

July 31, 2024

Liz Fordahl, Counsel  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-04-01 and 75-04-06  
Licensing of Programs and Services for Individuals with Intellectual Disabilities –  
Developmental Disabilities and Eligibility for Intellectual Disabilities –  
Developmental Disabilities Program Management Services

Dear Ms. Fordahl:

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

We have requested publication of an abbreviated newspaper publication notice once in each official county newspaper which will notify the public that an oral hearing on these rules will be held on Wednesday, September 4, 2024, beginning at 10:00 a.m. and continuing until 11:30 a.m. or until no further testimony is offered, whichever occurs first.

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

Sincerely,



Jonathan Alm  
Legal Division

JA/rv

cc: Tina Bay, Developmental Disabilities  
Jessica Thomasson, Executive Director of Human Services Division

Enclosures

**LEGAL**

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D. ADMIN. CODE CHAPTERS 75-04-01 AND 75-04-06  
LICENSING OF PROGRAMS AND SERVICES FOR INDIVIDUALS WITH  
INTELLECTUAL DISABILITIES – DEVELOPMENTAL DISABILITIES AND  
ELIGIBILITY FOR INTELLECTUAL DISABILITIES – DEVELOPMENTAL  
DISABILITIES PROGRAM MANAGEMENT SERVICES

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapters 75-04-01 and 75-04-06 at 10:00 a.m. on Wednesday, September 4, 2024, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapters 75-04-01 and 75-04-06, Licensing of Programs and Services for Individuals with Intellectual Disabilities – Developmental Disabilities and Eligibility for Intellectual Disabilities – Developmental Disabilities Program Management Services, are as follows:

**Section 75-04-01-01** is amended to add a definition for “application” and “developmental disability services”, replace “client” with “eligible individual” and “client-authorized representative” with “authorized representative”, update the definition of “accreditation”, “applicant”, “day habilitation”, “department”, “developmental disability”, “employment support”, “family member”, “family support services”, “governing body”, “group home”, “infant development”, “license”, “licensee”, “prevocational services”, “primary caregiver”, “program management”, “residential services” and “standards”, and remove “provider agency” as it is a duplication of licensee and “generic service” as the term is not used in the rules.

**Section 75-04-01-02** is amended to incorporate language from sections 75-04-01-07, 75-04-01-11, 75-04-01-12.1 and add reapplication requirements for a licensee who voluntarily terminates a license.

**Section 75-04-01-03** is amended to replace prior language with language to identify application process, provide a timeline for when an application may be considered withdrawn, and incorporate language from section 75-04-01-05.

**OFFICE OF THE COMMISSIONER**

GOVERNOR  
Doug Burgum

COMMISSIONER  
Wayne Salter

**Section 75-04-01-03.1** is created to incorporate licenses types in one section and language from sections 75-04-01-08, 75-04-01-09, and 75-04-01-10, and add language that identifies when the department may issue a restricted license.

**Section 75-04-01-04** is amended to add noncompliance with North Dakota Centruy Code chapter 25-16 as a reason for denial or revocation, incorporate language from 75-04-01-05, and add electronic transmission as notification method and a citation to general authority and law implemented.

**Section 75-04-01-05** is repealed as language was incorporated into other sections.

**Section 75-04-01-06** is amended to language that requires applicant to notify department if members have been placed on the Medicaid exclusion list and to incorporate person-centered language.

**Section 75-04-01-06.1** is amended to add offenses that are considered direct bearing to align with home and community based service provider requirements, change the offender's completion period for sufficiently rehabilitated from 5 years to 3 years, to allow more flexibility for the department to determine if someone is sufficiently rehabilitated, remove the language that restricted the department's ability to determine sufficiently rehabilitated if the individual has had another conviction, and to incorporate person-centered language.

**Sections 75-04-01-07, 75-04-01-08, 75-04-01-09, 75-04-01-10, 75-04-01-11, 75-04-01-12, and 75-04-01-12.1** are repealed as language was incorporated into other sections.

**Section 75-04-01-15** is amended to remove the requirement that accreditation must be through the council on quality and leadership and to allow the licensee to select from department approved entities and add a citation to law implemented.

**Section 75-04-01-16** is amended to remove the requirement for an unaccredited applicants issued a provisional license to provide the department a plan to secure accreditation and add a citation to law implemented.

**Section 75-04-01-17** is amended to format the section, update language, add respite as a service, and add a requirement for virtual service delivery option.

**Section 75-04-01-20** is amended to reflect definition changes, clarify and update language regarding guarantees and assurances, and add person centered language and add citations to law implemented.

**Section 75-04-01-20.1** is amended to reflect definition changes, add person centered language, and remove language regarding direct labor of individuals with developmental disabilities.

**Section 75-04-01-20.2** is amended to reflect definition changes, clarify and update language, and add person centered language.

**Section 75-04-01-21** is amended to reflect definition changes, clarify and update language, and add person centered language.

**Section 75-04-01-22** is amended to include licensees.

**Section 75-04-01-23** is amended to reflect definition changes, clarify language, and add person centered language.

**Section 75-04-01-24** is amended to reflect definition changes, add person centered language, incorporate language from section 75-04-01-25, and remove language regarding scheduling inspections.

**Section 75-04-01-25** is repealed as language incorporated into another section.

**Section 75-04-01-26** is amended to allow department discretion on revoking or denying a license due to a refusal to allow department access to facility or records.

**Sections 75-04-01-27 and 75-04-01-28** are amended to reflect definition changes, clarify and update language, and add person-centered language.

**Section 75-04-01-29** is amended to reflect definition changes, add person-centered language, and remove the requirement for a group home facility to equip space outside the bedrooms for out-of-bed activities.

**Sections 75-04-01-30** is amended to reflect definition changes and update language.

**Section 75-04-01-31** is amended to reflect definition changes and update language regarding group home bathrooms requirements.

**Sections 75-04-01-37 and 75-04-01-40** are amended to reflect definition changes.

**Section 75-04-01-41** is created to outline appeal rights and process.

**Section 75-04-06-01** is amended to remove the requirement the team of professionals must be employed by a human service center as developmental disability staff are no longer part of the human service center.

**Sections 75-04-06-05, 75-04-07, and 75-04-08** are amended to add person-centered language.

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

Copies of the proposed rules are available for review at human service zones and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules, may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Health and Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Monday, September 16, 2024.

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

Dated this 24th day of July, 2024.

July 31, 2024

RE: Proposed Amendments to N.D. Admin. Code chapters 75-04-01 and 75-04-06  
Licensing of Programs and Services for Individuals with Intellectual Disabilities –  
Developmental Disabilities and Eligibility for Intellectual Disabilities –  
Developmental Disabilities Program Management Services

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapters 75-04-01 and 75-04-06, Licensing of Programs and Services for Individuals with Intellectual Disabilities – Developmental Disabilities and Eligibility for Intellectual Disabilities – Developmental Disabilities Program Management Services. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Monday, September 16, 2024.

The department has scheduled an oral hearing for Wednesday, September 4, 2024. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

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

Sincerely,



Sara Stolt  
Deputy Commissioner

SES/rv

Enclosures

cc: Liz Fordahl, Legislative Council  
Tina Bay, Developmental Disabilities  
Jessica Thomasson, Executive Director of Human Services Division

**OFFICE OF THE COMMISSIONER**

GOVERNOR  
Doug Burgum

COMMISSIONER  
Wayne Salter