

October 31, 2025

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

RE: Proposed Amendments to N.D. Admin. Code Chapter 75-03-21
Licensing of Foster Homes for Adults

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 Friday, December 12, 2025, beginning at 12:00 p.m. and continuing until 1:30 p.m. or until no further testimony is offered, whichever occurs first.

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

Sincerely,



Jonathan Alm
Legal Division

JA/rv

cc: Nancy Maier, Aging Services

Enclosures

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NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO N.D.
ADMINISTRATIVE CODE CHAPTER 75-03-21
LICENSING OF FOSTER HOMES FOR ADULTS

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 chapter 75-03-21 at 12:00 p.m. on Friday, December 12, 2025, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed amendments to N.D. Admin. Code chapter 75-03-21, Licensing of Foster Homes for Adults, are necessary to comply with 2025 House Bill No. 1460.

The proposed amendments are as follows:

Section 75-03-21-01 is amended to update definitions of “department”, “respite care”, and “respite care provider” and to add the definition of “electronic monitoring device”.

Section 75-03-21-02 is amended to provide that the Department has sixty days from receipt of all required application requirements to issue a license, and to permit the Department an additional forty-five days if notice is provided to the applicant. The section also provides that an applicant may not hold themselves out as a facility before they have been issued a license.

Section 75-03-21-04 is amended to replace “must” with “shall” and to provide that a facility’s use of an electronic monitoring device in the resident’s bedroom and bathroom is prohibited when the resident’s care is funded by the state in whole or in part. The section is also updated to provide that the facility’s use of an electronic monitoring device is allowable for monitoring an otherwise unattended private pay resident within a limited range when approved in writing by the resident or their legal representative, if applicable.

Section 75-03-21-07 is amended to remove “adequate” as the Department does not determine what is or is not adequate for insurance and adds a requirement that the provider submit proof of insurance coverage to the Department upon request.

Section 75-03-21-09 is amended to reflect the updated defined term of “respite care provider in an adult foster care” and to reflect that residents can choose their provider of respite care.

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Section 75-03-21-10 is amended to separate out the qualifications of a substitute caregiver provider from a respite care provider in an adult foster care, updates the criminal background check process, updates the number of calendar days a substitute caregiver can provide resident care on behalf of a facility during defined time periods, increases the number of hours per day a substitute caregiver can provide resident care on behalf of a facility before the calendar day is counted toward the calendar day limit, and removes language prohibiting the provider from employing individuals other than those who meet the definition of substitute caregiver or respite care provider.

Section 75-03-21-10.1 is created to outline the qualifications required to be a respite care provider in an adult foster care when caring for a public pay resident, to establish that the provider is responsible for the care of residents at all times, and to establish that respite care providers in an adult foster care are limited to the respite care service funding cap. The section also establishes requirements regarding the amount of calendar days the provider can provide resident care during defined time periods and prohibits the provider from employing individuals other than those who meet the definition of respite care provider in an adult foster care to provide services to a resident.

Section 75-03-21-10.2 is created to allow an adult foster care provider to employ a temporary assistant to assist with private pay residents.

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 offices and at the state-operated behavioral health clinics. 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 must be received no later than 5:00 p.m. on Monday, December 22, 2025.

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 31st day of October, 2025.

October 31, 2025

RE: Proposed Amendments to N.D. Admin. Code chapter 75-03-21
Licensing of Foster Homes for Adults

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-21, Licensing of Foster Homes for Adults. 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, December 22, 2025.

The department has scheduled an oral hearing for Friday, December 12, 2025. 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,



Emily O'Brien
Deputy Commissioner

EMO/rv

Enclosures

cc: Liz Fordahl, Legislative Council
Nancy Maier, Aging Services

OFFICE OF THE COMMISSIONER

GOVERNOR
Kelly Armstrong

INTERIM COMMISSIONER
Pat Traynor