
  - f. The provider shall ensure that mattresses and sheets are tightly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.
  - g. The provider shall ensure that each infant has an individual infant blanket.
  - h. The provider shall ensure that toys or objects hung over an infant crib or portable crib must be held securely and be of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.
  - i. The provider shall visually check on sleeping infants every fifteen minutes.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 10.** Section 75-03-07.1-09 is created as follows:

**75-03-07.1-09. Minimum requirements for the care of children with special needs.** A provider shall make appropriate provisions, as required by the Americans with Disabilities Act, to meet the needs of children with special needs. The provider shall receive documentation of the child's special needs by the parent upon the child's enrollment.

- 1. When a child with special needs is admitted, the provider shall consult with the child's parents, and with the parent's permission, the child's source of professional health care or, when appropriate, other health and

- professional consultants, to gain an understanding of the child's individual needs. The provider shall receive a written health care plan from the child's medical provider or parent with information related to the child's special needs, such as a description, definition of the diagnosis, and general information for emergency and required care such as usual medications and procedures.
2. The provider shall ensure that staff members and the emergency designee receive proper instructions as to the nature of the child's disability and potential for growth and development.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

**SECTION 11.** Section 75-03-07.1-10 is created as follows:

**75-03-7.1-10. Correction of violations.**

1. A provider shall correct violations noted in a correction order within the following times:
  - a. For a violation of paragraphs (5) and (7) of subdivision a of subsection 3 of section 75-03-07.1-02, subdivision b of subsection 3 of section 75-03-07.1-02, and subsection 4 of section 75-03-07.1-02, within twenty four hours.
  - b. For all other deficiencies of Chapter 75-03-07.1, within twenty days.
2. All periods of correction begin on the date of the receipt of the correction order by the provider.
3. The regional supervisor of early childhood services may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the provider and a showing that the need for the extension is created by unforeseeable circumstances and the provider has diligently pursued the correction of the violation.
4. The provider shall furnish a written notice to the authorized agent upon completion of the required corrective action. The correction order remains in effect until the authorized agent confirms the corrections have been made.
5. The provider shall notify the parent of each child receiving care at the residence and each staff member of the process for reporting a complaint or suspected rule violation.
6. Within three business days of the receipt of the correction order, the provider shall notify the parents of each child receiving care by this provider that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also must post the correction order in a conspicuous location within the residence until the violation has been corrected or five days, whichever is longer.
7. A provider who has been issued a correction order must be reinspected at the end of the period allowed for correction. If, upon reinspection, it is

determined that the provider has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order must be mailed by certified mail to the provider. The notice must specify the violations not corrected and the penalties assessed in accordance with section 50-11.1-07.5.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2

**SECTION 12.** Section 75-03-07.1-11 is created as follows:

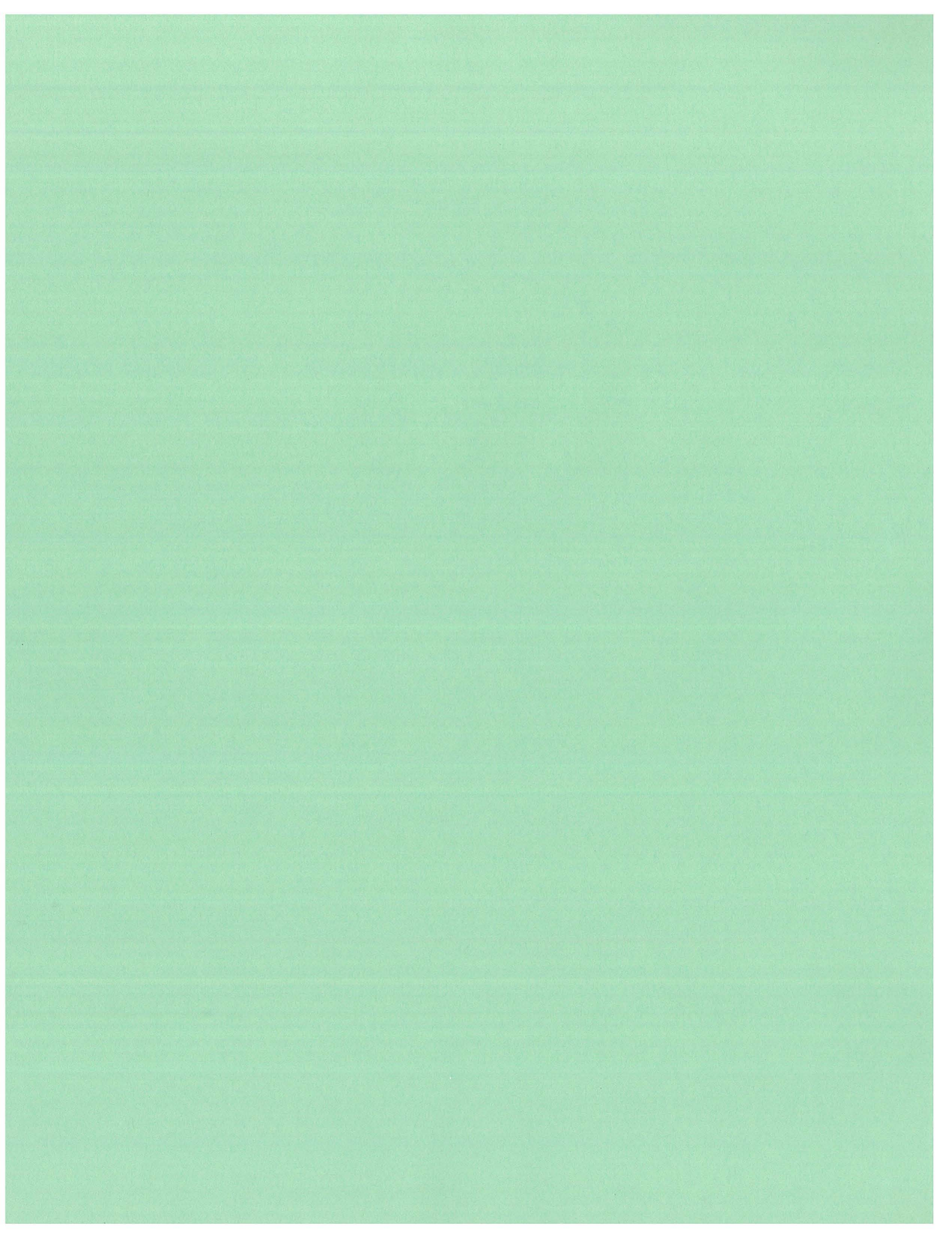
**75-03-07.1-11. Fiscal sanctions.**

1. The department shall assess a fiscal sanction of twenty-five dollars per day for each violation of subdivisions b, c, d, and e of subsection 3 of section 75-03-07.1-02 or subsection 4 of section 75-03-07.1-02 for each day that the provider has not verified correction, after the allowable time for correction of violations ends.
2. The department shall assess fiscal sanction of five dollars per day for each violation of any other provision of this chapter for each day that the provider has not verified correction, after the allowable time for correction of violations ends.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-07.4, 50-11.1-07.5



**CHAPTER 75-03-08  
FAMILY CHILD CARE HOMES EARLY CHILDHOOD SERVICES**

Section	
75-03-08-01	<u>Purpose [Repealed]</u>
75-03-08-02	<u>Authority and Objective [Repealed]</u>
75-03-08-03	Definitions
75-03-08-04	Effect of Licensing and Display of License
75-03-08-05	Denial or Revocation of License
75-03-08-05.1	Family Child Care Home License
75-03-08-06	Provisional License
<u>75-03-08-06.1</u>	<u>Restricted License</u>
75-03-08-07	Application for and Nontransferability of Family Child Care Home License
<del>75-03-08-08</del>	<del>Family Child Care Homes Registered Prior to Effective Date [Repealed]</del>
75-03-08-08.1	<del>Provider Responsibilities</del> <u>Duties of the Provider</u>
75-03-08-09	Staffing Requirements
75-03-08-10	Minimum Qualifications of Family Child Care Providers
75-03-08-12	Minimum Qualifications for all Caregivers <u>Staff Members</u>
<u>75-03-08-12.1</u>	<u>Minimum Qualifications of Volunteers</u>
75-03-08-13	<del>Provider and Caregiver</del> <u>Minimum Health Requirements for all Applicants, Providers, and Staff Members</u>
75-03-08-14	<u>Physical Facilities</u> <u>Minimum Requirements for Facility</u>
75-03-08-15	Minimum Standards for Provision of Transportation
75-03-08-16	<del>[Reserved]</del> <u>Minimum Emergency Evacuation and Disaster Plan</u>
75-03-08-19	Admission Procedures
75-03-08-20	Program Requirements
75-03-08-21	<u>Minimum Standards for Food and Nutrition</u>
75-03-08-21.1	<del>Health Protection</del> <u>Minimum Sanitation and Safety Requirements</u>
75-03-08-22	Records
75-03-08-23	Discipline - Punishment Prohibited
75-03-08-24	<del>[Reserved]</del> <u>Specialized Types of Care and Minimum Requirements</u>
75-03-08-25	<del>[Reserved]</del> <u>Minimum Requirements for Care of Children with Special Needs</u>
75-03-08-27	Effect of Conviction on Licensure and Employment
75-03-08-28	Child Abuse and Neglect <del>Determinations</del> <u>Decisions</u>
75-03-08-29	<del>Allowable Time Periods for Correction of Deficiencies</del> <u>Violations</u>
75-03-08-30	Fiscal Sanctions
75-03-08-31	Appeals

**SECTION 1.** Section 75-03-08-01 is repealed.

**75-03-08-01. Purpose.** ~~The purpose of this chapter is to establish minimum standards of family child care and to assure that those standards are maintained~~  
Repealed effective October 1, 2010.

**History:** Effective December 1, 1981; amended effective January 1, 1999; repealed effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01

**SECTION 2.** Section 75-03-08-02 is repealed.

**75-03-08-02. Authority and objective.** ~~Pursuant to North Dakota Century Code section 50-11.1-08, the department may prescribe and promulgate such rules as are necessary to carry out the provisions of North Dakota Century Code chapter 50-11.1~~  
Repealed effective October 1, 2010.

**History:** Effective December 1, 1981; amended effective January 1, 1987; January 1, 1999; repealed effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08

**SECTION 3.** Section 75-03-08-03 is amended as follows:

**75-03-08-03. Definitions.** As The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Attendance" means the total number of children present at any one time at the home family child care.
2. "Caregiver" means ~~any individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in a child care home under the guidance and supervision of the family child care provider.~~
3. "County agency" means ~~the county social service board in the county where the family child care home is located~~ "Child with special needs" means a child determined by a medical provider to have or to be at risk for chronic physical, developmental, behavioral, or emotional conditions.
4. "Department" means ~~the department of human services.~~
5. "Emergency designee" means an individual designated by the family child care provider to be a backup caregiver staff member for emergency assistance or to provide substitute care.
6. "Family child care home" means ~~an occupied private residence in which early childhood services are provided for no more than seven children at any one time, except that the term includes a residence providing early childhood services to two additional school aged children during the two hours immediately before and after the school day and all day, except~~



~~Saturday and Sunday, when school is not in session during the official school year.~~

- ~~4.~~ "Infant" means a child who is younger than twelve months of age.
- ~~5.~~ "Medication" is defined as any drug or remedy which is taken internally or orally, inhaled, or applied topically.
- ~~76.~~ "Family child care provider" means the individual who has the legal responsibility and the administrative authority for the operation "Provider" means owner or operator of a family child care home. The family child care provider is the applicant for license or the licensee under this chapter.
- ~~8.~~ "Provider" means the family child care provider.
- ~~9.~~ "Staff member" means provider, substitute staff, volunteer, caregiver, or any other individual whose prime responsibility is the provision of direct care, supervision, and guidance to children in the family child care home.
- ~~407.~~ "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- ~~448.~~ "Volunteer" means an individual who visits or provides an unpaid service or visit, including a fire person firefighter for fire safety week, McGruff, or Santa Claus person a practicum student, or a foster grandparent.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02

**SECTION 4.** Section 75-03-08-04 is amended as follows:

**75-03-08-04. Effect of licensing and display of license.**

1. The issuance of a license to operate a family child care home is evidence of compliance with the standards contained in this chapter and North Dakota Century Code chapter 50-11.1 at the time of licensure.
2. The current license must be displayed prominently in the premises to which it applies.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, ~~50-11.1-06~~

**SECTION 5.** Section 75-03-08-05 is amended as follows:

**75-03-08-05. Denial or revocation of license.**

1. A license may be denied or revoked under the terms and conditions of North Dakota Century Code sections 50-11.1-04, 50-11.1-06.2, 50-11.1-09, and 50-11.1-10.

2. If an action to revoke a license is appealed, the licenseholder provider may continue the operation of the facility family child care pending the final administrative determination or until the license expires, whichever occurs first; ~~provided, however, that this~~ unless continued operation would jeopardize the health and safety of the children attending the family child care. This subsection does not limit the actions the department may take pursuant to North Dakota Century Code ~~section~~ sections 50-11.1-07.8 and 50-11.1-12.
3. The department may revoke a license to operate a family child care ~~home~~ without first issuing a correction order if continued operation would jeopardize the health and safety of the children present or would violate North Dakota Century Code section 50-11.1-09.

**History:** Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09, 50-11.1-10

**SECTION 6.** Section 75-03-08-05.1 is amended as follows:

**75-03-08-05.1. Family child care ~~home~~ license.** The right to operate a licensed family child care ~~home~~ is dependent upon continuing compliance with the applicable provisions of North Dakota Century Code chapter 50-11.1 and the applicable standards contained in this chapter.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07

**SECTION 7.** Section 75-03-08-06 is amended as follows:

**75-03-08-06. Provisional license.**

1. The director of a regional human service center, ~~in the director's discretion,~~ or the director's designee, in consultation with the department, may issue a provisional license for the operation of a ~~newly opened family child care home or for a previously licensed family child care home~~ although the ~~family child care home~~ applicant or provider fails to, or is unable to, comply with all applicable standards and rules of the department.
2. A provisional license must:
  - a. ~~Prominently state~~ State that the ~~family child care home provider~~ has failed to comply with all applicable standards and rules of the department;
  - b. ~~State that the items of noncompliance are set forth on a document available, upon request to the family child care provider;~~

- c. Expire at a set date, not to exceed six months from the date of issuance; and
  - d. Be exchanged for an unrestricted license, which bears ~~the same~~ an expiration date of one year from the date of issuance as the provisional license, ~~upon demonstrating~~ after the applicant or provider demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
3. ~~A~~ The department may issue a provisional license ~~may be issued~~ only to an applicant or provider who has waived, in writing:
    - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and
    - b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
  4. Any provisional license issued must be accompanied by a written statement of violations signed by the regional director of the human service center or the regional director's designee and must be acknowledged in writing by the provider.
  5. Subject to the exceptions contained in this section, a provisional license entitles the holder to all rights and privileges afforded to the holder of an unrestricted license.
  6. The department ~~shall~~ may not issue a provisional license if the ~~facility~~ family child care is not in compliance with section 75-03-08-14.
  7. The provider shall prominently display the provisional license and agreement.
  8. The provider shall provide parents written notice that the ~~facility~~ family child care is operating on a provisional license and the basis for the provisional license.

**History:** Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; January 1, 1989; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC ~~55-11.1-03, 55-11.1-04~~ 50-11.1-03, 50-11.1-04, 50-11.1-08

**SECTION 8.** Section 75-03-08-06.1 is created as follows:

**75-03-08-06.1 Restricted license.** The department may issue a restricted license:

1. To restrict an individual's presence when children are in child care;
2. To restrict a pet or animal from areas accessible to children; or
3. When necessary to inform the parents that the provider is licensed, but is restricted to operating in certain rooms or floors of the

residence or restricted from using specified outdoor space of the residence.

History: Effective October 1, 2010.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

**SECTION 9.** Section 75-03-08-07 is amended as follows:

**75-03-08-07. Application for and nontransferability of family child care home license.**

1. An application for a license must be submitted to the ~~county agency~~ authorized agent in the county in which the ~~facility~~ family child care is located. Application must be made in the form and manner prescribed by the department.
2. The license is nontransferable and valid only ~~on~~ for the premises indicated on the license. A new application for a license must be filed ~~by a licensed home~~ upon change of provider or location.
3. The department may not issue more than one childcare license per residence. A residence means real property that is typically used as a single family dwelling. This applies to licenses issued on or after October 1, 2010. Existing operators will be exempt from this provision until October 1, 2015, after which time all operators will be subject to the requirements of this subsection.

**History:** Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

**SECTION 10.** Section 75-03-08-08.1 is amended as follows:

**75-03-08-08.1. ~~Provider responsibilities~~ Duties of the provider.**

1. ~~Except as provided in subsections 2 and 3, a~~ A provider shall maintain, whenever services are provided, at least one staff member, emergency designee, or substitute staff who:
  - a. Is certified in basic cardiopulmonary resuscitation that meets the requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department; and
  - b. Is certified or trained in a department-approved program to provide first aid.
2. ~~Substitute staff are exempted from the requirements of subsection 1.~~
3. ~~A provider who uses an emergency designee and has no staff member present who is trained or certified to provide first aid and cardiopulmonary resuscitation may not be found in violation of subsection 1.~~

4. The provider shall have an adult staff member present in the ~~home~~ family child care at all times to supervise staff members under the age of eighteen and children in care.
53. A staff member may not at any time place ~~children~~ a child in an environment that would be harmful or dangerous to ~~their~~ the child's physical, cognitive, social, or emotional health.
64. The provider shall report ~~within twenty-four hours to the county director or the county director's designee~~ to the authorized agent within twenty-four hours:
  - a. a death or serious accident or illness requiring hospitalization, of a child while in the care of the facility family child care or attributable to care received in the facility family child care;
  - b. An injury to any child which occurs while the child is in the care of the family child care and which requires medical treatment;
  - c. Poisonings or errors in the administration of medication;
  - d. Closures or relocations of child care programs due to emergencies;  
and
  - e. Fire that occurs or explosions that occur in or on the premises of the family child care.
75. The provider shall develop and ensure compliance with a written policy and ~~follow a~~ procedure for accountability when a normally unaccompanied child fails to arrive for the program.
6. The provider shall be present in the family child care no less than sixty percent of the time when children are in care.
7. The provider, as a mandatory reporter, shall report any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03.
8. The provider shall select an emergency designee.
9. The provider shall maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the family child care.
10. The provider must be an adult of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of childcare.
11. The provider shall ensure safe care for the children under supervision. Supervision means a staff member being within sight or hearing range of an infant, toddler, or preschooler at all times so that the staff member is capable of intervening to protect the health and safety of the child. For the school-aged child, it means a staff member being available for assistance and care so the child's health and safety is protected.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08, ~~50-11.1-09~~

**SECTION 11.** Section 75-03-08-09 is amended as follows:

**75-03-08-09. Staffing requirements.** Staffing requirements are established by the number of children physically in care at the family child care home at a any given time, rather than total enrollment.

1. A provider may provide care to no more than a total of four children if all are under age twenty-four months.
2. A provider providing care to five or more children may provide care to no more than three children under age twenty-four months.
3. If a child ~~in care has a disabling condition which requires more than usual care with special needs is admitted to the program~~, the child's developmental age level must be used in determining the number of children for which care may be provided.
4. Children using the licensed facility family child care for a McGruff safe house, a block house, or a certified safe house program during an emergency are not counted under this section.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-02.1, 50-11.1-04, 50-11.1-08, 50-11.1-09

**SECTION 12.** Section 75-03-08-10 is amended as follows:

**75-03-08-10. Minimum qualifications of family child care providers.** A provider shall:

1. Be at least eighteen years of age;
2. Complete a department-approved basic child care course during the first three months of licensure; and
23. Certify attendance completion at of a minimum of nine hours of county-approved department-approved training related to child care every licensing year and the nine hours of training in the first year following initial licensure must include a department approved six hour basic child care course;
3. ~~Be physically present in the home no less than sixty percent of the time when children are in care;~~
4. ~~Report any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1;~~
5. ~~Select an emergency designee for the home as backup for emergency assistance;~~
6. ~~Ensure safe care for the children under supervision; and~~
7. ~~Be mentally, physically, and emotionally able to provide adequate care for the children in the provider's charge.~~

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 13.** Section 75-03-08-12 is amended as follows:

**75-03-08-12. Minimum qualifications for all caregivers staff members.** Each staff member who provides care shall:

1. Be at least fourteen years of age, provided that each ~~such individual~~ staff member under age sixteen provides written parental consent for ~~such employment as a staff member~~, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate family of the ~~family child care~~ provider may provide care if ~~such the~~ family member is at least twelve years of age;
2. ~~Be mentally, physically, and emotionally able to provide adequate care for the children under supervision~~ an individual of good physical, cognitive, social, and emotional health and use mature judgment when making decisions impacting the quality of child care; and
3. ~~Ensure safe care for the children under supervision.~~ Complete a department-approved basic child care course during the first three months of employment; and
4. Receive orientation related to child care policies, emergency procedures, special needs of children in care, and child care activities during the first week of employment.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08, ~~50-11.1-09~~

**SECTION 14.** Section 75-03-08-12.1 is created as follows:

**75-03-08-12.1 Minimum qualifications of volunteers.** If a volunteer is providing child care, the volunteer shall meet the qualifications of a staff member and shall receive orientation for all assigned tasks.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 15.** Section 75-03-08-13 is amended as follows:

**75-03-08-13. Provider and caregiver Minimum health requirements for all applicants, providers, and staff members.**

1. ~~Each provider or caregiver shall complete a health self-certification form certifying that the provider or caregiver does not have health problems that would interfere with the person's functioning as a caregiver or that would be detrimental to the health of the children or other staff. If the provider adds or replaces a caregiver after the licensure process is complete, the provider must submit a self-certification form completed by the new caregiver to the county agency within five working days of the caregiver's first workday.~~

2. ~~Each provider or caregiver shall furnish documentation of a negative mantoux tuberculosis test prior to initial licensure or employment, and every two years thereafter. If the provider adds or replaces a caregiver after the licensure process is complete, the caregiver shall furnish documentation of a negative mantoux tuberculosis test before the first day of employment. Substitute staff are exempted from this requirement. A family child care provider who uses an untested emergency designee may not be found in violation of this provision.~~
3. ~~If the physical, cognitive, social or mental emotional health capabilities of a an applicant, provider, or caregiver staff member appears questionable, the department may require the individual to be evaluated by appropriate professionals, with the results provided to the department present evidence of his or her capability to provide the required care based on a formal evaluation. The department is not responsible for the costs of any required evaluation.~~
42. ~~While children are in care, a provider or caregiver A staff member or household member shall may not use or be under the influence of any illegal drugs or alcohol alcoholic beverages while caring for children or judgment-altering drugs.~~

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 16.** Section 75-03-08-14 is amended as follows:

**75-03-08-14. Physical facilities Minimum requirements of the facility.**

1. ~~The family child care home shall provide~~ must contain adequate space, indoors and out, for the daily activities of the children. ~~This Adequate space~~ Adequate space must include a minimum of thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, areas occupied by furniture or appliances that children should not play on or under, and space children are not permitted to occupy.
2. ~~The home~~ family child care must be clean and maintained to protect the health and safety of children. ~~The home~~ family child care and outdoor play area must be free of clutter, accumulation of refuse, standing water, unprotected wells, debris, and other health and safety hazards. ~~Rubbish and garbage~~ Garbage must be regularly removed.
3. ~~There must be~~ The provider shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children.
4. ~~The home must be~~ provider shall ensure that the family child care is equipped with one ~~working~~ properly installed smoke detector located in each sleeping area used by the children, and one ~~working~~ properly



- installed smoke detector and ~~one~~ fire extinguisher per level. Properly installed means installed according to manufacturer's or fire inspector's directions.
5. ~~Elevated~~ The provider shall ensure that elevated areas, including stairs ~~or~~ and porches, ~~must have~~ railings and safety gates where necessary to prevent falls.
  6. ~~The home must have~~ provider shall ensure that the family child care has a drinking water supply from an approved community water system or from a source tested and approved by the state department of health.
  7. ~~Each~~ The provider shall ensure that each child shall ~~have~~ has a comfortable and clean place to sleep or rest and an individual blanket. The provider may allow a child to sleep or rest on the floor may be used only when the floor is carpeted or padded, warm, and free from drafts. A provider caring for a child who is in care between the hours of eight p.m. and six a.m. shall have ensure that the child has an individual sleeping place. Any child under twelve months of age or unable to walk unassisted must be provided sleeping space in a crib with a firm mattress, or a playpen with adequate padding. A staff member may not place a child on a waterbed unless the child has attained both a developmental and chronological age of thirty six months.
  8. ~~Exterior~~ The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas ~~must be~~ are contained, ~~or~~ fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
  9. ~~Potential~~ The provider shall ensure that potential hazards, including such as guns, household cleaning chemicals, uninsulated wires, medicines, noncovered electrical outlets, and poisonous plants, and open stairways, ~~may~~ are not be accessible to young children. Guns The provider shall keep guns and ammunition must be kept in locked storage, each separate from the other ammunition, or shall use trigger locks must be used. Ammunition must be kept in locked storage separate from all firearms The provider shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
  10. ~~Indoor~~ The provider shall ensure indoor and outdoor equipment, toys, and supplies ~~must be~~ are safe, strong, nontoxic, and in good repair. All The provider shall ensure that all toys and equipment must be easily cleanable and must be cleaned and sanitized on a routine basis are kept clean and sanitary. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
  11. ~~Exit~~ The provider shall ensure that exit doorways and pathways ~~may~~ are not be blocked.
  12. ~~The home must have~~ provider shall ensure that the family child care has a working telephone in the location used for child care. The provider shall post emergency numbers of parents and first responders.

13. The ~~home~~ family child care must have an indoor bathroom with a minimum of one ~~lavatory-sink~~ and one flush toilet.
14. The ~~home~~ family child care must have hot and cold running water. ~~Hot water heaters must be turned down or there must be a tempering valve or an antiscalding device on~~ The water in the faucets used by children so that the temperature of hot water supplied to lavatories does must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
15. The family child care must meet the local minimum fire and safety standards. If the fire, safety, health, or sanitation environment of the ~~home~~ family child care appears questionable, the department or ~~county agency~~ authorized agent may require the provider to obtain an appropriate inspection from the appropriate fire authority or state department of health, and to submit the results of the inspection to the ~~county licensing agency~~ authorized agent. ~~Fire~~ The provider shall obtain fire and safety inspections must be obtained for all initially licensed prior to licensure if the family child care homes is located in a manufactured homes home, a mobile homes home, an apartment buildings building, homes a home in which care is provided to children in basements the basement, or homes a home having alternate heating devices, such as wood burning stoves, propane heaters, or fireplaces. Any inspection fees are the family child care home provider's responsibility. Any The provider shall ensure that any problems found ~~must be~~ are corrected.
16. ~~Steps~~ The provider shall ensure that steps and walkways must be are kept free from accumulations of water, ice, snow, or debris.
17. ~~Combustible~~ The provider shall ensure that combustible materials must be are kept away from light bulbs and other heat sources.
18. ~~Soiled~~ The provider shall ensure that soiled or wet diapers must be are stored in a sanitary, airtight container until laundered or removed from the ~~home~~ family child care.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC ~~50-11.1-02, 2~~ 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 17.** Section 75-03-08-15 is amended as follows:

**75-03-08-15. Minimum standards for provision of transportation.**

1. ~~Within ninety days of the date of initial licensure or relicensure~~ Prior to licensure, the provider shall establish a written policy governing the transportation of children to and from the family child care ~~home~~, if the family child care ~~home~~ provides transportation. This policy must specify who is to provide transportation and how parental permission is to be obtained for activities which occur outside the family child care ~~home~~. If the family child care ~~home~~ provides transportation, the provider shall inform the parents of any insurance coverage on the vehicles. Any vehicle

- used for transporting children must be in safe operating condition and in compliance with state and local laws.
2. When transportation is provided by a family child care ~~home~~, children must be protected by adequate staff supervision and safety precautions.
    - a. Staffing requirements must be ~~met~~ maintained to assure the safety of children while being transported.
    - b. A child may not be left unattended in a vehicle.
  3. Children must be instructed in safe transportation conduct appropriate to their age and stage of development.
  4. The driver shall be eighteen years of age or older and shall comply with all relevant federal, state, and local laws, including child restraint system laws.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 18.** Section 75-03-08-16 is created as follows:

**75-03-08-16. Minimum emergency evacuation and disaster plan.**

1. Each provider shall establish and post an emergency disaster plan for the safety of the children in care. Written disaster plans must be developed in cooperation with local emergency management agencies. The plan must include:
  - a. Emergency procedures, including the availability of emergency food, water and first aid supplies;
  - b. What will be done if parents are unable to pick up their child as a result of the emergency; and
  - c. What will be done if the family child care has to be relocated or must close as a result of the emergency.
2. Fire and emergency evacuation drills must be performed monthly.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 19.** Section 75-03-08-19 is amended as follows:

**75-03-08-19. Admission procedures.**

1. The provider shall request a preadmission visit with the child and the child's parents to acquaint the child and the parent with the ~~home~~ family child care and its surroundings, the other children, and the ~~family child care~~ provider.
2. The provider shall inform parents about the child care program, places and times of special activities outside the ~~home~~ family child care, policies, and emergency procedures, and shall discuss information concerning the

child to identify and accommodate the child's needs. An explanation of how accidents and illnesses may be dealt with must be provided, as well as methods of discipline and developmentally appropriate techniques to be used.

3. ~~Parents must be notified~~ The provider shall notify parents of the payment rates and the time of payment.
4. The provider shall provide parents with unlimited access and opportunities to observe their children at any time their children are in care. This does not prohibit a ~~family child care home~~ provider from locking it's the doors of the family child care while children are in care.
5. ~~A health assessment statement form completed by the parent must be obtained at the time of initial enrollment of the child and annually thereafter. This statement must indicate any special precautions for diet, medication, or activity. This statement must serve as evidence that a child is physically able to take part in the child care program~~ The provider shall verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the provider considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
6. The provider shall inform parents that they may request daily reports for their child, including details regarding eating, napping, and diapering.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-04, 50-11.1-08, ~~50-11.1-09~~

**SECTION 20.** Section 75-03-08-20 is amended as follows:

**75-03-08-20. Program requirements.**

1. The ~~family child care~~ provider shall have a program of daily individual and small group activities appropriate to the ages and needs of the children in the family child care home. The program must include activities that foster sound social, ~~intellectual~~ cognitive, emotional, and physical growth, developed ~~with in~~ discussion and consultation with parents as to their children's needs. A written daily routine including meal times, rest times, planned developmentally appropriate activities, free play and outside time shall be available to parents. The daily routine must be flexible enough to allow for spontaneous activity as appropriate.
2. The program must be designed with intervals of stimulation and relaxation and a balance between periods of active play and quiet play or rest. The daily routine must foster the development of good health habits and self-discipline, adequate indoor and outdoor play, rest, and sleep, with sufficient time and opportunities for various experiences.
3. The program must provide a variety of educational experiences for all ages of children served with an adequate supply of safe play equipment, toys, and materials for indoor and outdoor activity. Each family child care

- home shall have enough play materials and equipment so that at any one time, each child in attendance may be individually involved individually.
4. Areas used for napping must provide an opportunity for undisturbed rest. Napping The provider shall set napping schedules must be set for children according to the children's ages, and needs, and the parent's wishes.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08, 50-11.1-09

**SECTION 21.** Section 75-03-08-21 is amended as follows:

**75-03-08-21. Nutrition Minimum standards for food and nutrition.** Children must be served A provider shall serve children nutritious meals or snacks according to the following requirements:

1. ~~Children in care for more than three hours shall receive either a snack or meal, whichever is appropriate to that time of day~~ When the provider is responsible for providing food to children, the food supplied must meet United States department of agriculture standards and must be properly prepared, sufficient in amount, nutritious, varied according to the diets of the children enrolled, and served at appropriate hours in a sanitary manner.
2. When parents bring sack lunches for their children, the provider shall supplement lunches, as necessary, to provide nutritious and sufficient amounts of food for children, and shall provide adequate and appropriate refrigeration and storage as required.
3. When a child is in care for more than three hours, that child shall receive either a snack or a meal, whichever is appropriate to that time of day.
24. Children in care during any normal mealtime hour must be served nutritious food appropriate to that time of day.
35. Children in care after school ~~who have not had any food since lunch~~ shall be provided with a snack.
6. Information provided by the children's parents regarding special diets, allergies, or other dietary conditions shall be adhered to in the feeding schedule and planning of menus.
4.
  - a. ~~Infants must be provided age appropriate nutritious foods. Only breast milk or iron-fortified artificial milk, meeting the requirements of the Infant Formula Act of 1980 [Pub. L. 96-359; 94 Stat. 1190; 21 U.S.C. note et seq.], may be fed to infants less than six months of age, unless otherwise instructed by the infant's parent.~~
  - b. ~~Infants must be fed only the specific brand of artificial baby milk requested by the parent. Staff members shall use brand specific mixing instructions unless alternative mixing instructions, based upon directions of a child's physician, are provided.~~
  - c. ~~Mixed formula, in single bottles or batches, that has been unrefrigerated more than one hour, must be discarded.~~

- d. ~~Frozen breast milk must be thawed under cool running tap water, in amounts needed. Unused, thawed breast milk must be discarded at the end of each day.~~
- 5. a. ~~An infant may not be fed by propping a bottle.~~  
 b. ~~Cereal and other nonliquids or suspensions may only be fed to an infant through a bottle on the written orders of the child's physician.~~  
 c. ~~Staff members may not leave an infant unattended during the infant's feeding or eating process.~~
- 7. The provider shall serve snacks and meals to children in a manner commensurate with their development, using appropriate foods, portions, dishes, and eating utensils.
- 8. The provider or staff member may encourage children to eat the food served, but the provider or staff member may not coerce or force-feed children.
- 9. The provider shall post a daily or weekly menu for meals and snacks and shall make those menus available to parents.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08, ~~50-11.1-09~~

**SECTION 22.** Section 75-03-08-21.1 is amended as follows:

**75-03-08-21.1. Health protection Minimum sanitation and safety requirements.**

- 1. Children shall have received all immunizations appropriate for the child's age, as prescribed by the state department of health, unless the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs.
- 2. ~~At least one staff member shall meet the current basic cardiopulmonary resuscitation certification requirements of the American heart association, American red cross, or other similar cardiopulmonary resuscitation training programs approved by the department.~~
- 3. ~~Caregivers~~ Staff members shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, ~~after nosewiping,~~ after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, single-use cloth towels, or paper towels must be available at each lavatory sink. ~~Clean towels must be provided daily.~~
- 43. ~~The family child care provider shall have a statement on file, signed by the child's parents, authorizing emergency medical care for each child.~~
- 54. ~~Sufficient~~ The provider shall ensure at least one department-approved first-aid supplies must be available for minor emergencies kit maintained and kept in a designated location, inaccessible to children, yet readily accessible to staff members at all times.

65. ~~The family child care provider shall have plans to respond to illness and emergencies, including evacuation in case of fire, serious injury, and ingestion of poison.~~
7. ~~The family child care provider shall designate at least one individual who may be called upon for child care assistance in emergencies.~~
8. ~~The family child care provider shall develop plans to respond to minor illnesses when children may be cared for in the provider's home.~~
96. If children in care require medication, the caregiver provider shall secure and follow proper instructions as to the administration of medication. Medications must be stored
- a. The provider shall store medications in an area inaccessible to children.
  - b. Medications stored in a refrigerator must be stored collectively in a spillproof spill proof container.
  - c. ~~A~~The provider shall keep a written record of the administration of medication, including over-the-counter medication, to for each child must be kept. For purposes of this paragraph, "medication" is defined as any drug or remedy which is taken or applied internally, orally, or topically. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. Completed medication records must be included in the child's record.
  - d. The provider and any staff member who administer medication to children shall receive proper training in medication administration.
407. ~~Children~~ The provider shall establish practices in accordance with guidance obtained through consultation with local or state health department authorities regarding the exclusion and return of children with infectious or communicable conditions shall be excluded from the family child care home until the condition may no longer be transmitted and guidance regarding exclusion and return to the family child care home is obtained through consultation with local or state health department authorities. Such The provider may obtain this guidance may be obtained directly or through current published materials regarding exclusion and return to the family child care home.
448. ~~The family child care provider may release a child only to the child's parent, guardian, individual in loco parentis, or individual who provides a written authorization by the~~ has been authorized by the child's parent, guardian, or individual in loco parentis.
429. ~~A staff member may not permit a child to play outdoors without clothing appropriate to the climatic conditions~~ The provider shall ensure that children playing outdoors are clothed appropriately for weather conditions.
4310. ~~A staff member may not bathe a child, permit a child to use a wading pool, or permit a child to play outdoors, without adequate supervision~~ The provider shall ensure that a staff member is supervising directly any child who is bathing or using a pool.

11. The provider shall ensure that children receive proper supervision when playing outdoors.
- ~~44~~12. Children's personal items, including combs, brushes, pacifiers, and toothbrushes, must be individually identified and stored in a sanitary manner.
- ~~15.~~ There must be a designated cleanable diapering area in the home if children requiring diapering are in care. Diapers must be changed promptly when needed and in a sanitary manner. Infants must be changed on a cleanable surface area which must be thoroughly cleaned with detergent and sanitized after each diapering. The provider may apply to the department for permission to use cloth diapers. The department, in its discretion, may grant permission upon a satisfactory showing of adequate sanitary controls.
- ~~16~~13. All pets present in the family child care home must be properly immunized. Nondomestic animals, such as skunks, opossum, or raccoon, whether or not regarded as pets, may not be present in the family child care home. ~~Pets and animals may not be allowed in the kitchen or eating area during meal preparation or meals.~~
- a. The provider shall ensure that only cats, dogs, and small pets that are contained in an aquarium or other approved enclosed container are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children.
  - b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
  - c. The provider shall ensure parents are aware of the presence of pets and animals in the family child care.
  - d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
  - e. A staff member shall supervise closely all contact between pets or animals and children. The staff member shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
  - f. The provider shall ensure that pets, pet feeding dishes, cages and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
  - g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
  - h. The provider shall ensure that the child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.



4714. Wading Staff members shall supervise strictly wading pools used by the facility must be strictly supervised family child care and must be emptied and cleaned shall empty, clean, and sanitize wading pools daily.
4815. All swimming pools used by the children must be approved annually by the local health unit.
4916. ~~Smoking is not permitted in any family child care home at any time during which a child who receives early childhood services from that family child care home is present and receiving services~~ The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in covered containers. Open burning is not permitted. The provider shall keep indoor garbage in containers with lids. The provider may allow paper waste to be kept in open waste containers.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC ~~50-11.1-02-2~~ 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08, ~~50-11.1-09~~

**SECTION 23.** Section 75-03-08-22 is amended as follows:

**75-03-08-22. Records.**

1. A copy of this chapter must be kept on the premises and available to staff members at all times.
2. ~~The family child care~~ provider shall maintain the following records:
  - a. The child's full name, birthdate, current home address, legal names of the child's parents ~~or legal guardian~~, and the business and home personal telephone numbers where ~~these individuals may~~ they can be reached;
  - b. ~~A written statement from the parents or legal guardian authorizing emergency medical care;~~
  - c. Names and telephone numbers of individuals authorized to take the child from the family child care ~~home~~;
  - d. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the state department of health, or have on file a document citing that the child is medically exempt or exempt from immunizations based on religious, philosophical or moral beliefs, unless the child is a drop-in or school aged child; and
  - e. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child, that must indicate any special precautions for diet, medication, or activity, ~~must serve as evidence that a child is physically able to take part in the child care program, and must.~~ This assessment shall be completed annually.
3. All The provider shall ensure that all records, photos, and information maintained with respect to children receiving child care services must be are kept confidential, and that access must be is limited to staff members,

the parents, ~~or legal guardian~~ of each child, and to the following, unless otherwise protected by law:

- a. Authorized ~~county agency agent~~ agent and department representatives;
- b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
- c. Individuals who possess written authorization from the child's parent ~~or legal guardian~~. The family child care ~~home~~ shall have a release of information form available and shall have the form signed prior to the release of information.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 24.** Section 75-03-08-23 is amended as follows:

**75-03-08-23. Discipline - Punishment prohibited.** Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury, or neglect or abuse, to any child is grounds for denial or revocation of a provider's license.

1. Discipline must be constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, ~~praise~~ praising for appropriate behavior, ~~and or~~ gentle physical restraint, such as holding. ~~Children~~ A child may not be subjected to physical harm, fear, or humiliation.
2. Authority to discipline may not be delegated to or be ~~accomplished~~ administered by children.
3. Separation, when used as discipline, must be ~~brief and~~ appropriate to the child's development age and circumstances. ~~Any, and the~~ child must be in a safe, lighted, well-ventilated room within sight and hearing range of ~~an adult~~ a staff member. A child may not be isolated in a locked room or closet.
4. A child may not be ~~physically~~ punished for lapses in toilet training.
5. ~~When addressing a child, or while in the presence of a child, staff members~~ A staff member may not make use verbal abuse or make derogatory remarks about the child, the child's family, race, or religion when addressing a child or when in the presence of a child. ~~nor~~ A staff member may not use profane, threatening, unduly loud, or otherwise abusive language in the presence of a child.
6. ~~A child~~ A staff member may not force feed a child may not be force-fed or coerce a child to eat, unless medically prescribed and administered under a physician's medical provider's care.
7. ~~Deprivation~~ A staff member may not use deprivation of snacks or meals may not be used as a form of discipline or punishment.
8. A staff member, household member, or any other adult in the family child care may not kick, punch, spank, shake, pinch, bite, roughly handle, strike,

mechanically restrain, or physically maltreat a child may not be punched, spanked, shaken, pinched, bitten, roughly handled, or struck by any staff member or any other adult in the facility.

9. A staff member may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in the mouth of a child to deter the child from biting other children.
10. A staff member may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

**SECTION 25.** Section 75-03-08-24 is created as follows:

**75-03-08-24. Specialized types of care and minimum requirements.**

1. Infant care.
  - a. Environment and interactions.
    - (1) A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
    - (2) The provider shall ensure that each infant receives positive stimulation and verbal interaction with a staff member or emergency designee such as being held, rocked, talked with, or sung to.
    - (3) The staff members or emergency designee shall respond promptly to comfort an infant's or toddler's physical and emotional distress.
      - i. Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
      - ii. Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
    - (4) The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
    - (5) Staff members must take children outdoors or to other areas within the family child care for a part of each day to provide some change of physical surroundings and to be with other children.
    - (6) When a child is awake, staff members may not confine the child to a crib, portable crib, or other equipment for longer than twenty minutes, taking into consideration the child's emotional state.

- (7) The provider shall ensure that infants are not shaken or jostled.
- (8) The provider shall ensure that low chairs and tables or high chairs with trays must be provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
- (9) The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

b. Feeding.

- (1) The provider shall ensure that infants are provided developmentally-appropriate nutritious foods. Only breast milk or iron-fortified infant formula may be fed to infants less than six months of age, unless otherwise instructed in writing by the infant's parent or medical provider.
- (2) The provider shall ensure that infants are fed only the specific brand of iron fortified infant formula requested by the parent. Staff members shall use brand-specific mixing instructions unless alternative mixing instructions, are directed by a child's medical provider.
- (3) The provider shall ensure that mixed formula that has been unrefrigerated more than one hour, is discarded.
- (4) The provider shall ensure that frozen breast milk is thawed under cool running tap water, or in the refrigerator in amounts needed. Unused, thawed breast milk must be discarded or given to the parent at the end of each day.
- (5) The provider shall ensure that an infant is not fed by propping a bottle.
- (6) The provider shall ensure that cereal and other nonliquids or suspensions are only fed to an infant through a bottle on the written orders of the child's medical provider.
- (7) The provider shall ensure that a staff member is within sight and hearing range of an infant during the infant's feeding or eating process.

c. Diapering.

- (1) The provider shall ensure that there is a designated cleanable diapering station, located separately from food preparation and serving areas in the family child care if children requiring diapering are in care.
- (2) The provider shall ensure that diapers are changed promptly when soiled or wet and in a sanitary manner.
- (3) Diapers must be changed on a non-porous surface area which must be cleaned and disinfected after each diapering.
- (4) The provider shall ensure that soiled or wet diapers are stored in a sanitary, airtight container separate from other garbage and waste until removed from the family child care.

d. Sleeping.

- (1) The provider shall ensure that infants are placed on their back when sleeping to lower the risk of sudden infant death syndrome, unless the infant's parent has provided a note from the infant's medical provider specifying otherwise. The infants face must remain uncovered when sleeping.
- (2) The provider shall ensure that infants sleep in a crib with a firm mattress or in a portable crib with the manufacturer's pad that meets consumer product safety commission standards.
- (3) The provider shall ensure that if an infant falls asleep while not in a crib or portable crib, the infant must be moved immediately to a crib or portable crib.
- (4) Waterbeds, adult beds, sofas, pillows, soft mattresses, and other soft surfaces are prohibited as infant sleeping surfaces.
- (5) The provider shall ensure that all items are removed from the crib or portable crib, except for one infant blanket or security item that does not pose a risk of suffocation to the infant.
- (6) The provider shall ensure that mattresses and sheets are tightly fitted. The provider shall ensure that sheets and mattress pads are changed whenever they become soiled or wet, when cribs are used by different infants, or at least weekly.
- (7) The provider shall ensure that each infant has an individual infant blanket.
- (8) The provider shall ensure that toys or objects hung over an infant crib or portable crib must be held securely and be of size and weight that would not injure an infant if the toy or object accidentally falls or if the infant pulls on the object.
- (9) The provider shall visually check on sleeping infants every fifteen minutes.

2. Night care.

- a. Any family child care offering night care shall provide program modifications for the needs of children and their parents during the night.
- b. In consultation with parents, special attention must be given by the staff member to provide a transition into this type of care, appropriate to the child's needs.
- c. The provider shall encourage parents to leave their children in care or pick them up before and after their normal sleeping period when practical, to ensure minimal disturbance of the child during sleep, with consideration given to the parent's work schedule.
- d. The provider shall ensure that children under the age of six are supervised directly when bathing.

- e. The provider shall ensure that comfortable beds, cots, or cribs, complete with a mattress or pad, are available and the provider shall ensure:
  - (1) Pillows and mattresses have clean coverings.
  - (2) Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
  - (3) If beds are used by different children, sheets and pillowcases are laundered before use by other children.
  - (4) Each bed or cot has sufficient blankets available.
- f. The provider shall require each child in night care to have night clothing and a toothbrush marked for identification.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 26.** Section 75-03-08-25 is created as follows:

**75-03-08-25. Minimum requirements for care of children with special needs.**

A provider shall make appropriate accommodations, as required by the Americans with Disabilities Act, to meet the needs of children with special needs. The provider shall receive documentation of the child's special needs by the parent upon the child's enrollment.

- 1. When children with special needs are being cared for, the provider shall consult with the child's parents, and with the parent's permission, the child's source of professional health care or, when appropriate, other health and professional consultants to gain an understanding of the child's individual needs. The provider shall receive a written health care plan from the child's medical provider or parent with information related to the child's special needs, such as a description of the special needs, definition of the diagnosis, and general information for emergency and required care such as usual medications and procedures.
- 2. The provider shall ensure staff members receive proper instructions as to the nature of the child's special needs and potential for growth and development.

**History:** Effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

**SECTION 27.** Section 75-03-08-27 is amended as follows:

**75-03-08-27. Effect of conviction on licensure and employment.**

- 1. A ~~An applicant or family child care home~~ provider may not be, and a family child care home may not employ or allow, in any capacity that involves or permits contact between the employee emergency designee, staff member, or household member and any child cared for by the family child

care home, ~~an individual a provider, emergency designee, staff member, or household member~~ 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, harassment;~~ ~~or~~ 12.1-18, kidnapping; or 12.1-27.2 sexual performances by children; or in North Dakota Century Code sections 12.1-20-03, gross sexual imposition; 12.1-20-03.1, continuous sexual abuse of a 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 14-09-22, abuse or neglect of a child; or~~
  - b. ~~an~~ 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
  - ~~bc.~~ An offense, other than an offense identified in subdivision a ~~or b,~~ if the department in the case of ~~a family child care~~ an applicant, provider, or household member, or the ~~family child care~~ provider in the case of ~~an a~~ an employee staff member or emergency designee, determines that the individual has not been sufficiently rehabilitated. 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 charge or conviction, is prima facie evidence of sufficient rehabilitation.
2. The department has determined that the offenses enumerated in subdivision a or b of subsection 1 have a direct bearing on the applicant's, provider's, emergency designee's, or staff member's ability to serve the public in a capacity as a provider, emergency designee or staff member.
  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 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.
  24. ~~Within ninety days of the date of initial licensure or relicensure, a family child care home~~The provider shall establish written policies and engage in

practices that conform to those policies to effectively implement this section before the hiring of any staff members.

3. ~~For the purposes of subdivision b of subsection 1, the department in the case of a family child care provider, or the family child care provider in the case of an employee, shall treat completion of a period of five years after final discharge from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, as prima facie evidence of sufficient rehabilitation.~~
4. ~~The department has determined that the offenses enumerated in subdivision a of subsection 1 have a direct bearing upon an individual's ability to serve the public as the owner or proprietor of a family child care home.~~
5. If the department determines that a criminal history record check, as described in North Dakota Century Code section 50-11.1-06.2, is appropriate, the department may excuse a person from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person is excused from providing fingerprints, the department may conduct statewide criminal history record investigation in any state in which the person lived during the eleven years preceding the signed authorized for the background check.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 28.** Section 75-03-08-28 is amended as follows:

**75-03-08-28. Child abuse and neglect determinations decisions.** ~~If a probable cause determination or a decision that services are required~~ A provider shall ensure safe care for the children receiving services in the provider's family child care. If a services required decision made under North Dakota Century Code chapter 50-25.1 exists, indicating that any a child has been abused or neglected by a an applicant, provider, emergency designee, staff member, or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or license may be denied or revoked. If a services required determination under North Dakota Century Code chapter 50-25.1 and under chapter 75-03-19 exists, indicating that any child has been abused or neglected by the applicant, provider, emergency designee, staff member, or household member, the individual applicant or provider shall furnish information satisfactory to the department, from which the department may can determine the applicant's, provider's, or staff member's current ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability must be furnished to the family child care applicant or provider and to the regional director of the human service center or the regional director's designee for consideration and action on the family child care home application or license. Each applicant, provider, emergency designee and staff member in the family child care shall complete



a department-approved authorization for background check form no later than the first day of employment. Household members over the age of twelve must complete a department-approved authorization for background check form at the time of application, relicensure or upon obtaining residence at the location of the family child care.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-04, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08, 50-11.1-09

**SECTION 29.** Section 75-03-08-29 is amended as follows:

**75-03-08-29. ~~Allowable time periods for correction~~ Correction of deficiencies violations.**

1. ~~Deficiencies~~ A provider shall correct violations noted in a correction order must be corrected within the following times:
  - a. For a violation of section 75-03-08-09, subsections 2, ~~and 7, and 10~~ of section 75-03-08-14, or section 75-03-08-23, within twenty-four hours.
  - b. For a deficiency violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-08-14, within sixty days.
  - c. For a deficiency violation that requires substantial building remodeling, construction, or change, within sixty days.
  - d. For all other deficiencies violations, within twenty days. ~~All periods for correction begin on the date of receipt of the correction order by the licensee.~~
2. All periods for correction begin on the date of receipt of the correction order by the provider.
3. The regional supervisor of early childhood program licensing services may grant an extension of additional time to correct deficiencies violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the licensee provider and a showing that the need for the extension is created by unforeseeable circumstances and the licensee provider has diligently pursued the correction of the deficiency violation.
4. The provider shall furnish a written notice ~~of to the authorized agent upon completion of the correction order action to the county agency required corrective action.~~ The correction order is effective-remains in effect until the county agency receives the notice authorized agent confirms the corrections have been made.
5. Within three business days of the receipt of the correction order, the provider shall notify the parents of each child receiving care at the family child care that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also shall post the correction order in a conspicuous location within the family child care until the violation has been corrected or for five days, whichever is longer.

6. The provider shall notify the parent of each child receiving care at the family child care and each staff member of the process for reporting a complaint or suspected licensing violation.
7. A family child care program that has been issued a correction order must be reinspected at the end of the period allowed for correction. If, upon reinspection, it is determined that the program has not corrected a violation identified in the correction order, a notice of noncompliance with the correction order must be mailed by certified mail to the program. The notice must specify the violations not corrected and the penalties assessed in accordance with section 50-11.1-07.5.
8. If a family child care program receives more than one correction order in a single year, the provider may be referred by the department for consulting services to assist the provider in maintaining compliance and to avoid future corrective action.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, -11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

**SECTION 30.** Section 75-03-08-30 is amended as follows:

**75-03-08-30. Fiscal sanctions.**

1. A The department shall assess a fiscal sanction of twenty-five dollars per day ~~must be assessed~~ for each violation of subsections 1, 2, and 9 of section 75-03-08-14; subsection 3 of section 75-03-08-21.1; or section 75-03-08-23 for each day that the provider has not verified correction, after the allowable time for correction of ~~deficiencies~~ violations ends, ~~that the family child care home has not verified correction.~~
2. A The department shall assess a fiscal sanction of fifteen dollars per day must be assessed for each violation of section 75-03-08-09; subsections 8 and 10 of section 75-03-08-14; or subsection 13 of section 75-03-08-21.1 for each day that the provider has not verified correction, after the allowable time for correction of ~~deficiencies~~ violations ends, ~~that the family child care home has not verified correction.~~
3. A The department shall assess a fiscal sanction of five dollars per day must be assessed for each violation of any other provision of this chapter for each day that the provider has not verified correction, after the allowable time for correction of ~~deficiencies~~ violations ends, ~~that the family child care home has not verified correction.~~

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-07.4, 50-11.1-08

**Law Implemented:** NDCC 50-11.1-01, 50-11.1-07.4, 50-11.1-08

**SECTION 31.** Section 75-03-08-31 is amended as follows:

**75-03-08-31. Appeals.** An applicant or provider may appeal a decision to deny or revoke a license, ~~by filing a~~ A written appeal must be postmarked or received by the department with the department within ten calendar days of the applicant's or provider's receipt of written notice of ~~such a~~ the decision to deny or revoke the license. Upon receipt of a timely appeal, an administrative hearing ~~must~~ will be conducted in the manner ~~provided in~~ prescribed by chapter 75-01-03.

**History:** Effective January 1, 1999; amended effective October 1, 2010.

**General Authority:** NDCC 50-11.1-08

**Law Implemented:** NDCC 50-11.1-08, ~~50-11.1-09~~ 50-11.1-10

