

November 9, 2022

Jill Grossman, Counsel
North Dakota Legislative Council
State Capitol
Bismarck, ND 58505

RE: Proposed Creation of N.D. Admin. Code chapter 33-03-35
Residential End-of-Life Facility Regulation

Dear Ms. Grossman:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to create 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 Tuesday, December 20, 2022, beginning at 10:30 a.m. and continuing until 12:00 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: Bridget Weidner, Health Facilities
Kelly Beechie, Health Facilities
Tim Wiedrich, Health Response and Licensure
Karla Aldinger, Life Safety and Construction

Enclosures

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NOTICE OF INTENT TO CREATE
ADMINISTRATIVE RULES RELATING TO
N.D. ADMIN. CODE CHAPTER 33-03-35
RESIDENTIAL END-OF-LIFE FACILITY REGULATION

TAKE NOTICE that the North Dakota Department of Health and Human Services will hold a public hearing to address proposed creation of N.D. Admin. Code chapter 33-03-35 at 10:30 a.m. on Tuesday, December 20, 2022, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed creation of N.D. Admin. Code chapter 33-03-35, Residential End-of-Life Facility Regulation, is necessary to comply with 2021 Senate Bill No. 2226.

The proposed changes are as follows:

Section 33-03-35-01 is created to provide definitions for “facility”, “residential services”, “support services”, and “volunteer services”.

Section 33-03-35-02 is created to outline the licensure process for facilities, and to provide for inspection. The section requires the facility to submit floor plans for review by department, and outlines costs for plan review fee schedules based on size and project costs. The section also details fees required for application for a license for facilities not owned by the state or its political subdivisions.

Section 33-03-35-03 is created to permit the department to waive licensure requirements under certain circumstances.

Section 33-03-35-04 is created to outline the requirements for a governing body of a facility and to outline the duties of the governing body. The section requires the governing body to have an agreement with a hospice program to provide hospice services, and details what responsibilities must be spelled out in the agreement.

Section 33-03-35-05 is created to identify the codes and standards that the facility must comply with, including accessibility standards,

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requirements for food and beverage establishments issued by the department, plumbing standards, electrical wiring standards, and boiler rules and regulations.

Section 33-03-35-06 is created to require a facility to submit plans and specifications to the department for approval for all construction, remodeling, and installations subject to review. The facility is required to contact the department prior to any substantial changes in or alterations to a facility. Start of construction is not permitted until department has approved the final plans and establishes that the department has the authority to make inspections during construction, remodeling, or installation.

Section 33-03-35-07 is created to detail fire safety standards for a facility.

Section 33-03-35-08 is created to outline the general building requirements for a facility, including specifications and required amenities for each dwelling unit.

Section 33-03-35-09 is created to require the facility to keep accurate, current, and confidential records for all patients; what information must be included within patient records; and establishes a retention period for patient records.

Section 33-03-35-10 is created to require the facility to coordinate with the licensed hospice provider for the administration and provision of pharmaceutical services. The section also details medication storage and administration requirements.

Section 33-03-35-11 is created to require the facility to meet the dietary needs of patients, provide dietary services, and comply with state sanitary requirements for food establishments.

Section 33-03-35-12 is created to identify housekeeping and laundry services that the facility shall provide to patients.

Section 33-03-35-13 is created to provide that admission and discharge planning for hospice patients must be coordinated with a licensed hospice program.

Section 33-03-35-14 is created to require a facility to maintain a sufficient number of qualified staff and volunteers who are trained and competent to provide necessary care and services. The section also requires a facility to employ or contract with a registered nurse to meet the needs of patients at all times, either directly or indirectly. The section also establishes requirements and a process for using volunteer services.

Section 33-03-35-15 is created to require a facility to develop, adopt, and implement a statement of the rights and responsibilities of hospice patients and members of the hospice patient's family.

The proposed rules are 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 Friday, December 30, 2022.

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 8th day of November, 2022.

November 9, 2022

RE: Proposed creation of N.D. Admin. Code chapter 33-03-35
Residential End-of-Life Facility Regulation

TO WHOM IT MAY CONCERN:

The Department of Health and Human Services is proposing the creation of N.D. Admin. Code chapter 33-03-35, Residential End-of-Life Facility Regulation. 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 Friday, December 30, 2022.

The department has scheduled an oral hearing for Tuesday, December 20, 2022. 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,



Christopher Jones,
Executive Director

CDJ/rv

Enclosures

cc: Jill Grossman, Legislative Council
Bridget Weidner, Health Facilities
Kelly Beechie, Health Facilities
Tim Wiedrich, Health Response and Licensure
Karla Aldinger, Life Safety and Construction

EXECUTIVE OFFICE

GOVERNOR
Doug Burgum

COMMISSIONER
Christopher Jones