

## **CHAPTER 75-03-14.1 SHELTER CARE PROGRAM CERTIFICATION**

### **Section**

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### **75-03-14.1-01. Definitions.**

1. "Agency" means the entity applying for or receiving a shelter care program certification.
2. "Attendant care" means a site for juveniles who are cited or citable by law enforcement and need constant short-term supervision on a preadjudicatory basis.
3. "Incident" means an event involving the resident and law enforcement and includes runaway status, criminal activity, behavior resulting in harm to others, harassment, violence, and discrimination.
4. "Resident" means a child age ten to eighteen years old in need of temporary safe out-of-home placement.
5. "Sentinel event" means a serious injury or trauma to a resident, attempted suicide by the resident, death of a resident, or inappropriate sexual contact involving a resident.
6. "Shelter care home" means a licensed foster home that has agreed to provide temporary shelter care to a resident in need of emergency placement and is available twenty-four hours per day.
7. "Shelter care program" means a nonsecure permanent dwelling run by an agency with certification obtained by the department, where employees offer safe shelter, food, and structured routine and is available twenty-four hours a day to a resident in need of emergency placement, not to exceed seven days, unless otherwise approved by the department.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

### **75-03-14.1-02. Shelter care program certification.**

1. An agency may not apply for a shelter care program certification until the department has reviewed the need for additional shelter care programs. To enable the department to make a determination of need for a new shelter care program, the potential applicant shall submit an initial request for application, including the following documentation and information to the department:
  - a. The number, gender, and age range of the residents to be served;

- b. The employee staffing, including a list of full-time and part-time positions by job titles and description;
  - c. A description of the proposed program;
  - d. A proposed budget; and
  - e. The geographic location of the shelter care program.
2. Upon receipt of initial request for application, the department shall:
- a. Review the detailed plan for the operation proposed by the agency;
  - b. Ask for additional materials or information necessary for evaluation of need purposes;
  - c. Respond in writing within thirty days of receipt of all required information from the potential agency;
  - d. Send written notice of determination of need. The notice must state the specific reason for the determination. If the department determines there is need for additional shelter care program beds, the notice must be accompanied by an authorization for the agency to apply for certification to operate a shelter care program; and
  - e. Inform the potential agency of what is required to move forward with the application process.
3. A shelter care home may not apply for a shelter care program certification as it does not qualify as an agency.
4. If an agency receives an authorization to apply for a shelter care program certification, the agency shall submit its application in the form and manner prescribed by the department.
5. Shelter care program certification applications must include the following documentation or information:
- a. A detailed plan for the operation of the shelter care program;
  - b. Physical location and address of the shelter care program;
  - c. A copy of the shelter care program floor plan with dedicated sleeping spaces;
  - d. A list of current employees, background check dates, annual child abuse and neglect checks, and full-time and part-time status and job titles;
  - e. A copy of the shelter care program's general comprehensive liability insurance;
  - f. A copy of the shelter care program's vehicular insurance for transportation purposes; and
  - g. Inspection reports.
6. Shelter care program certification is nontransferable and is valid only on the premises and for the specified number of residents indicated on the shelter care program certification.
7. An agency shall submit a new application for a shelter care program certification when there is a change in ownership.
8. Shelter care program certification is available for a maximum period of two years.

9. Shelter care program certification requires an agency to submit an annual application to the department, which will initiate an annual onsite visit each year.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-03. Shelter care program rate.**

The department shall establish the fee for service for shelter care programs. The shelter care program shall enter a financial contract with the department, human service zone, tribal social service, or agency case planning for the prospective resident.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-04. Shelter care program operations.**

The shelter care program shall:

1. Ensure the shelter care program is funded, staffed, and equipped in a manner required for the provision of services;
2. Provide the most recent fiscal year end financial record to the department, upon request;
3. Employ a qualified supervisor of shelter care program operations to oversee program operations, policy, and employee performance;
4. Provide twenty-four-hour supervision for all residents residing in the shelter care program;
5. Provide access to an on-call twenty-four-hour crisis line by which employees may be reached in the event of an emergency placement;
6. Establish policy and procedures specific to operations of a shelter care program, including:
  - a. Policy defining residents served in the shelter care program. The shelter care program shall define the parameters of each population of residents served and allow adequate space to properly separate residents who are children in need of service or protection from children who engage in delinquent acts;
  - b. Policy addressing supervision requirements of residents by employees during each shift, to include:
    - (1) Awake hours; and
    - (2) Overnight hours, requiring awake employees to check on residents at a minimum of every fifteen minutes, and more frequently if the acuity of the resident demands greater supervision;
  - c. Nondiscrimination policy;
  - d. Medication dispensing;
  - e. Resident search criteria;
  - f. At-risk behaviors and protocol surrounding accepting and caring for a resident who has been drinking or using drugs; and

- g. Process for contacting law enforcement or emergency contacts, as needed;
- 7. Establish disaster planning, including protocol for when the shelter care program experiences:
  - a. Power outage;
  - b. Fire;
  - c. Winter blizzard conditions;
  - d. Flood; or
  - e. Tornado;
- 8. Establish a policy to ensure proper and efficient procedure in the event the shelter care program would cease operations, including:
  - a. Notification to the department at least sixty days before closure;
  - b. Notification to community partners at least thirty days before closure; and
  - c. Identification of a depository in North Dakota to maintain the retention of the shelter care program's fiscal, employee, and resident files; and
- 9. Notify the department, in writing, of the corrective action the shelter care program has taken, or plans to take, to comply with any resulting recommendations from the institutional child protection team. The shelter care program shall make assurances that revised practice will reduce the risk of the incident or sentinel event reoccurring. The shelter care program shall respond within thirty days of receiving written notification of the indicated determination.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-05. Employees.**

- 1. The shelter care program clearly shall define, in writing, the roles and responsibilities of the employees assuring the health and safety of the resident and coordination of the resident's safe return to the custodian, parent, or guardian.
- 2. The shelter care program shall establish policy and procedures for employee roles and responsibilities, including:
  - a. Initial background checks;
  - b. Annual child abuse and neglect checks;
  - c. Job descriptions; and
  - d. Assigned shifts and protocol for shift changes.
- 3. The shelter care program shall make an offer of employment to an employee conditional upon the individual's consent to complete required background checks. While awaiting the results of the required background check, the shelter care program may choose to provide training and orientation to an employee. However, until the approved background check results are placed in the employee file, the employee only may have supervised interaction with residents.
- 4. A shelter care program shall hire a supervisor of shelter care program operations and the supervisor:

- a. Must have a bachelor's degree in business or public administration, social work, behavioral science, or a human services field and have two years of related work experience in administration;
  - b. Shall ensure the shelter care program has written policy and procedure;
  - c. Shall oversee daily operations;
  - d. Shall administer admission and discharge criteria; and
  - e. Shall provide adequate supervision to all employees.
5. A shelter care program shall hire employees and the employees:
- a. Must be at least twenty years of age;
  - b. Must have a high school diploma or equivalent;
  - c. Shall assure and be devoted to the health and safety of each resident in placement and coordination of the resident's safe return to the custodian, parent, or guardian;
  - d. Shall achieve the competencies necessary to meet the needs and engage appropriately with each resident in placement;
  - e. Shall prepare meals;
  - f. Shall organize activities and structure a daily routine for the resident in placement; and
  - g. Shall document a daily activity log to share with the custodian, parent, or guardian.
6. A shelter care program shall ensure there are adequate employees working to meet the minimum employee-to-resident ratios, including:
- a. A rotating on-call employee who must be available twenty-four hours a day, seven days a week; and
  - b. Regardless of awake or overnight hours, the shelter care program must have no fewer than one employee for each six residents in placement.
7. The shelter care program shall maintain a file on each employee; including:
- a. Employment application, including a record of previous employment;
  - b. Results of an initial fingerprint-based criminal background check and subsequent background checks as determined necessary;
  - c. Results of the initial child abuse or neglect record, and annually thereafter;
  - d. A job description specifying the employee's roles and responsibilities;
  - e. A statement signed by the employee acknowledging the confidentiality policy;
  - f. Documentation of an annual training record detailing the date, topic, and length of presentation; and
  - g. Evidence of the employee having read and received a copy of the law and shelter program procedures requiring the reporting of suspected child abuse and neglect, initially upon hire and annually thereafter.

8. The shelter program shall adopt a policy regarding the retention of employee files.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-06. Employee training.**

Shelter care programs shall provide training to employees which includes:

1. Initial employee orientation topics of:
  - a. Overall general shelter care program policy and procedures;
  - b. Resident's emotional and physical needs;
  - c. Resident's daily routine, activities, transportation, and meals;
  - d. Expected employee conduct toward residents;
  - e. Expected resident conduct while residing onsite;
  - f. Shelter care program's behavior management, including de-escalation techniques;
  - g. Protocol for observing and reporting resident behavior;
  - h. Protocol for identifying and reporting of child abuse and neglect, including completion of child abuse and neglect mandated reporter training;
  - i. Suicide prevention, including identifying signs and shelter program response;
  - j. Fire safety and evacuation procedures;
  - k. Disaster plan;
  - l. Resident search procedures and policies;
  - m. Confidentiality standards;
  - n. Protocol for reporting a runaway;
  - o. Protocol for emergency medical procedures;
  - p. Protocol for shelter care program security and access to visitors; and
  - q. Interest in becoming certified for medication distribution;
2. Required certification trainings, upon hire and updated accordingly thereafter, including:
  - a. First-aid training; and
  - b. Cardiopulmonary resuscitation training;
3. Institutional child abuse and neglect training, which includes how employees are to report incidents and sentinel events and what to do in the case of an institutional child abuse and neglect indicated determination; and
4. Other trainings determined necessary by the shelter care program to provide safe care to a resident.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

**75-03-14.1-07. Buildings and grounds.**

A shelter care program shall comply with all state, county, and local building, zoning, safety, and sanitation laws, codes, and ordinances. The shelter care program must have:

1. An inspection by the local fire department or the state fire marshal's office as determined necessary for the dwelling to ensure fire safety;
2. A proper fire extinguisher on each floor;
3. One smoke detector in each space determined necessary by the local fire department or fire marshal;
4. One carbon monoxide detector on each floor;
5. A clean, comfortable, sanitary, and safe dwelling with adequate lights, heat, and ventilation;
6. Furnishings suitable to the needs of all residents;
7. Recreational space and equipment that is safe, functional, and available for all residents;
8. One centrally located living room for the informal use of residents;
9. A dining room area large enough to accommodate the number of residents served;
10. A private space for individual interviewing and case meetings for ongoing program activities;
11. Sleeping accommodations that ensure:
  - a. At least one bed for each resident;
  - b. Clean linens and bedding for each resident;
  - c. Appropriate privacy and separation of resident sleep space dependent on age and gender;
  - d. Individual storage space to accommodate the resident's clothing and other personal belongings; and
  - e. For bedrooms, at least one window that opens to the outside. A bedroom located in a basement with over half its outside walls below grade and no door opening directly to the outside may not be used for sleeping, unless the bedroom space has at least one egress window;
12. One complete bathroom to include a toilet, sink, and a tub or shower;
13. A kitchen area and food storage that meets the standards prescribed by the state department of health for food and beverage establishments. A shelter care program annually shall document compliance with these standards and provide documentation to the department;
14. Storage to lock all medications;
15. Storage to lock all toxic cleaning supplies, aerosols, chemical, agricultural, and ground maintenance chemicals, pesticides, and other poisons;

16. Storage to lock shampoos, body wash, hair products, and hand sanitizers when not distributed to resident for use. Shelter care programs shall distribute shampoos, body wash, hair products, and hand sanitizers in a limited quantity;
17. Policy and signs that address the prohibition of the use of alcohol on the premises and prohibition of the use of tobacco and vaping within the shelter care program facilities and vehicles and in the line of sight of the residents;
18. Policy and signs that prohibit firearms in program or living areas on the premises. Firearms kept at any other location on the shelter care program premises must be stored in a locked and secure area; and
19. Policy that all pet inoculations comply with local and state requirements.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-08. Admissions and discharges.**

1. A shelter care program shall have written resident admission and discharge policies and procedures that describe:
  - a. The eligibility and criteria for admitting a resident;
  - b. Procedures for completing initial screenings upon admission, including:
    - (1) Mental health screening; and
    - (2) Basic personal health screening, which may include documenting height, weight, and identification of any distinct markings, such as resident's birthmark, tattoos, bruises, or cuts;
  - c. Procedure for discharge planning with the custodian, parent, or guardian upon date of admission; and
  - d. Procedures for accepting an extension request.
2. The shelter care program shall provide documentation of a discharge report to the custodian, parent, or guardian which includes:
  - a. Date of discharge;
  - b. Detailed location and contact of where the resident is being discharged to; and
  - c. Details of services or community referrals made by the shelter care program.
3. A shelter care program placement may not exceed seven days from date of admission unless an extension request is approved by the department. The shelter care program supervisor shall submit extension requests to the department for approval. The department may approve an extension request for up to an additional seven days upon such terms as the department may prescribe. A refusal to grant an extension request is not subject to appeal.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4, 50-11-03.2



#### **75-03-14.1-09. Resident files.**

Upon placement, a resident's file is confidential and must be protected from unauthorized examination unless permitted or required by law or regulation. The shelter care program shall adopt a policy regarding the retention of the resident file. The resident file must include:

1. Admissions application, including:
  - a. Resident's full name;
  - b. Date of birth;
  - c. Name and contact information of the referral;
  - d. Name and contact information of the resident's custodian, if applicable;
  - e. Name and contact information of the resident's parent or guardian;
  - f. Name and dosage of current medication; and
  - g. Written consent to:
    - (1) Complete initial screenings;
    - (2) Provide first aid;
    - (3) Transport to emergency room, if applicable; and
    - (4) Distribute medications;
2. Resident photo;
3. Documentation of a daily activity log detailing the resident's time in the shelter care program; and
4. Documentation of a discharge report.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4, 50-06-15, 50-11-05

#### **75-03-14.1-10. Correction orders.**

1. The shelter care program shall comply with all sections of this chapter, in order to maintain certification from the department. The department may issue a correction order if the shelter care program violates any provision of this chapter.
2. The department may require immediate correction of a violation that threatens the life or safety of a resident and twenty days for all other violations.
3. Upon written request by the shelter care program and upon showing need for an extension created by circumstances beyond the control of the shelter care program and documentation that the shelter care program has diligently pursued correction of the violation, the department may grant extensions of time to correct violations.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-11. Incident and sentinel event reporting.**

1. The shelter care program must have written policy outlining the documentation of incidents and sentinel events that occur while the resident is in placement. The policy must include:
  - a. Reporting procedures of an incident as an unplanned occurrence that resulted or could have resulted in injury to people or damage to property, specifically involving the general public, residents, or employees; and
  - b. Reporting procedures of a sentinel event as an unexpected occurrence involving death or serious physical or psychological injury not related to the natural course of a resident's illness or underlying condition, including any process variation for which a reoccurrence would carry a significant chance of a serious adverse outcome.
2. The shelter care program shall document the incident or sentinel event in the resident's file within twenty-four hours and notify the resident's custodian, parent, or guardian immediately or within twelve hours.
3. The shelter care program shall maintain a log of written reports of incidents and sentinel events involving residents.
4. The shelter care program shall provide employees time at the beginning of each shift to be informed of or review reports of incidents and sentinel events occurring since the employee's last shift.
5. The shelter care program shall provide employees and residents time to debrief the incident and sentinel event with supervisors.

**History:** Effective January 1, 2022.

**General Authority:** NDCC 50-06-16

**Law Implemented:** NDCC 50-06-01.4

#### **75-03-14.1-12. Denial, revocation, and appeal rights.**

1. The department may deny or revoke a shelter care program certification if the:
  - a. Application contains fraudulent information, an untrue representation, or is incomplete;
  - b. Agency or shelter care program has violated any applicable provision of North Dakota Century Code chapters 50-06 and 50-11 or fails to meet the minimum requirements of this chapter; or
  - c. Shelter care program fails to ensure the required shelter care program's policies under this chapter are enforced and complied with.
2. If the department decides to deny or revoke a shelter care program certification, the department shall notify the shelter care program in writing of its decision and the reasons for the denial or revocation. Upon receipt of notification of revocation, the shelter care program may not accept any additional residents and immediately shall make arrangements in cooperation with each current resident's custodian, parent, or guardian for alternative placement.
3. An agency or shelter care program may appeal a decision to deny or revoke a shelter care program certification by filing a written appeal with the department within thirty days of written notice of such a decision. Upon receipt of a timely appeal, an administrative hearing must be conducted in the manner provided in chapter 75-01-03. During an appeal, the shelter care program may not have residents.

**History:** Effective January 1, 2022.  
**General Authority:** NDCC 50-06-16  
**Law Implemented:** NDCC 50-06-01.4

**75-03-14.1-13. Variance.**

Upon written application and good cause shown to the satisfaction of the department, the department may grant a variance regarding a specific provision of this chapter upon such terms as the department may prescribe, except no variance may permit or authorize a danger to the health or safety of any resident cared for by the shelter care program and no variance may be granted except at the discretion of the department. A shelter care program shall submit a written request to the department justifying the variance. A refusal to grant a variance is not subject to appeal.

**History:** Effective January 1, 2022.  
**General Authority:** NDCC 50-06-16  
**Law Implemented:** NDCC 50-06-01.4