

May 11, 2021

Vonette Richter, Legal Division Director
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code chapter 75-03-40
Licensing of Qualified Residential Treatment Program Providers

Dear Ms. Richter:

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, June 21, 2021, beginning at 3:00 p.m. and continuing until 4:30 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 Advisory Unit

JA/rv

cc: Cory Pedersen, CFS
Dean Sturn, CFS
Kelsey Bless, CFS

Enclosures

LEGAL ADVISORY UNIT

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NOTICE OF INTENT TO AMEND
ADMINISTRATIVE RULES RELATING TO
N.D.A.C. CHAPTER 75-03-40
LICENSING OF QUALIFIED RESIDENTIAL TREATMENT PROGRAM PROVIDERS

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-03-40 at 3:00 p.m. on Monday, June 21, 2021, 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 75-03-40, Licensing of Qualified Residential Treatment Program Providers, are necessary to comply with House Bill No. 1012 and Senate Bill No. 2083, enacted during the most recent legislative session, concerning adopting rules establishing a new ratesetting process and requirements for foster care maintenance rates for qualified residential treatment providers and updating child abuse and neglect terminology.

The proposed changes are as follows:

Section 75-03-40-01 is amended to update the definition of “restrain”, “seclusion”, and “trauma informed treatment”.

Section 75-03-40-09 is amended to ensure consistency and clarity of terms used and to change the retention period for fiscal records following account settlement.

Section 75-03-40-10 is amended to update and clarify the required records to be provided by the qualified residential treatment program providers to the Department for payment purposes.

Section 75-03-40-18 is amended to update and clarify that the facility shall provide the nurse with a private office located on the property where the residents reside.

Section 75-03-40-24 is amended to update the rules based on 2021 Senate Bill. No. 2083 regarding use of terms and require a qualified residential treatment program provider to establish written policy when a current or former

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employee or nonemployee is known to be involved in any capacity in a reported incident of suspected child abuse or neglect.

Section 75-03-40-28 is amended to increase the family engagement specialist-to-resident ratio, to update and clarify regarding employee-to-resident ratio during awake and overnight hours, and amend how overnight checks are documented and available for review.

Section 75-03-40-29 is amended to update and clarify the required trainings for employees.

Section 75-03-40-30 is amended to update and clarify the contents of the resident's record maintained by the qualified residential treatment program provider.

Section 75-03-40-32 is amended to ensure consistency of terms used.

Section 75-03-40-33 is amended to update the admission and assessment criteria and process, remove criteria regarding prospective residents and preplacement visits, add language regarding emergency placements, to ensure consistency of terms used, and to clarify and eliminate the timelines for the initial screening requirements.

Section 75-03-40-34 is amended to add clarity that the sending state for out-of-state placement of children is responsible for costs.

Section 75-03-40-36 is amended to update and clarify the time period, process, and structure for unplanned resident discharges and discharge committee.

Section 75-03-40-38 is amended to provide clarity that aftercare services are not required to be provided to a resident that is placed as an emergency placement and not approved for treatment, to restructure the section for clarity purposes, to ensure consistency of terms used, to require the facility to attempt maintain at least monthly contact with a family for a period of six months after a resident has been discharged, and to clarify when aftercare services are or are not required.

Section 75-03-40-40 is amended to ensure consistency of terms used, to reduce the time period for when a custodian and parent or guardian needs to be notified, and eliminate the time period as to when the incident or sentinel event needs to be documented.

Section 75-03-40-43 is amended to ensure consistency of terms used, to provide clarity regarding the legal authority of the custodian to sign or revoke consents, and to clarify that the qualified residential treatment program provider shall still pursue consent from a parent or guardian and consider the consent or refusal of the resident's parent or guardian.

Section 75-03-40-45 is amended to eliminate the use of seclusion as an emergency safety intervention, to permit a tier 2 mental health professional to authorize the use of a restraint, to limit the use of restraint to the amount of time necessary to begin verbal de-escalation techniques with the resident, and to provide clarity.

Section 75-03-40-46 regarding the use of a special care unit is repealed.

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 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 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, July 1, 2021.

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 Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 11th day of May, 2021.