

NORTH  
**Dakota** | Health & Human Services

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October 31, 2023

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

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1  
In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood 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 Monday, December 18, 2023, beginning at 11:00 a.m. and continuing until 12:30 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: Mariah Hill, Early Childhood Services  
Carmen Traeholt, Early Childhood Services  
Kay Larson, Early Childhood Services  
Jessica Thomasson, Executive Director of Human Services Division

Enclosures

**LEGAL**

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NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D. ADMIN. CODE CHAPTERS 75-03-07, 75-03-07.1, 75-03-08, 75-03-09,  
75-03-10, 75-03-11, AND 75-03-11.1  
IN-HOME CHILD CARE EARLY CHILDHOOD SERVICES, SELF-DECLARATION  
PROVIDERS EARLY CHILDHOOD SERVICES, FAMILY CHILD CARE EARLY  
CHILDHOOD SERVICES, GROUP CHILD CARE EARLY CHILDHOOD SERVICES,  
CHILD CARE CENTER EARLY CHILDHOOD SERVICES, PRESCHOOL EARLY  
CHILDHOOD SERVICES, AND SCHOOL-AGE CHILD CARE PROGRAM EARLY  
CHILDHOOD 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 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1 at 11:00 a.m. on Monday, December 18, 2023, 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 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1, In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services, are necessary to comply with 2023 House Bill No. 1144 and 2023 Senate Bills Nos. 2082 and 2104.

The proposed changes are as follows:

**Section 75-03-07-04** is amended to remove the term “authorized agent”, to replace the term “sudden infant death prevention” with “safe sleep training”, and to add mandated reporter training requirements.

**Subsection 4 of section 75-03-07-06** is amended to replace “person” with “individual”.

**Subsection 1 of section 75-03-07.1-00.1** is amended to revise the definition of “annual” regarding annual training requirements.

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**Section 75-03-07.1-02** is amended to remove the term “authorized agent”, to replace “operator” with “provider”, to replace the term “sudden infant death prevention” with “safe sleep training”, to add provider and emergency designee training requirements on mandated reporter duties and on safe sleep. The section is amended to revise self-declaration requirements, including drinking-water supply and aquatic safety requirements and to revise provider liability insurance requirements.

**Subsections 4 and 6 of section 75-03-07.1-06** are amended to replace the term “person” with “individual”, to remove “authorized agent”, and to change a reference from “child care” to “self-declaration program”.

**Subsection 3 of section 75-03-07.1-07** is amended to change a reference from “child care” to “self-declaration program”.

**Subsection 1 of section 75-03-07.1-08** is amended to change a reference from “child care” to “self-declaration program”.

**Section 75-03-07.1-10** is amended to remove the term “authorized agent”, and to update the correction order timeline and method of correspondence regarding a correction order.

**Section 75-03-08-03** is amended to revise the definition of “annual” regarding annual training requirements and to remove the definition of “provider”.

**Subsection 1 of section 75-03-08-07** is amended to remove the term “authorized agent”.

**Section 75-03-08-08.1** is amended to remove the term “authorized agent”, and to add liability insurance requirements for providers.

**Section 75-03-08-10** is amended to replace the term “sudden infant death prevention” with “safe sleep training” and to add mandated reporter training requirements.

**Section 75-03-08-12** is amended to require provider staff to complete annual mandated reporter and safe sleep training and to add orientation requirements for new provider staff.

**Section 75-03-08-14** is amended to replace the term “operator” with “provider”, to replace “public health division of the department of human services” with “department of environmental quality”. to require annual drinking water supply testing, to modify exterior play area requirements, and to remove “authorized agent”.

**Subsections 2 and 6 of section 75-03-08-19** are amended to replace the term “child care program” with “family child care”.

**Subsections 1, 7, and 13 of section 75-03-08-21.1** are amended to change references to “department” and to replace “child care program” with “family child care”.

**Section 75-03-08-22** is amended to remove the term “authorized agent” and to change a reference to “department”.

**Subsection 5 of section 75-03-08-27** is amended to replace “person” with “individual”.

**Subsections 2 and 3 of section 75-03-08-28** are amended to remove the term “authorized agent”.

**Section 75-03-08-29** is amended to remove “authorized agent” and to amend the correction order timeline and method of correspondence, to replace “child care program” with “family child care”, and replace “program” with “provider”.

**Section 75-03-09-03** is amended to revise the definition of “annual” regarding annual training requirements and to revise the definitions of “operator”, “owner”, and “provider”.

**Subsection 1 of section 75-03-09-07** is amended to remove “authorized agent”.

**Section 75-03-09-08** is amended to replace “child care program” with “family child care”, to remove “authorized agent”, to add group child care language, and to revise provider liability insurance requirements.

**Subsection 3 of section 75-03-09-10** is amended to replace “sudden infant death prevention” with “safe sleep training” and to add mandated reporter training requirements.

**Section 75-03-09-12** is amended to add orientation requirements for new provider staff, to replace “sudden infant death prevention” with “safe sleep training”, and to add mandated reporter training requirements.

**Section 75-03-09-14** is amended to remove “authorized agent”, to require annual drinking water testing, and to replace “operator” with “provider”.

**Subsection 2 of section 75-03-09-16** is amended to require monthly fire and emergency evacuation drills.

**Subsection 1 of section 75-03-09-17** is amended to remove “authorized agent”.

**Section 75-03-09-18** is amended to remove certain public health inspection requirements, to amend language on exterior play area enclosure requirements, and to add a group child care reference.

**Section 75-03-09-22** is amended to add a reference to department and to remove “authorized agent”.

**Subsection 3 of section 75-03-09-24** is amended to replace “child care program” with “group child care”.

**Subsections 10 and 11 of section 75-03-09-26** are amended to replace “operator” with “provider” and to update a reference to the department.

**Subsection 5 of section 75-03-09-27** is amended to replace “person” with “individual”.

**Section 75-03-09-28** is amended to add references to an “operator” and to remove “authorized agent”.

**Section 75-03-09-29** is amended to revise the correction order timeline and method of correspondence, to remove “authorized agent”, and replace “facility” with “group child care”.

**Section 75-03-10-03** is amended to revise the definition of “annual” regarding annual training requirements and to revise the definitions of “operator” and “owner”.

**Section 75-03-10-04** is amended to replace “center” with “child care center”.

**Section 75-03-10-06** is amended to replace “operator” with “owner” and to replace “center” with “child care center”.

**Subsection 3 of section 75-03-10-06.1** is amended to replace “operator” with “owner”.

**Section 75-03-10-07** is amended to remove “authorized agent” and to replace “operator” with “owner”.

**Subdivision a of subsection 2 of section 75-03-10-08** is amended to replace “center” with “child care center”.

**Section 75-03-10-09** is amended to replace “center” with “child care center”, to replace “person” with “individual”, and to remove “authorized agent”.

**Subsection 4 of section 75-03-10-10** is amended to replace “sudden infant death prevention” with “safe sleep training” and to add mandated reporter and safe sleep training requirements.

**Subsection 6 of section 75-03-10-11.1** is amended to replace “sudden infant death prevention” with “safe sleep training” and to add safe sleep and mandated reporter training requirements.

**Section 75-03-10-12** is amended to replace “sudden infant death prevention” with “safe sleep training”, to add mandated reporter training requirements, to remove the term “two-day onsite” from orientation requirements, to replace “child care program” with “child care center”, and to replace “nutrition problems” with “nutrition instructions”.

**Subsection 1 of section 75-03-10-17** is amended to remove “authorized agent”.

**Section 75-03-10-18** is amended to revise food establishment license requirements at child care centers, to remove “authorized agent”, to add references to “child care center”, and to revise language regarding exterior play area enclosure requirements.

**Subsection 6 of section 75-03-10-21** is amended to remove “authorized agent”.

**Section 75-03-10-22** is amended to revise a reference to department and to remove “authorized agent”.

**Subsection 3 of section 75-03-10-24** is amended to replace “program” with “child care center”.

**Subsection 9 of section 75-03-10-26** is amended to revise a reference to department and to replace “program” with “child care center”.

**Subsection 5 of section 75-03-10-27** is amended to replace “operator” with “owner” and to replace “person” with “individual”.

**Section 75-03-10-28** is amended to add the term “owner” and to remove “authorized agent”.

**Section 75-03-10-29** is amended to update the correction order timeline and method of correspondence, to remove “authorized agent”, and to replace “child care center” with operator.

**Section 75-03-11-03** is amended to revise the definition of “annual” regarding annual training requirements, to amend the definition of “operator” and to add a definition of “owner”, and to remove the definition of “preschool”.

**Section 75-03-11-06** is amended to replace “operator” with “owner”.

**Subsection 3 of section 75-03-11-06.1** is amended to replace “operator” with “owner”.

**Subsections 1 and 2 of section 75-03-11-07** are amended to remove “authorized agent” and to replace “operator” with “owner”.

**Section 75-03-11-08** is amended to remove “authorized agent” and to replace “child care center” with “preschool”.

**Section 75-03-11-10** is amended to add staff orientation requirements for new preschool staff.

**Section 75-03-11-13** is amended to add mandated reporter training requirements and to add a substitute staff and emergency designee annual training exemption to provide consistency among all provider types.

**Subsection 1 of section 75-03-11-17** is amended to remove “authorized agent”.

**Section 75-03-11-18** is amended to revise food establishment license requirements at preschools, to revise references to department, to remove “authorized agent”, to revise language regarding exterior play area enclosure requirements, and to replace “program” with “preschool”.

**Subsection 4 of section 75-03-11-19** is amended to replace “operator” with “owner”.

**Section 75-03-11-20** is amended to replace “program” with “preschool”.

**Section 75-03-11-21** is amended to include minimum food safety standards to provide consistency among all provider types.

**Section 75-03-11-22** is amended to remove “authorized agent” and to revise a reference to department.

**Subsection 10 of section 75-03-11-26** is amended to revise a reference to department.



**Subsection 5 of section 75-03-11-27** is amended to replace “person” with “individual”.

**Section 75-03-11-28** is amended to add the term “owner” and to remove “authorized agent”.

**Section 75-03-11-29** is amended to update the correction order timeline and method of correspondence, to remove “authorized agent”, and to replace “preschool” with operator

**Section 75-03-11.1-03** is amended to revise the definition of “annual” regarding annual training requirements, to amend the definition of “operator” and to add a definition of “owner”, and to remove the definition of “school age child care program” or “program”.

**Section 75-03-11.1-06** is amended to replace “operator” with “owner”.

**Subsection 3 of section 75-03-11.1-06.1** is amended to replace “operator” with “owner”.

**Section 75-03-11.1-07** is amended to remove “authorized agent” and to replace “operator” with “owner”.

**Section 75-03-11.1-08** is amended to replace “person” with “individual”, to remove “authorized agent”, and to replace “child care center” with “school-age child care program”.

**Subsection 4 of section 75-03-11.1-08.1** is amended to add mandated reporter training requirements.

**Subsection 4 of section 75-03-11.1-08.3** is amended to add mandated reporter training requirements.

**Section 75-03-11.1-08.4** is amended to add mandated reporter training requirement, to add substitute staff and emergency designee annual training exemption to provide consistency among all provider types, and to remove the term “two-day onsite” from orientation requirements.

**Subsection 1 of section 75-03-11.1-17** is amended to remove “authorized agent”.

**Section 75-03-11.1-18** is amended is amended to revise food establishment license requirements at school-aged child care programs, to revise references to department, to remove “authorized agent”, and to revise language regarding exterior play area enclosure requirements.

**Subsection 4 of section 75-03-11.1-21** is amended to remove “authorized agent”.

**Section 75-03-11.1-22** is amended to remove “authorized agent” and to revise a reference to department.

**Subsection 10 of section 75-03-11.1-26** is amended to revise a reference to department.

**Subsection 5 of section 75-03-11.1-27** is amended to replace “operator” with “owner” and to replace “person” with “individual”.

**Section 75-03-11.1-28** is amended to add the term “owner” and to remove “authorized agent”.

**Section 75-03-11.1-29** is amended to update the correction order timeline and method of correspondence, to remove “authorized agent”, and to replace “school age child care program” with operator.

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 Thursday, December 28, 2023.

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 31<sup>st</sup> day of October, 2023.

October 31, 2023

RE: Proposed Amendments to N.D. Admin. Code Chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1  
In-Home Child Care Early Childhood Services, Self-Declaration Providers Early Childhood Services, Family Child Care Early Childhood Services, Group Child Care Early Childhood Services, Child Care Center Early Childhood Services, Preschool Early Childhood Services, and School-Age Child Care Program Early Childhood Services

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing amendments to N.D. Admin. Code Chapters 75-03-07, 75-03-07.1, 75-03-08, 75-03-09, 75-03-10, 75-03-11, and 75-03-11.1. 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 Thursday, December 28, 2023.

The department has scheduled an oral hearing for Monday, December 18, 2023. 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  
Interim Commissioner

Enclosures

cc: Liz Fordahl, Legislative Council  
Mariah Hill, Early Childhood Services  
Carmen Traeholt, Early Childhood Services  
Kay Larson, Early Childhood Services  
Jessica Thomasson, Executive Director of Human Services Division

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

INTERIM COMMISSIONER  
Sara Stolt