

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

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**SECTION 1.** Subsections 6 and 9 of section 75-03-14.1-02 are amended as follows:

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, unless otherwise approved by the department.
  
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; amended effective April 1, 2024.

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

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

**SECTION 2.** Section 75-03-14.1-03 is amended as follows:

**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 and other eligible referral agencies seeking placement into the shelter care program.~~ eligible referral agencies seeking placement into the shelter care program.

**History:** Effective January 1, 2022; amended effective April 1, 2024.

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

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

**SECTION 3.** Section 75-03-14.1-04 is amended as follows:

**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 and nonemployee 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. The shelter care program shall have a policy to ensure the safety of all residents 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, nonemployee, 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.
- 10. Establish written policies specific to how the shelter care program shall proceed when a current or former employee or nonemployee is known to be:
  - a. Involved in any capacity in a reported incident of institutional child abuse or neglect;

- b. Involved in any capacity in a reported incident of suspected child abuse or neglect;
- c. The subject in a child abuse or neglect report that occurred outside the facility, where the subject has been confirmed to have abused or neglect a child; or
- d. Found guilty of, pled guilty to, or pled no contest to a criminal offense.

**History:** Effective January 1, 2022; amended effective April 1, 2024.

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

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

**SECTION 4.** Section 75-03-14.1-05 is amended as follows:

**75-03-14.1-05. Employees and nonemployees.**

1. The shelter care program clearly shall define, in writing, the roles and responsibilities of the employees and nonemployees 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 and nonemployee roles and responsibilities, including:
  - a. Initial fingerprint-based criminal background checks for employees and a criminal background check for nonemployees;
  - 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 and nonemployees.

5.4. 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.

6.5. 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.

6. A shelter care program, utilizing nonemployees, shall:

- a. Ensure nonemployees are at least twenty years of age;
  - b. Develop and provide a copy of a description of nonemployee duties and specified responsibilities;
  - c. Designate an employee to supervise and evaluate nonemployees;
  - d. Develop a plan for the orientation and training of nonemployees to include the philosophy of the shelter care program and the needs of the residents and the residents' families;
  - e. Develop a policy stating nonemployees may support employees, but may not be substitution for employees;
  - f. Develop a policy stating nonemployees may not be counted as an employee for purposes of employee-to-resident ratio requirements imposed by this chapter;
  - g. Develop a policy stating how nonemployees shall create records of incidents that occur during their presence at the shelter care program to the same extent employees are required to create such records;  
and
  - h. Conduct a criminal background check on all nonemployees with direct contact with residents.
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 care program shall maintain a file on each nonemployee; including:
- a. Personal identification information;
  - b. Results of a criminal background check, motor vehicle operator's license record, as applicable, and child abuse or neglect record;
  - c. Description of duties;
  - d. Orientation and training records consisting of name of presenter, date of presentation, topic of presentation, and length of presentation;
  - e. A statement signed by the nonemployee indicating having read and received a copy of the law and facility procedures requiring the reporting of suspected child abuse and neglect pursuant to North Dakota Century Code chapter 50-25.1, initially and annually thereafter; and
  - f. A statement signed by the nonemployee acknowledging the confidentiality policy.
9. The shelter program shall adopt a policy regarding the retention of employee and nonemployee files.

**History:** Effective January 1, 2022; amended effective April 1, 2024.

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

**Law Implemented:** NDCC 50-06-01.4, 50-06-01.10

**SECTION 5.** Section 75-03-14.1-05.1 is created as follows:

**75-03-14.1-05.1. Background check and criminal conviction - Effect on operation of agency or employment or placement by agency.**

- 1. The department requires an initial fingerprint-based criminal background check for each employee with direct contact with residents and a criminal background check for each nonemployee with direct contact with residents. Subsequent fingerprint-based background checks are not required for an employee who maintains continuous employment at the

shelter care program unless the program or the department determines a need exists to conduct a subsequent investigation.

2. The department requires a child abuse and neglect index check as part of the initial fingerprint-based background check and criminal background check. An annual child abuse and neglect index must be completed and placed in the employee or nonemployee file.
3. A shelter care program supervisor may not be, and a shelter care program may not employ or place, in any capacity that involves or permits contact between an employee or nonemployee and any resident cared for by the shelter care program, an individual who is known to 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; 12.1-27.2, sexual performances by children; 12.1-41, Uniform Act on Prevention of Remedies for Human Trafficking; or 19-03.1, Uniform Controlled Substance Act, if class A, B, or C felony under that chapter; or in North Dakota Century Code section 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; 12.1-20-12.3, sexual extortion; 12.1-21-01, arson; 12.1-22-01, robbery, if a class A or B felony under subsection 2 of that section; 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; 12.1-31-07, endangering an eligible adult – penalty; 12.1-31-07.1, exploitation of an eligible adult – penalty; 14-09-22, abuse of child; or 14-09-22.1, neglect of child;
  - 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.
    - (1) The department will not consider a claim that the individual has been sufficiently rehabilitated until any term of probation, parole, or other form of community corrections or imprisonment for all criminal convictions has elapsed.



- (2) 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.
4. The department has determined that the offenses enumerated in subdivisions a and b of subsection 3 have a direct bearing on an individual's ability to provide shelter care for children.
5. In the case of offenses described in North Dakota Century Code section 12.1-17.01, simple assault; 12.1-17-03, reckless endangerment; 12.1-17-06, criminal coercion; 12.1-17-07, harassment; 12.1-17-07.1, stalking; 12.1-22-01, robbery, if a class C felony; or 12.1-31-07.1, exploitation of an eligible adult – penalty, if a class B felony under subdivision c of subsection 2 of that section or a class B felony under subdivision d of subsection 2 of that section; or chapter 19-03.1, Uniform Controlled Substances Act, if a class A, B or C felony; or equivalent conduct in another jurisdiction which requires proof of substantially similar elements as required for conviction, the department may determine that an 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 for all other criminal convictions. The department may not be compelled to make such determination.
6. The department may discontinue processing a request for a criminal background check for any individual who provides false or misleading information about the individual's criminal history.
7. An individual is known to have been found guilty of, pled guilty to, or pled no contest to an offense when it is:
- a. Common knowledge in the community;
  - b. Acknowledged by the individual; or
  - c. Discovered by the authorized agent or department as a result of a background check.
8. The department has authority to request a fingerprint-based or a criminal background check whenever an employee or nonemployee of the certified shelter care program is known to have been involved in, charged with, or convicted of an offense.
9. Review of fingerprint-based criminal background check results.

- a. If an individual disputes the accuracy or completeness of the information contained in the fingerprint-based criminal background check required under this chapter, the individual may request a review of the results by submitting a written request for review to the department within thirty calendar days of the date of the results. The individual's request for review must include a statement of each disputed item and the reason for the dispute.
  - b. The department shall assign the individual's request for review to a department review panel.
  - c. An individual who has requested a review may contact the department for an informal conference regarding the review any time before the department has issued its final decision.
  - d. The department shall notify the individual of the department's final decision in writing within sixty calendar days of receipt of the individual's request for review.
  - e. The final decision of the review panel may not be appealed.
10. 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 completed and approved required background check results are placed in the employee file, the employee may only have supervised interaction with residents.
11. The department may excuse an employee from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If an employee is excused from providing fingerprints, the department may conduct a nationwide name-based criminal history record investigation in any state in which the employee lived during the eleven years preceding the signed authorization for the background check.
12. A shelter care program employee and nonemployee must be in compliance with this section or must be an employee otherwise qualified and employed by a certified shelter care program prior to April 1, 2024.

**History:** Effective April 1, 2024.

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

**Law Implemented:** NDCC 50-06-01.4, 50-06-01.10

**SECTION 6.** Section 75-03-14.1-06 is amended as follows:

**75-03-14.1-06. Employee and nonemployee training.**

Shelter care programs shall provide training to employees and nonemployees 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. Roles and responsibilities of employees versus nonemployees;
  - e. Expected employee and nonemployee conduct toward residents;
  - ~~e.f.~~ Expected resident conduct while residing onsite;
  - f.g. Shelter care program's behavior management, including de-escalation techniques;
  - ~~g.h.~~ Protocol for observing and reporting resident behavior;
  - ~~h.i.~~ Protocol for identifying and reporting of child abuse and neglect, including completion of child abuse and neglect mandated reporter training;
  - ~~i.j.~~ Suicide prevention, including identifying signs and shelter program response;
  - ~~j.k.~~ Fire safety and evacuation procedures;
  - ~~k.l.~~ Disaster plan;
  - ~~l.m.~~ Resident search procedures and policies;
  - ~~m.n.~~ Confidentiality standards;
  - ~~n.o.~~ Protocol for reporting a runaway;
  - ~~o.p.~~ Protocol for emergency medical procedures;
  - ~~p.q.~~ Protocol for shelter care program security and access to visitors; and

- ~~e.r.~~ 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 and nonemployees 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; amended effective April 1, 2024.

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

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

**Section 7:** Section 75-03-14.1-07 is amended as follows:

**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 may install automatic sprinklers in bedrooms, hallways, and areas required by the fire code. If an automatic sprinkler system is installed, it must be inspected annually and a copy of the inspection provided to the department. 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~~2A 10BC fire extinguisher ~~on each floor~~certified by Underwriters' Laboratories and maintained in accordance with the manufacturer's instructions and located in areas defined in the fire code. All required fire extinguishers must be checked once a year and serviced as needed. Each fire extinguisher must have a tag or label securely attached indicating the month and year the maintenance check was completed;
3. ~~One smoke detector in each space determined necessary by the local fire department or~~Smoke detectors installed and maintained in accordance with the manufacturer's instructions and located in areas defined in the fire marshal~~code;~~

4. ~~One carbon~~Carbon ~~detector on each floor~~monoxide detectors, where applicable, installed and maintained in accordance with the manufacturer's instructions and located in areas defined in the fire code;
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 proper food storage that meets the standards prescribed by the state department of health for food and beverage establishments. If applicable, the department may request a health inspection. A shelter care program ~~annually~~ shall document compliance with ~~these~~sanitation 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; amended effective April 1, 2024.

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

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

**SECTION 8.** Section 75-03-14.1-08 is amended as follows:

**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 immediately 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, unless otherwise approved 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; amended effective April 1, 2024.

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

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

**SECTION 9.** Section 75-03-14.1-09 is amended as follows:

**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~~Documented 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, including the individual who the resident was discharged to, date, and location.

**History:** Effective January 1, 2022; amended effective April 1, 2024.

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

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

**SECTION 10.** Section 75-03-14.1-11 is amended as follows:

**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,~~ or nonemployees; 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 or nonemployees time at the beginning of each shift to be informed of or review reports of incidents and sentinel events occurring since the employee's or nonemployee's last shift.
5. The shelter care program shall provide employees, nonemployees, and residents time to debrief the incident and sentinel event with supervisors.

**History:** Effective January 1, 2022; amended effective April 1, 2024.

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

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