

CHAPTER 75-03-07
IN-HOME CHILD CARE EARLY CHILDHOOD SERVICES

Section

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SECTION 1. Section 75-03-07-04 is amended as follows:

75-03-07-04. In-home registration and standards.

1. An application for a registration document must be submitted to the department ~~or its authorized agent~~ wherein the applicant proposes to provide in-home services. Application must be made in the form and manner prescribed by the department.
2. An applicant for an in-home registration document shall be directly responsible for the care, supervision, and guidance of the child or children in the child or children's home and shall comply with the following standards, certifying in the application that the applicant:
 - a. Is at least eighteen years of age.
 - b. Is physically, cognitively, socially, and emotionally healthy and will use mature judgment when making decisions impacting the quality of child care.
 - c. Shall devote adequate time and attention to the children in the applicant's care and provide an environment that is physically and socially adequate for children.
 - d. Shall participate in specialized training related to child care if provided by or approved by the department.
 - e. Shall complete one hour of department-approved training annually on ~~sudden infant death prevention~~ safe sleep prior to in-home provider having unsupervised access to infants and one hour on mandated reporter of suspected child abuse or neglect.
 - f. Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture

standards which satisfies the dietary needs of the children while in the applicant's care.

- g. Shall provide proper care, supervision, and protection for children in the applicant's care. Supervision means the provider being within sight or hearing range of an infant, toddler, or preschooler at all times so the provider is capable of intervening to protect the health and safety of the child. For the school-age child, it means a provider being available for assistance and care so that the child's health and safety are protected.
- h. Shall provide for a safe and sanitary environment while children are in care.
- i. May not use or be under the influence of any illegal drugs or alcoholic beverages while children are in care.
- j. May not leave children without supervision.
- k. Shall ensure that discipline is constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praising appropriate behavior, or gentle physical restraint, such as holding. A child may not be subjected to physical harm, fear, or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury, or neglect or abuse, to any child is grounds for denial or revocation of an in-home registration.
 - (1) Authority to discipline may not be delegated to children nor may discipline be administered by children.
 - (2) Separation, when used as discipline, must be appropriate to the child's development and circumstances. The child must be in a safe, lighted, well-ventilated room within sight or hearing range of the in-home provider. An in-home provider may not isolate a child in a locked room or closet.
 - (3) A child may not be punished for lapses in toilet training.
 - (4) An in-home provider may not use verbal abuse or make derogatory remarks about a child, or a child's family, race, or religion when addressing the child or in the presence of a child.
 - (5) An in-home provider may not use profane, threatening, unduly loud, or abusive language in the presence of a child.

- (6) An in-home provider may not force-feed a child or coerce a child to eat, unless medically prescribed and administered under a medical provider's care.
 - (7) An in-home provider may not use deprivation of meals or snacks as a form of discipline or punishment.
 - (8) An in-home provider may not kick, punch, spank, shake, pinch, bite, roughly handle, strike, mechanically restrain, or physically maltreat a child.
 - (9) An in-home provider may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
 - (10) An in-home provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.
- I. Shall discuss methods of discipline and child management with the parent or parents.
3. If the physical or mental, cognitive, social, or emotional health capabilities of an in-home applicant or provider appear to be questionable, the department may require the individual to present evidence of the individual's ability to provide the required care based on a formal evaluation. The department is not responsible for costs of any required evaluation.
4. In-home providers shall ensure safe care for the children receiving services in their care. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by the applicant or in-home provider, that decision has a direct bearing on the applicant's or in-home provider's ability to serve the public in a capacity involving the provision of child care and the application or in-home registration may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant or in-home provider, the applicant or in-home provider shall furnish information, satisfactory to the department, from which the department can determine the applicant's or in-home provider's ability to provide care that is free of abuse or neglect. The department shall

furnish the determination of current ability to the applicant or in-home provider. Each applicant shall complete a department-approved authorization for background check form no later than the first day of employment.

5. An in-home provider may provide early childhood services in a private residence for up to five children through the age of eleven, of which no more than three may be under the age of twenty-four months.

History: Effective December 1, 1981; amended effective January 1, 1987; January 1, 2011; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-02, 50-11.1-06, 50-11.1-07, 50-11.1-08

SECTION 2. Subsection 4 of section 75-03-07-06 is amended as follows:

4. An in-home provider shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a ~~person~~ an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a ~~person~~ an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective January 1, 2011; amended effective April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-06, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

CHAPTER 75-03-07.1
SELF-DECLARATION PROVIDERS EARLY CHILDHOOD SERVICES

Section

- 75-03-07.1-00.1 Definitions
- 75-03-07.1-01 Fees [Repealed]
- 75-03-07.1-02 Self-Declaration Standards - Application
- 75-03-07.1-03 Smoke-Free Environment [Repealed]
- 75-03-07.1-04 One Per Residence - Nontransferability of Self-Declaration and
Emergency Designee
- 75-03-07.1-05 Appeals
- 75-03-07.1-06 Denial or Revocation of Self-Declaration Document
- 75-03-07.1-07 Minimum Sanitation Requirements
- 75-03-07.1-08 Infant Care
- 75-03-07.1-09 Minimum Requirements for the Care of Children With Special Needs
- 75-03-07.1-10 Correction of Violations
- 75-03-07.1-11 Fiscal Sanctions
- 75-03-07.1-12 Restricted Self-Declaration
- 75-03-07.1-13 Minimum Emergency and Disaster Plans

SECTION 3. Section 75-03-07.1-02 is amended as follows:

75-03-07.1-02. Self-declaration standards - Application.

1. An applicant for a self-declaration document shall submit the application to the department ~~or its authorized agent~~ in which the applicant proposes to provide early childhood services. An application, including a department-approved authorization for background check for household members age twelve and older, an emergency designee, and an applicant, and an application for a fingerprint-based criminal history record check for the applicant and emergency designee, must be made in the form and manner prescribed by the department.
2. The current self-declaration document must be displayed prominently in the premises to which it applies.
3. A provisional self-declaration document may be issued:
 - a. The department may issue a provisional self-declaration document although the applicant or provider fails to, or is unable to, comply with all applicable standards and rules of the department.
 - b. A provisional self-declaration document must:
 - (1) State that the provider has failed to comply with all applicable standards and rules of the department;

- (2) State the items of noncompliance;
 - (3) Expire at a set date, not to exceed six months from the date of issuance; and
 - (4) Be exchanged for an unrestricted self-declaration document, which bears an expiration date of one year from the date of issuance of the provisional self-declaration document, after the applicant or ~~operator~~ provider demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
 - c. The department may issue a provisional self-declaration document only to an applicant or provider who has waived, in writing:
 - (1) The right to a written statement of charges as to the reasons for the denial of an unrestricted self-declaration document; and
 - (2) The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted self-declaration document, either at the time of application or during the period of operation under a provisional self-declaration document.
 - d. Any provisional self-declaration document issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the provider.
 - e. Subject to the exceptions contained in this section, a provisional self-declaration document entitles the provider to all rights and privileges afforded the provider of an unrestricted self-declaration document.
 - f. The provider shall display prominently the provisional self-declaration document and agreement.
 - g. The provider shall provide parents written notice that the provider is operating on a provisional self-declaration document and the basis for the provisional self-declaration document.
4. The provider shall be directly responsible for the care, supervision, and guidance of the children.
 - a. The provider:

- (1) Must be at least eighteen years of age;
- (2) Shall provide an environment that is physically and socially adequate for the children; and that the provider is of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
- (3) Shall devote adequate time and attention to the children in the provider's care;
- (4) Shall provide food of sufficient quantity and nutritious quality in accordance with the United States department of agriculture standards which satisfies the dietary needs of the children while in the provider's care;
- (5) Shall provide proper care and protection for children in the provider's care;
- (6) May not use or be under the influence of, and will not allow any household member or emergency designee to use or be under the influence of any illegal drugs or alcoholic beverages while caring for children;
- (7) May not leave children without supervision;
- (8) Shall verify that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department ~~of health and human services~~, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs;
- (9) Shall report immediately, as a mandated reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- (10) Shall provide a variety of games, toys, books, crafts, and other activities and materials to enhance the child's intellectual and social development and to broaden the child's life experience. Each provider shall have enough play materials and equipment so that at any one time each child in attendance may be involved individually or as a group;
- (11) Shall ensure a current health assessment or a health assessment statement completed by the parent is obtained at

the time of initial enrollment of the child, which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually;

- (12) Shall ensure a child information form completed by the parent is obtained at the time of initial enrollment of the child and annually thereafter;
- (13) Shall certify completion of a department-approved basic child care course within ninety days of being approved as a provider;
- (14) Shall be currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;
- (15) Shall be currently certified in pediatric first aid by a program approved by the department;
- (16) Shall complete a minimum of three hours of department-approved training annually, including one hour on ~~sudden infant death prevention~~safe sleep prior to provider providing care to infants and one hour on mandated reporter of suspected child abuse or neglect. The same training courses may be counted toward self-declaration annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~safe sleep and mandated reporter annual training;
- (17) Shall ensure the emergency designee is currently certified in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;
- (18) Shall ensure the emergency designee is currently certified in pediatric first aid by a program approved by the department;
- (19) Shall ensure the emergency designee certifies completion of a department-approved basic child care course within ninety

days;

- (20) Shall ensure that the emergency designee completes ~~one hour of~~required department-approved training annually, including one hour on sudden infant death prevention safe sleep prior to emergency designee providing care to infants and ~~annually thereafter~~one hour on mandated reporter of suspected child abuse or neglect;
- (21) Shall release a child only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian;
- (22) Shall report to the department ~~or its authorized agent~~ within twenty-four hours:
 - (a) A death or serious accident or illness requiring hospitalization of a child while in the care of the self-declaration provider or attributable to care received by the self-declaration provider;
 - (b) An injury to any child which occurs while the child is in the care of the self-declaration provider and which requires medical treatment;
 - (c) Poisonings or errors in the administration of medication;
 - (d) Closures or relocation of self-declaration program due to emergencies; and
 - (e) Fire that occurs or explosions that occur in or on the premises of the self-declaration provider;
- (23) Shall secure written permission and follow proper instructions as to the administration of medication.
 - (a) Medication prescribed by a medical provider must be accompanied by the medical provider's written instructions as to dosage and storage and labeled with the child's name and date.
 - (b) The provider shall store medications in an area inaccessible to children.
 - (c) Medications stored in a refrigerator must be stored

collectively in a spillproof container.

- (d) The provider shall keep a written record of the administration of medication, including over-the-counter medication, for each child. Records must include the date and time of each administration, the dosage, the name of the staff member administering the medication, and the name of the child. Completed medication records must be included in the child's record; and
- (24) Shall notify parents, legal custodians, or guardians of child's exposure to a presumed or confirmed reportable infectious disease.
- b. The provider shall ensure that discipline will be constructive or educational in nature and may include diversion, separation from the problem situation, talking with the child about the situation, praising appropriate behavior, or gentle physical restraint such as holding. A child may not be subjected to physical harm or humiliation. Disregard of any of the following disciplinary rules or any disciplinary measure resulting in physical or emotional injury or neglect or abuse to any child is grounds for denial or revocation of a self-declaration document.
- (1) A child may not be kicked, punched, spanked, shaken, pinched, bitten, roughly handled, struck, mechanically restrained, or physically maltreated by the provider, emergency designee, household member, or any other adult in the residence.
 - (2) Authority to discipline may not be delegated to or be administered by children.
 - (3) Separation, when used as discipline, must be appropriate to the child's development and circumstances, and the child must be in a safe, lighted, well-ventilated room within sight or hearing range of an adult. A child may not be isolated in a locked room or closet.
 - (4) A child may not be punished for lapses in toilet training.
 - (5) A provider may not use verbal abuse or make derogatory remarks about the child, or the child's family, race, or religion when addressing a child or in the presence of a child.

- (6) A provider may not use profane, threatening, unduly loud, or abusive language in the presence of a child.
 - (7) A provider may not force-feed a child or coerce a child to eat unless medically prescribed and administered under a medical provider's care.
 - (8) A provider may not use deprivation of snacks or meals as a form of discipline or punishment.
 - (9) A provider may not force a child to ingest substances that would cause pain or discomfort, for example, placing soap in a child's mouth to deter the child from biting other children.
 - (10) A provider may not withhold active play from a child as a form of discipline or punishment, beyond a brief period of separation.
- c. The provider shall ensure that a working smoke detector is properly installed and in good working order on each floor used by children.
 - d. The provider shall ensure that a fire extinguisher that is inspected annually is properly installed, is in good working order, and is located in the area used for child care.
 - e. The provider shall ensure that a working telephone is located in the location used for child care. Current emergency numbers for parents and first responders must be posted.
 - f. When transportation is provided by a provider, children must be protected by adequate supervision, safety precautions, and liability insurance.
 - (1) Drivers must be eighteen years of age or older and must comply with all relevant federal, state, and local laws, including child restraint laws.
 - (2) A child must not be left unattended in a vehicle.
 - g. Aquatic activities:
 - (1) The provider shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the self-declaration program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of the children

participating in aquatic activities, and additional safety precautions to be taken.

- (2) The provider may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
5. Potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, noncovered electrical outlets, poisonous plants, and open stairways must not be accessible to children. Guns and ammunition must be kept in separate locked storage, or trigger locks must be used. Other weapons and dangerous sporting equipment, such as bows and arrows, must not be accessible to children.
6. The provider shall ensure the self-declaration program has a drinking water supply from an approved community water system or from a source tested and approved annually by the department of environmental quality.
- ~~6.7.~~ If the physical, cognitive, social, or emotional health capabilities of an applicant or provider appear to be questionable, the department may require that the individual present evidence of capability to provide the required care based on a formal evaluation. The department is not responsible for costs of any required evaluation.
- ~~7.8.~~ A self-declaration document is only effective for one year.

History: Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-07, 50-11.1-08, 50-11.1-16, 50-11.1-17

SECTION 4. Subsections 4 and 6 of section 75-03-07.1-06 are amended as follows:

4. A provider shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The provider shall ensure that each emergency designee submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a person an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

6. A provider shall ensure safe care for the children receiving services in the provider's residence. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that a child has been abused or neglected by an applicant, provider, emergency designee, or household member, that decision has a direct bearing on the applicant's or provider's ability to serve the public in a capacity involving the provision of child care, and the application or self-declaration document may be denied or revoked.
 - a. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, provider, emergency designee, or household member, the applicant or provider shall furnish information to the department, from which the department can determine the applicant's, provider's, or emergency designee's ability to provide care that is free of abuse or neglect. The department shall furnish the determination of ability to the applicant or provider.
 - b. Each applicant, provider, and emergency designee shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.
 - c. Household members age twelve and older shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form at the time of application or upon obtaining residence at the location of the ~~child care~~ self-declaration program.

History: Effective June 1, 1995; amended effective January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08, 50-11.1-09

Law Implemented: NDCC 50-11.1-06.2, 50-11.1-08, 50-11.1-09, 50-11.1-16, 50-11.1-17

SECTION 5. Subsection 3 of section 75-03-07.1-07 is amended as follows:

3. Pets and animals.
 - a. The provider shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that

may pose a risk to children and may approve additional pets that do not pose a health or safety risk to children.

- b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
- c. The provider shall ensure parents are aware of the presence of pets and animals in the ~~child care~~self-declaration program.
- d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
- e. The provider shall ensure that all contact between pets and children is closely supervised. The provider shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
- f. The provider shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
- g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
- h. The provider shall ensure that the ~~child care~~self-declaration program is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

History: Effective January 1, 2011; amended effective April 1, 2018; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

SECTION 6. Subsection 1 of section 75-03-07.1-08 is amended as follows:

1. Environment and interactions.

- a. A provider serving children from birth to twelve months shall provide an environment which protects the children from physical harm.
- b. The provider shall ensure that each infant receives positive stimulation and verbal interaction such as being held, rocked, talked with, or sung to.
- c. The provider shall respond to comfort an infant's or toddler's physical and emotional distress:

- (1) Especially when indicated by crying or due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness; and
 - (2) Through positive actions such as feeding, diapering, holding, touching, smiling, talking, singing, or eye contact.
- d. The provider shall ensure that infants have frequent and extended opportunities during each day for freedom of movement, including creeping or crawling in a safe, clean, open, and uncluttered area.
 - e. The provider shall take children outdoors or to other areas within the ~~child-care~~ self-declaration program for a part of each day to provide some change of physical surroundings and to interact with other children.
 - f. The provider shall ensure that infants are not shaken or jostled.
 - g. The provider shall ensure that low chairs and tables, high chairs with trays, or other age-appropriate seating systems are provided for mealtime for infants no longer being held for feeding. High chairs, if used, must have a wide base and a safety strap.
 - h. The provider shall ensure that thermometers, pacifiers, teething toys, and similar objects are cleaned and sanitized between uses. Pacifiers may not be shared.

History: Effective January 1, 2011; amended effective January 1, 2013; April 1, 2016; April 1, 2018; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-08, 50-11.1-16, 50-11.1-17

SECTION 7. Section 75-03-07.1-10 is amended as follows:

75-03-07.1-10. Correction of violations.

- 1. A provider shall correct violations noted in a correction order within the following times:
 - a. For a violation of subsection 24 of North Dakota Century Code section 50-11.1-02, North Dakota Century Code section 50-11.1-02.2, paragraph 5 or 7 of subdivision a of subsection 3 of section 75-03-07.1-02, subdivision b of subsection 3 of section 75-03-07.1-02, or subsection 4 of section 75-03-07.1-02, or section 75-03-07.1-08, within twenty-four hours.

- b. For a violation of subdivision g or h of subsection 1 of North Dakota Century Code section 50-11.1-17 or all other deficiencies of chapter 75-03-07.1, within twenty days.
2. All periods of correction begin on the date of the receipt of the correction order by the provider.
3. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the provider and a showing that the need for the extension is created by unforeseeable circumstances and the provider has diligently pursued the correction of the violation.
4. The provider shall furnish a written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department ~~or its authorized agent~~ confirms the corrections have been made.
5. The provider shall notify the parent of each child receiving care at the residence and each emergency designee how to report a complaint or suspected rule violation.
6. Within ~~threeten~~ business days of the receipt upon mailing or three days upon electronic transmission of the correction order, the provider shall notify the parents of each child receiving care by this provider that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also must post the correction order in a conspicuous location within the residence until the violation has been corrected or five days, whichever is longer.
7. A provider who has been issued a correction order must be reinspected at the end of the period allowed for correction. If, upon reinspection, it is determined that the provider has not corrected a violation identified in the correction order, the department shall mail or send by electronic mail a notice of noncompliance with the correction order ~~must be mailed by certified mail~~ to the provider. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
8. Refutation process for a correction order:
 - a. A self-declared provider may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction order.

- b. The department shall respond to written refutations within five business days of receipt.

History: Effective January 1, 2011; amended effective January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-07, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-08

CHAPTER 75-03-08
FAMILY CHILD CARE EARLY CHILDHOOD SERVICES

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| 75-03-08-02 | Authority and Objective [Repealed] |
| 75-03-08-03 | Definitions |
| 75-03-08-04 | Effect of Licensing and Display of License |
| 75-03-08-05 | Denial or Revocation of License |
| 75-03-08-05.1 | Family Child Care License [Repealed] |
| 75-03-08-06 | Provisional License |
| 75-03-08-06.1 | Restricted License |
| 75-03-08-07 | Application for and Nontransferability of Family Child Care License |
| 75-03-08-08 | Family Child Care Homes Registered Prior to Effective Date [Repealed] |
| 75-03-08-08.1 | Duties of the Provider |
| 75-03-09-09 | Staffing Requirements |
| 75-03-08-10 | Minimum Qualifications of Providers |
| 75-03-08-11 | [Reserved] |
| 75-03-08-12 | Minimum Qualifications for All Staff Members Responsible for Caring for or Teaching Children |
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| 75-03-08-17 | [Reserved] |
| 75-03-08-18 | [Reserved] |
| 75-03-08-19 | Admission Procedures |
| 75-03-08-20 | Program Requirements |
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| 75-03-08-22 | Records |
| 75-03-08-23 | Discipline - Punishment Prohibited |
| 75-03-08-24 | Specialized Types of Care and Minimum Requirements |
| 75-03-08-25 | Minimum Requirements for Care of Children With Special Needs |
| 75-03-08-26 | [Reserved] |
| 75-03-08-27 | Effect of Conviction on Licensure and Employment |
| 75-03-08-28 | Child Abuse and Neglect Decisions |
| 75-03-08-29 | Correction of Violations |
| 75-03-08-30 | Fiscal Sanctions |
| 75-03-08-31 | Appeals |

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

75-03-08-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
4. "Attendance" means the total number of children present at any one time at the family child care.
5. "Child with special needs" means a child determined by a medical provider to have or to be at risk for chronic physical, developmental, behavioral, or emotional conditions.
6. "Emergency designee" means an individual designated by the provider to be a backup staff member for emergency assistance or to provide substitute care.
7. "Infant" means a child who is younger than twelve months of age.
8. "Medication" is defined as any drug or remedy which is taken internally or orally, inhaled, or applied topically.
9. ~~"Provider" means owner or operator of a family child care.~~
10. "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- 11.10. "Volunteer" means an individual who visits or provides an unpaid service, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 9. Subsection 1 of section 75-03-08-07 is amended as follows:

1. An application for a license must be submitted to the department ~~or its authorized agent~~ in which the family child care is located. Application must be made in the form and manner prescribed by the department.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2018; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

SECTION 10. Section 75-03-08-08.1 is amended as follows:

75-03-08-08.1. Duties of the provider.

1. A provider shall be currently certified:
 - a. In infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department; and
 - b. In pediatric first aid by a program approved by the department.
2. The provider shall have an adult staff member responsible for caring for or teaching children present in the family child care at all times to supervise staff members under the age of eighteen and children in care.
3. A staff member may not at any time place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
4. The provider shall report to the department ~~or its authorized agent~~ within twenty-four hours:
 - a. A death or serious accident or illness requiring hospitalization of a child while in the care of the family child care or attributable to care received in the family child care;
 - b. An injury to any child which occurs while the child is in the care of the family child care and which requires medical treatment;
 - c. Poisonings or errors in the administration of medication;
 - d. Closures or relocations of the family child care programs—due to emergencies; and

- e. Fire that occurs or explosions that occur in or on the premises of the family child care.
5. The provider shall be present in the family child care no less than sixty percent of the time when children are in care.
6. The provider, as a mandatory reporter, shall report any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03.
7. The provider may select an emergency designee.
8. The provider shall maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the family child care.
9. The provider must be an adult of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care.
10. The provider shall ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so that the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for caring for or teaching children being available for assistance and care so the child's health and safety is protected.
11. The provider shall ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 11. Section 75-03-08-10 is amended as follows:

75-03-08-10. Minimum qualifications of providers.

A provider shall:

1. Be at least eighteen years of age;

2. Certify completion of a department-approved basic child care course within ninety days of licensure;
3. Certify completion of a minimum of nine hours of department-approved training related to child care ~~every licensing year~~annually, including one hour on mandated reporter of suspected child abuse or neglect. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~safe sleep and mandated reporter annual training; and
4. Certify completion of one hour of department-approved ~~sudden infant death prevention~~safe sleep training prior to provider providing care to infants and annually thereafter.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 12. Section 75-03-08-12 is amended as follows:

75-03-08-12. Minimum qualifications for all staff members responsible for caring for or teaching children.

Each staff member who provides care shall:

1. Be at least fourteen years of age, provided that each staff member under age sixteen provides written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate family of the provider may provide care if the family member is at least twelve years of age;
2. Be an individual of good physical, cognitive, social, and emotional health and use mature judgment when making decisions impacting the quality of child care;
3. Certify completion of a department-approved basic child care course within ninety days of employment;
4. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the

department;

5. Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in pediatric first aid by a program approved by the department;
6. Certify annual completion of one hour of department-approved mandated reporter of suspected child abuse or neglect training;
7. Certify completion of one hour of department-approved ~~sudden infant death prevention~~ safe sleep training prior to staff member providing care to infants and annually thereafter; and
- 7.8. Receive orientation ~~related to the family child care policies, emergency procedures, special needs of children in care, and child care activities~~ program during the first week of employment. The orientation must be documented on an orientation certification form and must address the following:
 - a. Emergency health, fire, and safety procedures;
 - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
 - c. Any special health or nutrition instructions regarding the children assigned to the staff member;
 - d. Any special needs of the children assigned to the staff member;
 - e. The planned program of activities at the family child care;
 - f. Rules and policies of the family child care; and
 - g. Child abuse and neglect reporting laws.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 13. Section 75-03-08-14 is amended as follows:

75-03-08-14. Minimum requirements of the facility.

1. The family child care must contain adequate space, indoors and out, for the daily activities of the children. Adequate space must include a minimum of

thirty-five square feet [3.25 square meters] of space per child indoors and a minimum of seventy-five square feet [6.97 square meters] of play space per child outdoors. Indoor space considered must exclude bathrooms, pantries, passageways leading to outdoor exits, areas occupied by furniture or appliances that children should not play on or under, and space children are not permitted to occupy. ~~Operators~~Providers who provide seventy-five square feet [6.97 square meters] of separate indoor recreation space per child are exempt from the outdoor space requirement.

2. The family child care must be clean and maintained to protect the health and safety of children. The family child care and outdoor play area must be free of clutter, accumulation of refuse, standing water, unprotected wells, debris, and other health and safety hazards. Garbage must be regularly removed.
3. The provider shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children.
4. The provider shall ensure that the family child care is equipped with one properly installed smoke detector located in each sleeping area used by the children, and one properly installed smoke detector and one fire extinguisher per level. Properly installed means installed according to manufacturer's or fire inspector's directions.
5. The provider shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
6. The provider shall ensure that the family child care has a drinking water supply from an approved community water system or from a source tested and approved annually by the ~~public health division of the department of health and human services~~environmental quality.
7. The provider shall ensure that each child has a comfortable and clean place to sleep or rest and an individual blanket. The provider may allow a child to sleep or rest on the floor only when the floor is carpeted or padded, warm, and free from drafts.
8. The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
9. The provider shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, noncovered electrical outlets, and poisonous plants are not accessible to children. The provider shall keep guns and ammunition in locked storage, each separate from the

other, or shall use trigger locks. The provider shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.

10. The provider shall ensure indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The provider shall ensure that all toys and equipment are kept clean and sanitary. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
11. The provider shall ensure that exit doorways and pathways are not blocked.
12. The provider shall ensure that the family child care has a working telephone in the location used for child care. The provider shall post emergency numbers of parents and first responders.
13. The family child care must have an indoor bathroom with a minimum of one sink and one flush toilet.
14. The family child care must have hot and cold running water. The water in the faucets used by children must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
15. The family child care must meet the local minimum fire and safety standards. The provider shall obtain a fire inspection prior to licensure and annually thereafter. Any inspection fees are the provider's responsibility. The provider shall have any code violations noted by the fire inspector corrected and shall file reports of the inspections and any corrections with the department ~~or its authorized agent~~. If the fire, safety, health, or sanitation environment appears questionable, the department ~~or its authorized agent~~ may require the provider to obtain additional inspections at the cost of the provider. The provider shall provide:
 - a. The fire inspector's written statement of compliance with the local fire code, if there is one; or
 - b. The fire inspector's written statement that the family child care has been inspected and that the inspector is satisfied that the family child care meets minimum fire and safety standards.
16. The provider shall ensure that accumulations of water, ice, snow, or debris are removed from steps and walkways as quickly as possible.
17. The provider shall ensure that combustible materials are kept away from light bulbs and other heat sources.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1,

2016; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 14. Subsections 2 and 6 of section 75-03-08-19 are amended as follows:

2. The provider shall inform parents about the family child care ~~program~~, places and times of special activities outside the family child care, policies, and emergency procedures, and shall discuss information concerning the child to identify and accommodate the child's needs. Written policies must include:
 - a. An explanation of how accidents and illnesses will be handled;
 - b. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
 - c. The process for a parent or staff member to report a complaint, a suspected licensing violation, or suspected child abuse or neglect;
 - d. Hiring practices and personnel policies for staff members;
 - e. Informing parents that they may request daily reports for their child, including details regarding eating, napping, and diapering;
 - f. Procedure for accountability when a child fails to arrive as expected at the family child care; and
 - g. Transportation procedures, if the provider provides transportation.

6. The provider shall ensure that children do not depart from the family child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the family child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the family child care premises.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-08

SECTION 15. Subsections 1, 7, and 13 of section 75-03-08-21.1 are amended as follows:

1. Children shall have received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, unless the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs.
7. The provider shall establish practices in accordance with guidance obtained through consultation with local health unit authorities or authorities from the public health division of the department of health and human services regarding the exclusion and return of children with infectious or communicable conditions. The provider may obtain this guidance directly or through current published materials regarding exclusion and return to the family child care. The provider shall notify the parents, legal custodians, or guardians of a child's exposure to a presumed or confirmed reportable infectious disease.
13. Pets and animals.
 - a. The provider shall ensure that only small pets that are contained in an aquarium or other approved container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
 - b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The provider shall ensure parents are aware of the presence of pets and animals in the family child care.
 - d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
 - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
 - f. The provider shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.

- g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
- h. The provider shall ensure that the family child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 16. Section 75-03-08-22 is amended as follows:

- 1. A copy of this chapter must be kept on the premises and available to staff members at all times.
- 2. The provider shall maintain the following records:
 - a. The child's full name, birth date, current home address, legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - b. A written statement from the parents or legal guardian authorizing emergency medical care;
 - c. Names and telephone numbers of individuals authorized to take the child from the family child care;
 - d. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the ~~department of health and human services~~, or have on file a document citing that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and
 - e. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child, that must indicate any special precautions for diet, medication, or activity. This assessment shall be completed annually.
- 3. The provider shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:

- a. ~~Authorized agent and department~~Department representatives;
- b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
- c. Individuals who possess written authorization from the child's parent. The family child care shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 17. Subsection 5 of section 75-03-08-27 is amended as follows:

5. A provider shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The provider shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse ~~a person~~an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If ~~a person~~an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

SECTION 18. Subsections 2 and 3 of section 75-03-08-28 are amended as follows:

2. Each applicant, provider, emergency designee, and staff member in the family child care shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.
3. Household members age twelve and older shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-

approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the family child care.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 19. Section 75-03-08-29 is amended as follows:

75-03-08-29. Correction of violations.

1. A provider shall correct violations noted in a correction order within the following times:
 - a. For a violation of subsection 8 of North Dakota Century Code section 50-11.1-02, North Dakota Century Code section 50-11.1-02.2, section 75-03-08-04, subsection 4 or 11 of section 75-03-08-08.1, section 75-03-08-09, subsection 2 or 9 of section 75-03-08-14, section 75-03-08-23, or subsection 1 of section 75-03-08-24, within twenty-four hours.
 - b. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-08-14, within sixty days.
 - c. For a violation that requires substantial building remodeling, construction, or change, within sixty days.
 - d. For all other violations, within twenty days.
2. All periods for correction begin on the date of receipt of the correction order by the provider.
3. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the provider and a showing that the need for the extension is created by unforeseeable circumstances and the provider has diligently pursued the correction of the violation.
4. The provider shall furnish a written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department ~~or its authorized agent~~ confirms the corrections have been made.
5. Within ~~thirteen~~ ten business days ~~of the receipt~~ upon mailing or three days

upon electronic transmission of the correction order, the provider shall notify the parents of each child receiving care at the family child care that a correction order has been issued. In addition to providing notice to the parent of each child, the provider also shall post the correction order in a conspicuous location within the family child care until the violation has been corrected or for five days, whichever is longer.

6. A family child care ~~program~~ that has been issued a correction order must be reinspected at the end of the period allowed for correction. If, upon reinspection, it is determined that the ~~program~~family child care has not corrected a violation identified in the correction order, the department shall mail or send by electronic mail a notice of noncompliance with the correction order ~~must be mailed by certified mail to the program provider~~. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
7. If a family child care ~~program~~ receives more than one correction order in a single year, the provider may be referred by the department for consulting services to assist the provider in maintaining compliance and to avoid future corrective action.
8. Refutation process for a correction order:
 - a. A provider may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction order.
 - b. The department shall respond to written refutations within five business days of receipt.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2014; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

CHAPTER 75-03-09
GROUP CHILD CARE EARLY CHILDHOOD SERVICES

| | |
|---------------|---|
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| 75-03-09-02 | Authority and Objective [Repealed] |
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| 75-03-09-04 | Effect of Licensing and Display of License |
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| 75-03-09-25 | Minimum Requirements for Care of a Child With Special Needs |
| 75-03-09-26 | Minimum Provisions Regarding Emergency Care for Children |
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| 75-03-09-29 | Correction of Violations |
| 75-03-09-30 | Fiscal Sanctions |
| 75-03-09-31 | Appeals |

SECTION 20. Section 75-03-09-03 is amended as follows:

75-03-09-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context

or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
4. "Attendance" means the total number of children present at any one time at the group child care.
5. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
6. "Emergency designee" means an individual designated by the operator to be a backup caregiver for emergency assistance or to provide substitute care.
7. "Group child care supervisor" means an individual responsible for overseeing the day-to-day operation of a group child care.
8. "Infant" means a child who is less than twelve months of age.
9. "Medications" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
10. "Operator" means ~~the individual or governing board who~~ the person that has the legal operational responsibility and the administrative authority for the operation of a group child care early childhood program and premises at which the early childhood service operates.
11. "Owner" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.
12. "Provider" means the group child care owner or operator.
- ~~12-13.~~ "Substitute staff" means paid or unpaid staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- ~~13-14.~~ "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 21. Subsection 1 of section 75-03-09-07 is amended as follows:

1. An application for license must be submitted to the department ~~or its authorized agent~~. Application must be made in the form and manner prescribed by the department.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

SECTION 22. Section 75-03-09-08 is amended as follows:

75-03-09-08. Duties of group child care provider.

1. The provider of a group child care is responsible for compliance with requirements set forth in the standards and North Dakota Century Code chapter 50-11.1. The provider shall:
 - a. Establish the group child care ~~program~~;
 - b. Apply for a license for the group child care;
 - c. Possess knowledge or experience in management and interpersonal relationships;
 - d. Formulate written policies and procedures for the operation of the group child care. Policies must include:
 - (1) An explanation of how accidents and illnesses will be handled;
 - (2) The methods of developmentally appropriate discipline and guidance techniques that are to be used;
 - (3) The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;

- (4) Hiring practices and personnel policies for staff members;
 - (5) Informing parents that they may request daily reports for their child, including details regarding eating, napping, and diapering;
 - (6) Procedure for accountability when a child fails to arrive as expected at the group child care; and
 - (7) Transportation procedures, if the provider provides transportation;
- e. ~~Notify the department or its authorized agent~~ of any major changes in the operation or in the ownership of the group child care, including staff member changes;
 - f. Maintain records of enrollment, attendance, health, and other required records;
 - g. May select an emergency designee;
 - h. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the group child care;
 - i. Ensure the group child care is sufficiently staffed at all times to meet the child and staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
 - j. Ensure preadmission visits for children and their parents are offered so the ~~facility's program~~ group child care, fees, operating policies, and procedures can be viewed and discussed;
 - k. Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
 - l. Provide parents, upon request, with progress reports on their children, and provide unlimited opportunities for parents to observe their children while in care. Providing unlimited access does not prohibit a group child care from locking its doors while children are in care;
 - m. Provide parents with the name of the group child care provider, the group child care supervisor, staff members, and the emergency

designee;

- n. Report, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
 - o. Ensure that children do not depart from the group child care premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the group child care premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the group child care premises; and
 - p. Ensure that each child is released only to the child's parent, legal custodian, guardian, or individual who has been authorized by the child's parent, legal custodian, or guardian.
2. If the provider is also the group child care supervisor, the provider shall also meet the qualifications of the supervisor in section 75-03-09-10.
3. The provider shall report to the department ~~or its authorized agent~~ within twenty-four hours:
- a. A death or serious accident or illness requiring hospitalization of a child while in the care of the group child care or attributable to care received in the group child care;
 - b. An injury to any child which occurs while the child is in the care of the group child care and which requires medical treatment;
 - c. Poisonings or errors in the administering of medication;
 - d. Closures or relocations of the group child care ~~programs~~ due to emergencies; and
 - e. Fire that occurs and explosions that occur in or on the premises of the group child care.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 23. Subsection 3 of section 75-03-09-10 is amended as follows:

3. The group child care supervisor shall certify completion of a minimum of ten hours of department-approved training related to child care annually, including one hour on ~~sudden infant death prevention~~safe sleep prior to providing care to infants and one hour on mandated reporter of suspected child abuse or neglect. A department-approved basic child care course must be completed within ninety days of employment. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~safe sleep and mandated reporter annual training.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 24. Section 75-03-09-12 is amended as follows:

75-03-09-12. Minimum qualifications for all staff members responsible for caring for or teaching children.

Staff members shall:

1. Be at least fourteen years of age, provided that each staff member under age sixteen provides written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07. A member of the immediate family of the provider may provide care if the family member is at least twelve years of age;
2. Be individuals of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
3. Receive orientation related to the group child care policies, emergency procedures, special needs of children in care, and group child care activities program during the first week of work. The orientation shall be documented on an orientation certification form and must address the following:
 - a. Emergency health, fire, and safety procedures;

- b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
 - c. Any special health or nutrition instructions of the children assigned to the staff member;
 - d. Any special needs of the children assigned to the staff member;
 - e. The planned program of activities at the group child care;
 - f. Rules and policies of the group child care; and
 - g. Child abuse and neglect reporting laws;
4. Ensure that at no time a child is placed in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health;
 5. Certify completion of a department-approved basic child care course within ninety days of employment;
 6. Certify the staff member's own completion of department-approved training related to child care annually as set forth below:
 - a. A staff member working thirty or more hours per week shall certify a minimum of eight hours of department-approved training annually;
 - b. A staff member working fewer than thirty and at least twenty hours per week shall certify a minimum of six hours of department-approved training annually;
 - c. A staff member working fewer than twenty and at least ten hours per week shall certify a minimum of four hours of department-approved training annually;
 - d. A staff member working fewer than ten hours per week shall certify a minimum of two hours of department-approved training annually;
 - e. An emergency designee is exempt from department-approved annual training, with the exception of training required by subsections 5, ~~and 7~~, and 8; and
 - f. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of sudden

~~infant death prevention~~ safe sleep and mandated reporter annual training; and

7. Certify completion of one hour of department-approved ~~sudden infant death prevention~~ safe sleep training prior to staff member providing care to infants and annually thereafter;
8. Certify annual completion of one hour of department-approved mandated reporter of suspected child abuse or neglect training;
9. Ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for caring for or teaching children being available for assistance and care so that the child's health and safety are protected;
- ~~9-10.~~ Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department; and
- ~~10-11.~~ Be currently certified within ninety days of employment and prior to staff member having unsupervised access to children in care, in pediatric first aid by a program approved by the department.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 25. Section 75-03-09-14 is amended as follows:

75-03-09-14. Minimum requirements for facility.

1. The provider shall ensure that the group child care is properly lighted. If the lighting of the group child care appears questionable, the department-~~or its authorized agent~~ may require the provider to obtain additional lights.
2. The provider shall ensure that safe and comfortable arrangements for naps for enrolled children are provided.

- a. The provider may allow a child to sleep or rest on the floor only when the floor is carpeted or padded, warm, free from drafts, and when each child has an individual blanket or sleeping mat.
 - b. The provider shall ensure that there is a room available, separate from the nap room, where an individual child can go for supervised play if the child is unable to nap, so as not to disrupt the other children's rest.
3. Water supply:
 - a. The provider shall ensure that the group child care has a drinking supply from a community water system or from a source tested and approved annually by the department of environmental quality.
 - b. The group child care must have hot and cold running water. The water in the faucets used by children must not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].
4. Toilet and sink facilities:
 - a. The provider shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff.
 - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping. A minimum of one flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained.
 - c. The provider shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
 - d. The provider shall provide at least one handwashing sink per toilet room facility or diapering area. The provider shall provide sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels near handwashing sinks.
 - e. The provider shall provide safe step stools to allow standard-size toilets and sinks to be used by the children or the provider shall ensure the availability of child-size toilets and sinks.
5. The ~~operator~~provider of a group child care not on a municipal or public water supply or wastewater disposal system shall ensure the group child

care's sewage and wastewater system has been approved by the department of environmental quality.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 26. Subsection 2 of section 75-03-09-16 is amended as follows:

2. Fire and emergency evacuation drills must be performed monthly.

SECTION 27. Subsection 1 of section 75-03-09-17 is amended as follows:

1. The provider shall ensure that initial and annual fire inspections are completed by local or state fire authorities for all group child cares in which care is provided. The group child care is responsible for any inspection fee. The provider shall have any code violations noted by the fire inspector corrected and shall file reports of the inspections and any corrections with the department ~~or its authorized agent~~. If the fire, safety, health, or sanitation environment appears questionable, the department ~~or its authorized agent~~ may require the provider to obtain additional inspections at the cost of the provider.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 28. Section 75-03-09-18 is amended as follows:

75-03-09-18. Minimum sanitation and safety requirements.

1. ~~In facilities other than an occupied private residence and where meals are prepared, the provider shall ensure that the public health division of the department of health and human services conducts an annual inspection. If only snacks or occasional cooking projects are prepared, an inspection by the public health division of the department of health and human services is not required. The provider shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department or its authorized agent.~~
2. The provider shall ensure that the group child care bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.

- ~~3.2.~~ The provider shall ensure that the group child care building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. Routine maintenance and cleaning procedures must be established to protect the health of the children and the staff members.
- ~~4.3.~~ Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, individually designated cloth towels, or paper towels must be available at each sink.
- ~~5.4.~~ The provider shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The provider shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
- ~~6.5.~~ The provider shall ensure that the group child care ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
- ~~7.6.~~ The provider shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The provider shall keep indoor garbage in covered containers. The provider may allow paper waste to be kept in open waste containers.
- ~~8.7.~~ The provider shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers, to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
- ~~9.8.~~ The provider shall ensure that potential hazards, such as noncovered electrical outlets, guns, household cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The provider shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks-. The provider shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
- ~~10.9.~~ The provider shall ensure that indoor floors and steps are not slippery and do not have splinters. The provider shall ensure that accumulations of water, ice, snow, or debris are removed from steps and walkways as quickly

as possible.

- ~~41-10.~~ The provider shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
- ~~42-11.~~ The provider shall take steps to keep the group child care free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the group child care. Insect repellent may be applied outdoors on children with parental permission.
- ~~43-12.~~ The provider shall ensure that exit doorways and pathways are not blocked.
- ~~44-13.~~ The provider shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
- ~~45-14.~~ The provider shall ensure that combustible materials are kept away from light bulbs and other heat sources.
- ~~46-15.~~ The provider shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the group child care is occupied by children, the room temperature must not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
- ~~47-16.~~ A provider shall ensure that all group child care buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the department of environmental quality.
- ~~48-17.~~ The provider shall ensure that personal items, including combs, pacifiers, and toothbrushes, are individually identified and stored in a sanitary manner.
- ~~49-18.~~ Pets and animals.
- a. The provider shall ensure that only small pets that are contained in

an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.

- b. The provider shall ensure that animals are maintained in good health and are appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
- c. The provider shall ensure parents are aware of the presence of pets and animals in the group child care.
- d. The provider shall notify parents immediately if a child is bitten or scratched and skin is broken.
- e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall immediately remove the pet if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
- f. The provider shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The provider shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
- g. The provider shall ensure that indoor and outdoor areas accessible to children must be free of animal excrement.
- h. The provider shall ensure that the group child care is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.

~~20-19.~~ Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the group child care and shall empty, clean, and sanitize wading pools daily.

~~21-20.~~ All swimming pools used by children must be approved annually by the local health unit.

~~22-21.~~ Aquatic activities:

- a. The provider shall have policies that ensure the health and safety of

children in care while participating in aquatic activities, including types of aquatic activities the ~~program~~group child care may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.

- b. The provider may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.

23-22. The provider shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the provider shall ensure:

- a. Pillows and mattresses have clean coverings.
- b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
- c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
- d. Cots, mats, or cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children;
- e. That cots, mats, and cribs are single occupancy.
- f. Each bed, cot, or mat has sufficient blankets available.
- g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet [60.96 centimeters] and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
- h. Provide separate storage for personal blankets or coverings.
- i. That mattresses and sheets are properly fitted.

History: Effective December 1, 1981; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 29. Section 75-03-09-22 is amended as follows:

- 1. The provider shall keep a copy of this chapter on the premises of the group child care and shall make it available to staff members at all times.

2. The provider shall maintain the following records:
 - a. The child's full name, birthdate, and current home address;
 - b. Legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency medical care;
 - e. Names and telephone numbers of individuals authorized to take the child from the group child care;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, or have on file a document citing that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and
 - g. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually.
3. The provider must verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the provider considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
4. The provider shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:
 - a. The ~~authorized agent and~~ department representatives;
 - b. Individuals having a definite interest in the well-being of the children concerned and who, in the judgment of the department, are in a

position to serve the children's interests should that be necessary;
and

- c. Individuals who possess a written authorization from the child's parent. The group child care shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 30. Subsection 3 of section 75-03-09-24 is amended as follows:

3. Drop-in group child care.
 - a. If a group child care serves drop-in children, schoolchildren, or before-school and afterschool children, the group child care must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the ~~program~~group child care and to maintain the proper staff member to child ratio.
 - b. The provider shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
 - c. The provider shall ensure that records secured comply with all enrollment requirements contained in section 75-03-09-22.
 - d. The provider shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the group child care, its equipment, and the staff members.
 - e. A group child care may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the group child care to exceed the total number of children for which the group child care is licensed.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 31. Subsections 10 and 11 of section 75-03-09-26 are amended as follows:

10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or authorities from the public health division of the department ~~of health and human services~~ regarding the exclusion and return of children with infectious or communicable conditions. The ~~operator~~provider may obtain this guidance directly or through current published materials regarding exclusion and return to the group child care;
11. Require that the group child care ~~operator~~provider inform parents in writing of any first aid administered to their child within twenty-four hours of the incident, and immediately notify parents of any injury which requires emergency care beyond first aid, and require each injury report to be made part of the child's record; and

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 32. Subsection 5 of section 75-03-09-27 is amended as follows:

5. A provider shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The provider shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a ~~person~~an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a ~~person~~an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

SECTION 33. Section 75-03-09-28 is amended as follows:

1. An operator and provider shall ensure safe care for the children receiving services in the provider's group child care. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, operator, provider, emergency designee, staff member, or household member, that decision has a direct bearing on the applicant's, operator's, or provider's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, operator, provider, emergency designee, staff member, or household member, the applicant, operator, or provider shall furnish information satisfactory to the department, from which the department can determine the applicant's, operator's, provider's, emergency designee's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or provider.

2. Each applicant, operator, provider, emergency designee, and staff member in the group child care shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.

3. Household members age twelve and older shall complete, and the provider shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form at the time of application or relicensure or upon obtaining residence at the location of the group child care.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 34. Section 75-03-09-29 is amended as follows:

75-03-09-29. Correction of violations.

1. Within ~~threeten~~ thirteen business days ~~of the receipt upon mailing or three days upon electronic transmission~~ of the correction order, the provider shall notify the parents of each child receiving care at the group child care that a correction order has been issued. In addition to providing notice to the parent of each child, the provider shall post the correction order in a

conspicuous location within the ~~facility~~group child care until the violation has been corrected or for five days, whichever is longer.

2. Violations noted in a correction order must be corrected:
 - a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-09-04; subdivision i of subsection 1 of section 75-03-09-08; section 75-03-09-09; subsection 4 or 8 of section 75-03-09-12; subsection 3, 6, 9, or 10 of section 75-03-09-18; section 75-03-09-23; or subsection 1 of section 75-03-09-24, within twenty-four hours;
 - b. For a violation requiring the hiring of a group child care supervisor with those qualifications set forth in section 75-03-09-10, within sixty days;
 - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-09-17, within sixty days;
 - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and
 - e. For all other violations, within twenty days.
3. All periods for correction begin on the date of receipt of the correction order by the provider.
4. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the provider and a showing that the need for the extension is created by unforeseeable circumstances and the provider has diligently pursued the correction of the violation.
5. The provider shall furnish written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department ~~or its authorized agent~~ confirms the corrections have been made.
6. At the end of the period allowed for correction, the department ~~or its authorized agent~~ shall reinspect a group child care that has been issued a correction order. If, upon reinspection, it is determined that the group child care has not corrected a violation identified in the correction order, the department ~~or its authorized agent~~ shall mail or send by electronic mail a notice of noncompliance with the correction order ~~by certified mail~~ to the group child care. The notice must specify the violations not corrected and

the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.

7. If a group child care receives more than one correction order in a single year, the department ~~or its authorized agent~~ may refer the group child care for consulting services to assist the provider in maintaining compliance and to avoid future corrective action.
8. Refutation process for a correction order:
 - a. A provider may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction order.
 - b. The department shall respond to written refutations within five business days of receipt.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2018; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

**CHAPTER 75-03-10
CHILD CARE CENTER EARLY CHILDHOOD SERVICES**

| | |
|---------------|--|
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| 75-03-10-02 | Authority and Objective [Repealed] |
| 75-03-10-03 | Definitions |
| 75-03-10-04 | Effect of Licensing and Display of License |
| 75-03-10-05 | Denial or Revocation of License |
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| 75-03-10-30 | Fiscal Sanctions |
| 75-03-10-31 | Appeals |
| 75-03-10-32 | Penalties [Repealed] |

SECTION 35. Section 75-03-10-03 is amended as follows:

75-03-10-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
4. "Attendance" means the total number of children present at any one time at the facility.
5. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk of chronic physical, developmental, behavioral, or emotional conditions.
6. "Director" means the individual responsible for overseeing the general operation and implementing the policies and procedures of the child care center.
7. "Emergency designee" means an individual designated by the operator to be a backup staff member for emergency assistance or to provide substitute care.
8. "Infant" means a child who is less than twelve months of age.
9. "Medication" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
10. "Operator" means ~~the individual or governing board who~~ the person that has the legal operational responsibility and the administrative authority for the operation of a child care center, early childhood program and premises at which the early childhood service operates.
11. "Owner" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.
12. "Substitute staff" means staff who work less than thirty-two hours per month and are not regularly scheduled for work.
- ~~12.~~13. "Supervisor" means any individual with the responsibility for organizing and

supervising daily child care center activities.

~~13-14.~~ "Volunteer" means an individual who visits or provides an unpaid service, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 36. Section 75-03-10-04 is amended as follows:

75-03-10-04. Effect of licensing and display of license.

1. The issuance of a license to operate a child care center is evidence of compliance with the standards contained in this chapter and North Dakota Century Code chapter 50-11.1 at the time of licensure.
2. The current license must be displayed prominently in the premises to which it applies.
3. The license must specify the maximum number of children who may be cared for by the center. The child care center may not admit a greater number of children than the license allows.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04

SECTION 37. Section 75-03-10-06 is amended as follows:

1. The department may issue a provisional license for the operation of a child care center although the applicant or operator fails to, or is unable to, comply with all applicable standards and rules of the department.
2. A provisional license must:
 - a. State that the ~~operator~~owner has failed to comply with all applicable standards and rules of the department;
 - b. State the items of noncompliance;

- c. Expire at a set date, not to exceed six months from the date of issuance; and
 - d. Be exchanged for an unrestricted license, which bears an expiration date of one year from the date of issuance of the provisional license, after the applicant or operatorowner demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
3. The department may issue a provisional license only to an applicant or operatorowner who has waived, in writing:
 - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and
 - b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the operatorowner.
5. Subject to the exceptions contained in this section, a provisional license entitles the holder to all rights and privileges afforded the holder of an unrestricted license.
6. The department may not issue a provisional license if the child care center is not in compliance with section 75-03-10-17 or 75-03-10-18.
7. The operatorowner shall display prominently the provisional license and agreement.
8. The operatorowner shall provide parents written notice that the child care center is operating on a provisional license and the basis for the provisional license.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-08

SECTION 38. Subsection 3 of section 75-03-10-06.1 is amended as follows:

3. When necessary to inform parents that the ~~operator~~owner is licensed, but is restricted to operating in certain rooms or floors or restricted from using specific outdoor space.

History: Effective January 1, 2011; amended effective April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

SECTION 39. Section 75-03-10-07 is amended as follows:

75-03-10-07. Application for and nontransferability of child care center license.

An application for a license must be submitted to the department ~~or its authorized agent.~~

1. An applicant shall submit an application for a license to the department ~~or its authorized agent.~~ Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and is valid only for the premises that are indicated on the license.
3. An application for a new license must be filed by the ~~operator~~owner upon change of ~~operator~~owner or location.
4. The department may not issue more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

SECTION 40. Subdivision a of subsection 2 of section 75-03-10-08 is amended as follows:

2. a. The operator shall ensure that the child care center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at one time. The minimum ratio of staff members responsible for caring for or teaching children to children in child care centers and maximum group size of children must be:

- (1) For children less than eighteen months of age, one staff member may care for four children, a ratio of .25 in decimal form, with a maximum group size of ten children;
- (2) For children eighteen months of age to thirty-six months of age, one staff member may care for five children, a ratio of .20 in decimal form, with a maximum group size of fifteen children;
- (3) For children three years of age to four years of age, one staff member may care for seven children, a ratio of .14 in decimal form, with a maximum group size of twenty children;
- (4) For children four years of age to five years of age, one staff member may care for ten children, a ratio of .10 in decimal form, with a maximum group size of twenty-five children;
- (5) For children five years of age to six years of age, one staff member may care for twelve children, a ratio of .08 in decimal form, with a maximum group size of thirty children; and
- (6) For children six years to twelve years of age, one staff member may care for twenty Children, a ratio of .05 in decimal form, with a maximum group size of forty children.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2013; April 1, 2014; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02.1, 50-11.1-04, 50-11.1-08

SECTION 41. Section 75-03-10-09 is amended as follows:

75-03-10-09. Duties of child care center operator.

The operator is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director and shall delegate appropriate duties to the director:
 - a. The operator shall ensure that the director or a designated acting director is present at the child care center at least sixty percent of the time when the child care center is open;
 - b. The operator shall ensure that the individual designated as an acting director meets the qualifications of a supervisor and for an ongoing

period of more than thirty days meets the qualifications of a director;
and

- c. The operator shall ensure that when the director and acting director are not present at the center, ~~a person~~ an individual who meets the qualifications of a supervisor is on duty;
- ~~2.~~ ~~Apply for a license for the child care center;~~
 - ~~3.~~ Provide an environment that is physically and socially adequate for children;
 - ~~4.~~3. Notify the department ~~or its authorized agent~~ of any major changes in the operation, ownership, or governing body of the child care center, including staff member changes;
 - ~~5.~~4. Ensure that liability insurance is carried to insure against bodily injury and property damage for the child care center;
 - ~~6.~~5. Formulate written policies and procedures for the operation of the child care center. Policies must include:
 - a. Hiring practices and personnel policies for staff members;
 - b. Methods for obtaining references and employment histories of staff members;
 - c. Methods of conducting staff member performance evaluations;
 - d. Children's activities, care, and enrollment;
 - e. The responsibilities and rights of staff members and parents;
 - f. An explanation of how accidents and illnesses will be handled;
 - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
 - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
 - i. The care and safeguarding of personal belongings brought to the child care center by a child or by another on a child's behalf;
 - j. Procedures for accountability when a child fails to arrive as expected at the child care center; and

- k. Transportation procedures, if the operator provides transportation;
- ~~7.6.~~ Maintain records of enrollment, attendance, health, and other required records;
- ~~8.7.~~ May select an emergency designee;
- ~~9.8.~~ Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the child care center;
- ~~10.9.~~ Ensure that parents of enrolled children and other interested parties are informed of the goals, policies, procedures, and content of the child care center's program;
- ~~11.10.~~ Ensure that parents of enrolled children:
 - a. Are advised of the child care center's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
 - b. Receive written notice of the effective date, duration, scope, and impact of any significant changes in the child care center's services; and
 - c. Receive notice that they may request written daily reports for their child, including details regarding eating, napping, and diapering;
- ~~12.11.~~ Ensure that the child care center is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
- ~~13.12.~~ Ensure that the child care center has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or otherwise unable to be on duty;
- ~~14.13.~~ Ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
- ~~15.14.~~ Provide parents with unlimited access and opportunities for parents to observe their children while in care, and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a child care center from locking its doors while children are in care;

- ~~46-15.~~ Provide parents, upon request, with progress reports on their children;
- ~~47-16.~~ Report immediately, as a mandatory reporter, suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- ~~48-17.~~ Ensure that staff members responsible for caring for or teaching children under the age of eighteen are supervised by an adult staff member;
- ~~49-18.~~ Meet the qualifications of the director set forth in section 75-03-10-10, if the operator is also the director;
- ~~20-19.~~ Report to the department ~~or its authorized agent~~ within twenty-four hours:
- a. A death or a serious accident or illness requiring hospitalization of a child while in the care of the child care center or attributable to care received in the child care center;
 - b. An injury to any child which occurs while the child is in the care of the child care center and which requires medical treatment;
 - c. Poisonings or errors in the administering of medication;
 - d. Closures or relocations of the child care programs center due to emergencies; and
 - e. Fire that occurs or explosions that occur in or on the premises of the child care center;
- ~~24-20.~~ Ensure that children do not depart from the child care center premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the child care center premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the child care center premises; and
- ~~22-21.~~ Ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

History: Effective December 1, 1981; amended effective July 1, 1984; January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 42. Subsection 4 of section 75-03-10-10 is amended as follows:

4. Certify annual completion of a minimum of thirteen hours of department-approved training related to child care, including one hour on ~~sudden infant death prevention~~safe sleep prior to the director providing care to infants and one hour on mandated reporter of suspected child abuse or neglect. A department-approved basic child care course must be completed within ninety days of employment. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~safe sleep and mandated reporter annual training.

History: Effective December 1, 1981; amended effective January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 43. Subsection 6 of section 75-03-10-11.1 is amended as follows:

6. Successfully complete a minimum of thirteen hours of department-approved training related to child care each year, and annually thereafter. The supervisor shall certify completion of one hour of department-approved ~~sudden infant death prevention~~safe sleep training before providing care to infants and ~~annually thereafter~~one hour on mandated reporter of suspected child abuse or neglect. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~safe sleep and mandated reporter annual training.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2016; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 44. Section 75-03-10-12 is amended as follows:

75-03-10-12. Minimum qualifications for all staff members responsible for caring for or teaching children.

1. Staff members:

- a. Shall be at least fourteen years of age, provided that each staff member under age sixteen has written parental consent for employment as a staff member, and the employment arrangements comply with North Dakota Century Code chapter 34-07;
- b. Shall be individuals of good physical, cognitive, social, and emotional health and shall use mature judgment when making decisions impacting the quality of child care;
- c. Shall certify completion of a department-approved basic child care course within ninety days of employment;
- d. Shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department;
- e. Shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in pediatric first aid by a program approved by the department;
- f. Shall certify the staff member's own successful completion of the department-approved training related to child care each year, and annually thereafter, as set forth below:
 - (1) If working thirty or more hours per week, certify thirteen hours of department-approved training annually;
 - (2) If working fewer than thirty hours and more than twenty hours per week, certify eleven hours of department-approved training annually;
 - (3) If working fewer than twenty hours and at least ten hours per week, certify nine hours of department-approved training annually;
 - (4) If working fewer than ten hours per week, certify seven hours of department-approved training annually;
 - (5) Completion of one hour ~~on sudden infant death prevention of~~ department-approved safe sleep prior to the staff member providing care to infants;

- (6) Completion of one hour of department-approved mandated reporter of suspected child abuse or neglect training;
 - (7) The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of ~~sudden infant death prevention~~ safe sleep and mandated reporter annual training; and
 - ~~(7)~~(8) Substitute staff and emergency designees are exempt from the annual training requirement with the exception of ~~subdivision c of paragraph~~ paragraphs 5 and 6; and
- g. Shall not place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health;
2. Receive a ~~two-day, onsite~~ orientation to the child care program center during the first week of employment. The director shall document orientation of each staff member responsible for caring for or teaching children on an orientation certification form. The orientation must address the following:
- a. Emergency health, fire, and safety procedures for the child care center;
 - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
 - c. Any special health or nutrition ~~problems~~ instructions of the children assigned to the staff member;
 - d. Any special needs of the children assigned to the staff member;
 - e. The planned program of activities at the child care center;
 - f. Rules and policies of the child care center; and
 - g. Child abuse and neglect reporting laws; and
3. Ensure safe care for children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of an infant, toddler, or preschooler at all times so the staff member is capable of intervening to protect the health and safety of the child. For the school-age child, it means a staff member responsible for

caring for or teaching children being available for assistance and care so that the child's health and safety is protected.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 45. Subsection 1 of section 75-03-10-17 is amended as follows:

1. The operator shall ensure that annual fire inspections are completed by local or state fire authorities. The operator shall correct or have corrected any code violations noted by the fire inspector and shall file reports of the inspections and any corrections with the department ~~or its authorized agent~~.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 46. Section 75-03-10-18 is amended as follows:

75-03-10-18. Minimum sanitation and safety requirements.

1. The operator shall ensure that in child care centers licensed for more than thirty children, ~~other than an occupied private residence~~, where meals are prepared, comply with the public health division of the department of health and human services conducts an annual inspection, child care food service establishment license requirements pursuant to North Dakota Century Code chapter 23-09. If only snacks or occasional cooking projects are prepared, an inspection by the public health division of the department ~~of health and human services~~ is not required. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department ~~or its authorized agent~~.
2. The operator shall ensure that the child care center bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.
3. The operator shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the operator shall ensure:
 - a. Pillows and mattresses have clean coverings.

- b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
 - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
 - d. Cots, mats, and cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children.
 - e. That cots, mats, and cribs are single occupancy.
 - f. Each bed, cot, or mat has sufficient blankets available.
 - g. That aisles between beds, cots, mats, cribs, and portable cribs are a minimum space of two feet [60.96 centimeters] and are kept free of all obstructions while beds, cots, mats, cribs, and portable cribs are occupied.
 - h. Provide separate storage for personal blankets or coverings.
 - i. That mattresses and sheets are properly fitted.
4. The operator shall ensure that the child care center's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
5. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and sanitary hand-drying equipment, single-use or individually designated cloth towels, or paper towels must be available at each sink.
6. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys and equipment are kept clean and in sanitary condition. Books and other toys are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
7. The operator shall ensure that the child care center ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.

8. The operator shall ensure that the garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
9. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
10. The operator shall ensure that potential hazards, such as noncovered electrical outlets, guns, household cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
13. The operator shall take steps to keep the child care center free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the child care center. Insect repellent may be applied outdoors on children with written parental permission.
14. The operator shall ensure that exit doorways and pathways are not blocked.
15. If the child care center is providing care to children in wheelchairs, the operator shall ensure doors have sufficient width and construction to accommodate any children in wheelchairs who are receiving care at the child care center.
16. The operator shall ensure that light bulbs in areas used by children are properly shielded or shatterproof.
17. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.

18. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by the local fire authorities. During the heating season when the child care center is occupied by children, the room temperature may not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
19. The operator shall ensure that all child care center buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chewed condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the department of environmental quality.
20. The operator shall ensure that personal items including combs, pacifiers, and toothbrushes are individually identified and stored in a sanitary manner.
21. Pets and animals.
 - a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
 - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The operator shall ensure parents are aware of the presence of pets and animals in the child care center.
 - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.
 - e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children.

The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.

- f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
 - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.
 - h. The operator shall ensure that the child care center is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
22. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the child care center and shall empty, clean, and sanitize wading pools daily.
23. All swimming pools used by children must be approved annually by the local health unit.
24. Aquatic activities:
- a. The operator shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the ~~program~~child care center may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
 - b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
25. Water supply:
- a. The operator shall ensure that the child care center has a drinking supply from an approved community water system or from a source tested and approved annually by the department of environmental quality.
 - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking

cups.

- c. The child care center must have hot and cold running water. The water in the faucets used by children may not exceed one hundred twenty degrees Fahrenheit [49.2 degrees Celsius].

26. Toilet and sink facilities:

- a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members.
- b. Toilets must be located in rooms separated from those used for cooking, eating, and sleeping. A minimum of one flush toilet must be provided for each fifteen children, excluding those children who are not toilet trained.
- c. The operator shall ensure that separate restrooms are provided for boys and girls six years of age and over, and partitions are installed to separate toilets in these restrooms.
- d. The operator shall provide child-sized toilet adapters, training chairs, or potty chairs for use by children who require them. Training chairs must be emptied promptly and thoroughly cleaned and sanitized after each use.
- e. The operator shall provide at least one handwashing sink per toilet room facility or diapering area.
- f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.

27. The operator of a child care center not on a municipal or public water supply or wastewater disposal system shall ensure the child care center's sewage and wastewater system has been approved by the department of environmental quality.

28. Laundry:

- a. If the child care center provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation.
- b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation.

- c. The operator shall ensure that in all new or extensively remodeled child care centers, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas.
- d. The operator shall ensure that in an existing child care center where physical separation of laundry and kitchen areas is impractical, procedures are developed that prohibit the washing or transportation of laundry while meals are being prepared or served.
- e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas.
- f. If the child care center provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the operator shall ensure that water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius].
- g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the child care center shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 47. Subsection 6 of section 75-03-10-21 is amended as follows:

- 6. When the operator is responsible for providing food to children, menus must be prepared on a weekly or daily basis and made available to the parents, the department ~~or its authorized agent~~, and other appropriate individuals.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07, 50-11.1-08

SECTION 48. Section 75-03-10-22 is amended as follows:

1. The operator shall keep a copy of this chapter on the premises of the child care center and shall make it available to staff members at all times.
2. The operator shall maintain the following records:
 - a. The child's full name, birth date, and current home address;
 - b. Legal names of the child's parents and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency medical care;
 - e. Names and telephone numbers of individuals authorized to take the child from the child care center;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and
 - g. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually.
3. The operator shall record and verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the operator considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents of each child, and to the following, unless otherwise protected by law:
 - a. ~~The authorized agent and~~ department representatives;

- b. Individuals having a definite interest in the well-being of the children concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
- c. Individuals who possess a written authorization from the child's parent. The child care center shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 49. Subsection 3 of section 75-03-10-24 is amended as follows:

- 3. Drop-in child care.
 - a. If a child care center serves drop-in children, schoolchildren, or before-school and afterschool children, the child care center must be sufficiently staffed to effectively handle admission records and explain the policies and procedures of the ~~program~~child care center and to maintain the proper staff member to child ratio.
 - b. The operator shall ensure that the program reflects the individual needs of the children who are provided drop-in care.
 - c. The operator shall ensure that admission records comply with all enrollment requirements contained in section 75-03-10-22.
 - d. The operator shall ensure that admittance procedures provide for a period of individual attention for the child to acquaint the child with the child care center, its equipment, and the staff members.
 - e. A child care center may not receive drop-in care or part-time children who, when added to the children in regular attendance, cause the child care center to exceed the total number of children for which the child care center is licensed.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 50. Subsection 9 of section 75-03-10-26 is amended as follows:

9. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or authorities from the public health division of the department of health and human services implemented regarding the exclusion and return of children with infectious or communicable conditions. The program operator may obtain this guidance directly or through current published materials regarding exclusion and return to the child care center;

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 51. Subsection 5 of section 75-03-10-27 is amended as follows:

5. An operator/owner shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The operator/owner shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse a person an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If a person an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

SECTION 52. Section 75-03-10-28 is amended as follows:

75-03-10-28. Child abuse and neglect decisions.

An owner and operator shall ensure safe care for the children receiving services in the child care center.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, or staff member, that decision has a direct bearing on the applicant's, owner, or operator's ability to serve the public in a capacity involving the provisions of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, or staff member, the applicant or operator shall furnish information satisfactory to the department, from which the department can determine the applicant's, owner, operator's, director's, supervisor's, emergency designee's, substitute staff member's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.

2. Each applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete, and the operator shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 53. Section 75-03-10-29 is amended as follows:

75-03-10-29. Correction of violations.

1. Within ~~thirteen~~ business days of the receipt upon mailing or three days upon electronic transmission of the correction order, the ~~operator~~ owner shall notify the parents of each child receiving care at the child care center that a correction order has been issued. In addition to providing notice to the parent of each child, the ~~operator~~ owner shall post the correction order in a conspicuous location within the child care center until the violation has been corrected or for five days, whichever is longer.

2. Violations noted in a correction order must be corrected:

- a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-10-04 or 75-03-10-08; subsection 12 of section 75-03-10-09; subdivision e of subsection 1 of section 75-03-10-12; subsection 3 of section 75-03-10-12; subsection 3, 6, 9, or 10 of section 75-03-10-18; section 75-03-10-23; or subsection 1 of section 75-03-10-24, within twenty-four hours;
 - b. For a violation requiring the hiring of a child care supervisor with those qualifications set forth in section 75-03-10-11.1, or a child care center director with those qualifications set forth in section 75-03-10-10, within sixty days;
 - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-10-17, within sixty days;
 - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and
 - e. For all other violations, within twenty days.
3. All periods for correction begin on the date of receipt of the correction order by the owner and operator.
 4. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the ~~operator~~owner and a showing that the need for the extension is created by unforeseeable circumstances and the ~~operator~~owner has diligently pursued the correction of the violations.
 5. The ~~operator~~owner shall furnish a written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department ~~or its authorized agent~~ confirms that the corrections have been made.
 6. At the end of the period allowed for correction, the department ~~or its authorized agent~~ shall reinspect a child care center that has been issued a correction order. If, upon reinspection, the department ~~or its authorized agent~~ determines that the child care center has not corrected a violation identified in the correction order, the department ~~or its authorized agent~~ shall mail or send by electronic mail a notice of noncompliance with the correction order ~~by certified mail to the child care center owner and operator~~. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-

07.5.

7. If a child care center receives more than one correction order in a single year, the owner and operator may be referred by the department for consulting services to assist the ~~operator~~owner in maintaining compliance and to avoid future corrective action.
8. Refutation process for a correction order:
 - a. An ~~operator~~owner may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction order.
 - b. The department shall respond to written refutations within five business days of receipt.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

CHAPTER 75-03-11
PRESCHOOL EARLY CHILDHOOD SERVICES

| | |
|---------------|--|
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SECTION 54. Section 75-03-11-03 is amended as follows:

75-03-11-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota

Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
4. "Assistant" means any individual who works directly with children in a preschool under the supervision of a teacher or a director.
5. "Attendance" means the total number of children present at any one time at the facility.
6. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk for chronic physical, developmental, behavioral, or emotional conditions.
7. "Director" means an individual responsible for supervising and organizing program activities in a preschool.
8. "Emergency designee" means an individual designated by the operator to be a backup staff member for emergency assistance or to provide substitute care.
9. "Medication" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
10. "Operator" means ~~the individual or governing board who~~ person that has the legal operational responsibility and the administrative authority for the operation of a preschool ~~early childhood program and premises at which the early childhood service operates.~~
11. ~~"Preschool" means a program licensed to provide early childhood services which follows a preschool curriculum and course of study designed primarily to enhance the educational development of the children enrolled and which serves no child for more than three hours per day~~ "Owner" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service operates.
12. "Substitute staff" means staff who work less than thirty-two hours per month, and are not regularly scheduled for work.

13. "Teacher" means an individual with the responsibility of implementing program activities, either as the director or under the supervision of the director.
14. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 55. Section 75-03-11-06 is amended as follows:

75-03-11-06. Provisional license.

1. The department may issue a provisional license for the operation of a preschool although the preschool educational facility applicant or operator/owner fails to, or is unable to, comply with all applicable standards and rules of the department.
2. A provisional license must:
 - a. State that the operator/owner has failed to comply with all applicable standards and rules of the department;
 - b. State the items of noncompliance;
 - c. Expire at a set date, not to exceed six months from the date of issuance; and
 - d. Be exchanged for an unrestricted license, which bears an expiration date of one year from the date of issuance of the provisional license, after the applicant or operator/owner demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
3. The department may issue a provisional license only to an applicant or operator/owner who has waived, in writing:
 - a. The right to a written statement of charges as to the reasons for the denial of an unrestricted license; and

- b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the applicant or operatorowner.
5. Subject to the exceptions contained in this section, a provisional license entitles the operatorowner to all rights and privileges afforded the operatorowner of an unrestricted license.
6. The department may not issue a provisional license if the preschool is not in compliance with section 75-03-11-17 or 75-03-11-18.
7. The operatorowner shall display prominently the provisional license and agreement.
8. The operatorowner shall provide parents written notice that the preschool is operating on a provisional license and the basis for the provisional license.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-08

SECTION 56. Subsection 3 of section 75-03-11-06.1 is amended as follows:

3. When necessary to inform the parents that the operatorowner is licensed, but is restricted to operating in certain rooms or floors or restricted from using specific outdoor space.

History: Effective January 1, 2011; amended effective April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

SECTION 57. Subsections 1 and 2 of section 75-03-11-07 are amended as follows:

1. An applicant shall submit an application for a license to the department ~~or its authorized agent~~. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and valid only for the

premises indicated on the license. An application for a new license must be filed upon change of ~~operator~~owner or location.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

SECTION 58. Section 75-03-11-08 is amended as follows:

75-03-11-08. Duties of preschool operator.

The operator of a preschool is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator shall:

1. Designate a qualified director, delegate appropriate duties to the director, and shall:
 - a. Ensure that the preschool director or designated acting director is present at the preschool at least sixty percent of the time that the preschool is open;
 - b. Ensure that the individual designated as an acting director for an ongoing period of more than thirty days meets the qualifications of a preschool director; and
 - c. Ensure that the individual designated as a teacher for more than thirty-two hours per month meets the qualifications of a preschool teacher;
2. ~~Apply for a license for the preschool;~~
3. ~~Possess knowledge or experience in management and interpersonal relations;~~
- 4.3. Notify the department ~~or its authorized agent~~ of any major changes in the operation or in the ownership or governing body of the preschool, including staff member changes;
- 5.4. Ensure that liability insurance against bodily injury and property damage for the preschool is carried;
- 6.5. Formulate written policies and procedures for the operations of the preschool. Policies must include:

- a. Hiring practices and personnel policies for staff members;
 - b. Methods for obtaining references and employment histories of staff members;
 - c. Methods of conducting staff member performance evaluations;
 - d. Children's activities, care, and enrollment;
 - e. The responsibilities and rights of staff members and parents;
 - f. An explanation of how accidents and illnesses will be handled;
 - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
 - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
 - i. The care and safeguarding of personal belongings brought to the ~~child care center~~preschool by a child or by another on a child's behalf;
 - j. Procedure for accountability when a child fails to arrive as expected at the preschool; and
 - k. Transportation procedures, if the operator provides transportation;
- 7.6. Maintain records of enrollment, attendance, health, financial, and other required records;
- 8.7. Be responsible for all preschool staff members, teachers, preschool assistants, substitute staff members, emergency designees, volunteers, or others who provide services in the preschool;
- 9.8. Report immediately, as a mandatory reporter, any suspected child abuse or neglect as required by North Dakota Century Code section 50-25.1-03;
- 40.9. Maintain necessary information to verify staff members' qualifications and to ensure safe care for the children in the preschool;
- 44.10. Ensure preadmission visits for children and their parents are offered so the preschool's program, fees, operating policies, and procedures can be viewed and discussed;
- 42.11. Ensure that there are signed written agreements with the parents of each

child which specify the fees to be paid, methods of payments, and policies regarding delinquency of fees;

- ~~13-12.~~ 12. Ensure the preschool is sufficiently staffed at all times to meet the child and staff member ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
- ~~14-13.~~ 13. Provide parents, upon request, with progress reports on their children and provide unlimited opportunities for parents to observe their children while in care;
- ~~15-14.~~ 14. Provide parents with the name of the preschool operator, the director, teachers, preschool assistants, staff members, substitute staff members, and the emergency designee;
- ~~16-15.~~ 15. Meet the qualifications of the director set forth in section 75-03-11-08.1 if the operator is also the director;
- ~~17-16.~~ 16. Report to the department ~~or its authorized agent~~ within twenty-four hours:
- a. A death or serious accident or illness requiring hospitalization of a child while in the care of the preschool or attributable to care received in the preschool;
 - b. An injury to any child which occurs while the child is in the care of the preschool which requires medical treatment;
 - c. Poisonings or errors in the administering of medication;
 - d. Closures or relocations due to emergencies; and
 - e. Fire that occurs or explosions that occur in or on the premises of the preschool;
- ~~18-17.~~ 17. Ensure that children do not depart from the ~~child-care~~preschool premises unsupervised, except when the parent and provider consent that an unsupervised departure is safe and appropriate for the age and development of the child. The provider shall obtain written parental consent for the child to leave the ~~child-care~~preschool premises unsupervised, which must specify the activity, time the child is leaving and length of time the child will be gone, method of transportation, and parental responsibility for the child once the child leaves the ~~child-care~~preschool premises; and
- ~~19-18.~~ 18. Ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 59. Section 75-03-11-10 is amended as follows:

75-03-11-10. Duties of a preschool director.

The director, in collaboration with the operator, shall:

1. Implement policies and procedures for maintaining compliance with licensing rules;
2. Maintain required enrollment, attendance, health, and other required records;
3. Screen, schedule, supervise, and be responsible for the conduct of staff members while the staff members are on duty;
4. Ensure safe care for the children under supervision. Supervision means a staff member responsible for caring for or teaching children being within sight or hearing range of each child at all times so the staff member is capable of intervening to protect the health and safety of the child; ~~and~~
5. Ensure all staff responsible for caring for or teaching children receive orientation to the preschool during the first week of employment. The orientation shall be documented on an orientation certification form and must address the following:
 - a. Emergency health, fire, and safety procedures;
 - b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
 - c. Any special health or nutrition instructions of the children assigned to the staff member;
 - d. Any special needs of the children assigned to the staff member;
 - e. The planned program of activities at the preschool;
 - f. Rules and policies of the preschool; and

g. Child abuse and neglect reporting laws; and

6. Perform other duties as delegated by the operator.

History: Effective January 1, 2011; amended effective April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 60. Subsection 4 of section 75-03-11-13 is amended as follows:

4. All staff members responsible for caring for or teaching children shall certify completion of department-approved training related to child care annually.
 - a. A staff member working thirty or more hours per week shall certify a minimum of thirteen hours of department-approved training annually.
 - b. A staff member working fewer than thirty hours and at least twenty hours per week shall certify a minimum of eleven hours of department-approved training annually.
 - c. A staff member working fewer than twenty hours and at least ten hours a week shall certify a minimum of nine hours of department-approved training annually.
 - d. A staff member working fewer than ten hours per week shall certify a minimum of seven hours of department-approved training annually.
 - e. Completion of one hour of department-approved mandated reporter of suspected child abuse or neglect training.
 - f. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of subdivision e.
 - g. Substitute staff and emergency designees are exempt from the annual training requirement with the exception of subdivision e.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 61. Subsection 1 of section 75-03-11-17 is amended as follows:

1. The operator shall ensure that annual fire inspections are completed for the preschool by local or state fire authorities. The operator shall correct or have any code violations noted by the fire inspector corrected and shall file reports of the inspections and any corrections with the department ~~or its authorized agent.~~

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 62. Section 75-03-11-18 is amended as follows:

75-03-11-18. Minimum sanitation and safety requirements.

1. The operator shall ensure that the preschool's bathroom sinks, toilets, tables, chairs, and floors are cleaned daily. Cots and mats, if used, must be maintained in a clean, sanitary condition.
2. The operator shall ensure that the preschool's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and staff members.
3. The operator shall ensure that in preschools licensed for more than thirty children, where meals are prepared, comply with the public health division of the department of health and human services conducts an annual inspection child care food service establishment license requirements pursuant to North Dakota Century Code chapter 23-09. If only snacks or occasional cooking projects are prepared, an inspection by the public health division of the department ~~of health and human services~~ is not required. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department ~~or its authorized agent.~~
4. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys and equipment are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
5. The operator shall ensure adequate heating, ventilation, humidity, and

lighting for the comfort and protection of the health of the children. All heating devices must be approved by the local fire authorities. When the preschool is occupied by children, the room temperature may not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].

6. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
7. The operator shall ensure that potential hazards, such as noncovered electrical outlets, guns, cleaning chemicals, uninsulated wires, medicines, and poisonous plants are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
8. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
9. The operator shall ensure that elevated areas including stairs and porches have railings and safety gates where necessary to prevent falls.
10. The operator shall take steps to keep the preschool free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the preschool. Insect repellent may be applied outdoors on children with written parental permission.
11. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
12. The operator shall ensure that exit doorways and pathways are not blocked.
13. An operator shall ensure that all preschool buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent

in the dried film or coating, when measured by a lead-detecting instrument approved by the department of environmental quality.

14. Staff members responsible for caring for or teaching children shall strictly supervise wading pools used by the preschool and shall empty, clean, and sanitize wading pools daily.
15. All swimming pools used by children must be approved annually by the local health unit.
16. Aquatic activities:
 - a. An operator shall have policies that ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the ~~program~~preschool may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
 - b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
17. Pets and animals.
 - a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
 - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The operator shall ensure parents are aware of the presence of pets and animals in the preschool.
 - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.
 - e. A staff member responsible for caring for or teaching children shall closely supervise all contact between pets or animals and children.

The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.

- f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
 - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.
 - h. The operator shall ensure that the preschool is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
18. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after diapering, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids.
19. The operator shall ensure that soiled or wet clothes or diapers are stored in a sanitary, covered container, separate from other garbage and waste until removed from the preschool facility.

History: Effective December 1, 1981; amended effective January 1, 1987; September 1, 1990; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 63. Subsection 4 of section 75-03-11-19 is amended as follows:

- 4. An ~~operator~~owner holding a current license under this chapter on or before January 1, 2022, is exempt from subsection 3 unless the ~~operator's~~owner's license lapses for more than six months.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 64. Section 75-03-11-20 is amended as follows:

75-03-11-20. Program requirements.

1. A preschool must have a written curriculum which describes the ~~program's~~preschool's philosophy, goals, objectives, program, and a program evaluation process.
 - a. The curriculum must promote cognitive, social, emotional, and physical growth of children in care.
 - b. The curriculum must be based on the developmental levels and needs of children enrolled.
 - c. The curriculum must provide for daily outdoor play.
2. The director shall exchange information with parents concerning the ~~program~~preschool, its activities, and the adjustment of the child to the ~~program~~preschool.
3. Each child's cultural and ethnic background and primary language or dialect must be respected by the staff members.
4. The director or teacher shall design a written daily plan of program activities for the children enrolled in the ~~program~~preschool.

History: Effective December 1, 1981; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 65. Section 75-03-11-21 is amended as follows:

75-03-11-21. Minimum standards for the provision of snacks.

1. An operator shall serve a nutritious snack on a regular basis to children in care for more than two and one-half hours.
2. When the operator is responsible for providing food to children, the food supplied must meet United States department of agriculture standards and must be properly prepared, sufficient in amount, nutritious, varied according to diets of the children enrolled, and served at appropriate hours. Food that is prepared, served, or stored in a preschool must be treated in a sanitary and safe manner with sanitary and safe equipment.
3. The operator shall serve snacks and meals to children in a manner commensurate with their age, using appropriate foods, portions, dishes,

and eating utensils.

4. The operator or staff member may encourage children to eat the food served, but the operator or staff member may not coerce or force-feed children.

History: Effective December 1, 1981; amended effective January 1, 2011; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 66. Section 75-03-11-22 is amended as follows:

75-03-11-22. Records.

1. The operator shall keep a copy of this chapter on the premises of the preschool and shall make it available to staff members at all times.
2. The operator shall maintain the following records:
 - a. The child's full name, birth date, current home address, legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - b. A written statement from the parents authorizing emergency medical care;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individuals legally responsible for the child cannot be reached immediately in an emergency;
 - d. Names and telephone numbers of individuals authorized to take the child from the preschool;
 - e. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, or have on file a document citing that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and
 - f. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually.

3. The operator shall verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the provider considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents, and to the following, unless otherwise protected by law:
 - a. ~~The authorized agent and~~ department representatives;
 - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess written authorization from the child's parent. The preschool shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 67. Subsection 10 of section 75-03-11-26 is amended as follows:

10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or authorities from the public health division of the department ~~of health and human services~~ regarding the exclusion and return of children with infectious or communicable conditions. The operator may obtain this guidance directly or through current published materials regarding exclusion and return to the preschool;

History: Effective December 1, 1981; amended effective January 1, 1987; July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 2, 2011; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 68. Subsection 5 of section 75-03-11-27 is amended as follows:

5. An ~~operator~~owner shall submit an application for a fingerprint-based

criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The ~~operator~~owner shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse ~~a person~~an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If ~~a person~~an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective January 1, 1999; amended effective January 2, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

SECTION 69. Section 75-03-11-28 is amended as follows:

75-03-11-28. Child abuse and neglect determinations.

An owner and operator shall ensure safe care for the children receiving services in the preschool.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by any applicant, owner, operator, director, teacher, assistant, staff member, substitute staff member, emergency designee, or household member, it has a direct bearing on the applicant's, owner, or operator's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that any child has been abused or neglected by the applicant, owner, operator, director, teacher, assistant, staff member, substitute staff member, emergency designee, or household member, the applicant or operator shall furnish information satisfactory to the department, from which the department can determine the applicant's, owner, operator's, director's, teacher's, assistant's, staff member's, substitute staff member's, or emergency designee's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.
2. Each applicant, owner, operator, director, teacher, assistant, staff member, substitute staff member, and emergency designee shall complete, and the

operator shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.

3. Household members age twelve and older shall complete, and the operator shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the preschool.

History: Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 70. Section 75-03-11-29 is amended as follows:

75-03-11-29. Correction of violations.

1. Within ~~three~~ ten business days ~~of receipt upon mailing or three days upon electronic transmission~~ of the correction order, the ~~operator~~ owner shall notify the parents of each child enrolled in the preschool that a correction order has been issued. In addition to providing notice to the parent of each child, the ~~operator~~ owner shall post the correction order in a conspicuous location within the preschool until the violation has been corrected or for five days, whichever is longer.
2. Violations noted in a correction order must be corrected:
 - a. For a violation of North Dakota Century Code section 50-11.1-02.2; section 75-03-11-04; subsection 13 of section 75-03-11-08; section 75-03-11-09; subsection 4 of section 75-03-11-10; subsection 3 of section 75-03-11-13; subsection 2, 7, or 8 of section 75-03-11-18; or section 75-03-11-23, within twenty-four hours;
 - b. For a violation requiring the hiring of a director with those qualifications set forth in section 75-03-11-08.1 or a teacher with those qualifications as set forth in section 75-03-11-08.2, within sixty days;
 - c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-11-17, within sixty days;
 - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days; and

- e. For all other violations, within twenty days.
3. All periods for correction begin on the date of receipt of the correction order by the owner and operator.
4. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the ~~operator~~owner and a showing that the need for the extension is created by unforeseeable circumstances and the ~~operator~~owner has diligently pursued the correction of the violation.
5. The ~~operator~~owner shall furnish written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department or its authorized agent confirms that the corrections have been made.
6. At the end of the period allowed for correction, the department ~~or its authorized agent~~ shall reinspect a preschool that has been issued a correction order. If, upon reinspection, the department ~~or its authorized agent~~ determines that the preschool has not corrected a violation identified in the correction order, the department ~~or its authorized agent~~ shall mail or send by electronic mail a notice of noncompliance with the correction order ~~by certified mail to the preschool~~owner and operator. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
7. If a preschool receives more than one correction order in a single year, the owner and operator may be referred by the department for consulting services. The consulting services will be offered to assist the ~~operator~~owner in maintaining compliance and to avoid future corrective action.
8. Refutation process for a correction order:
 - a. An ~~operator~~owner may refute a correction order by submitting a refutation request in writing on the form provided by the department within five calendar days of receiving the correction orders.
 - b. The department shall respond to written refutations within five business days of receipt.

History: Effective January 1, 1999; amended effective January 2, 2011; January 1, 2013; April 1, 2014; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3

CHAPTER 75-03-11.1
SCHOOL-AGE CHILD CARE PROGRAM EARLY CHILDHOOD SERVICES

Section

- 75-03-11.1-01 [Reserved]
- 75-03-11.1-02 [Reserved]
- 75-03-11.1-03 Definitions
- 75-03-11.1-04 Effect of Licensing and Display of License
- 75-03-11.1-05 Denial or Revocation of License
- 75-03-11.1-06 Provisional License
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- 75-03-11.1-08 Duties of School-Age Child Care Program Operator
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- 75-03-11.1-09 Staffing and Group Size Requirements
- 75-03-11.1-10 [Reserved]
- 75-03-11.1-11 [Reserved]
- 75-03-11.1-12 [Reserved]
- 75-03-11.1-13 Minimum Health Requirements for All Applicants, Operators, and Staff Members
- 75-03-11.1-14 [Reserved]
- 75-03-11.1-15 Minimum Standards for Provision of Transportation
- 75-03-11.1-16 Minimum Emergency Evacuation and Disaster Plan
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- 75-03-11.1-23 Discipline - Punishment Prohibited
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- 75-03-11.1-25 Minimum Requirements for Care of a Child With Special Needs
- 75-03-11.1-26 Minimum Provisions Regarding Emergency Care for Children
- 75-03-11.1-27 Effect of Conviction on Licensure and Employment
- 75-03-11.1-28 Child Abuse and Neglect Decisions
- 75-03-11.1-29 Correction of Violations
- 75-03-11.1-30 Fiscal Sanctions
- 75-03-11.1-31 Appeals
- 75-03-11.1-32 Appeals [Repealed]

SECTION 71. Section 75-03-11.1-03 is amended as follows:

75-03-11.1-03. Definitions.

The terms used in this chapter have the same meanings as in North Dakota Century Code section 50-11.1-02. In addition, as used in this chapter, unless the context or subject matter otherwise requires:

1. "Annual" is defined as the provider's licensing year.
2. "Application" means all forms the department requires when applying or reapplying for a license.
3. "Aquatic activity" means an activity in or on a body of water, either natural or manmade, including rivers, lakes, streams, swimming pools, and water slides.
4. "Attendance" means the total number of children present at any one time at the facility.
5. "Child with special needs" means a child whose medical providers have determined that the child has or is at risk of chronic physical, developmental, behavioral, or emotional conditions.
6. "Director" means an individual responsible for overseeing the general operation of, and implementing the policies and procedures of, the school-age child care program.
7. "Emergency designee" means an individual designated by the school-age child care program to be a backup staff member for emergency assistance or to provide substitute care.
8. "Medication" means any drug or remedy which is taken internally or orally, inhaled, or applied topically.
9. "Operator" means ~~the individual or governing board who~~person that has the legal operational responsibility and the administrative authority for the operations of a school-age child care program and premises at which the school-age child care program operates.
10. ~~"School-age child care program" or "program" means a program licensed to provide early childhood services exclusively to school-age children before and after school, during school holidays, and during summer vacation.~~"Owner" means the person who has legal responsibility for the early childhood program and premises at which the early childhood service

operates.

11. "Substitute staff" means staff who work less than thirty-two hours per month and are not regularly scheduled for work.
12. "Supervisor" means any ~~person~~individual with the responsibility for organizing and supervising daily program activities.
13. "Volunteer" means an individual who visits or provides an unpaid service or visit, including a firefighter for fire safety week, a practicum student, or a foster grandparent.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-02

SECTION 72. Section 75-03-11.1-06 is amended as follows:

75-03-11.1-06. Provisional license.

1. The department may issue a provisional license for the operation of a school-age child care program although the applicant or ~~operator~~owner fails to, or is unable to, comply with all applicable standards and rules of the department.
2. A provisional license must:
 - a. State that the ~~operator~~owner has failed to comply with all applicable standards and regulations of the department;
 - b. State the items of noncompliance;
 - c. Expire at a set date, not to exceed six months from the date of issuance; and
 - d. Be exchanged for an unrestricted license, which bears an expiration date of one year from the date of issuance of the provisional license, after the applicant or ~~operator~~owner demonstrates compliance, satisfactory to the department, with all applicable standards and rules.
3. The department may issue a provisional license only to an applicant or ~~operator~~owner who has waived, in writing:
 - a. The right to a written statement of charges as to the reasons for the

denial of an unrestricted license; and

- b. The right to an administrative hearing, in the manner provided in North Dakota Century Code chapter 28-32, concerning the nonissuance of an unrestricted license, either at the time of application or during the period of operation under a provisional license.
4. Any provisional license issued must be accompanied by a written statement of violations signed by the department and must be acknowledged in writing by the applicant or operatorowner.
5. Subject to the exceptions contained in this section, a provisional license entitles the operatorowner to all rights and privileges afforded the operatorowner of an unrestricted license.
6. The department may not issue a provisional license if the school-age child care program is not in compliance with section 75-03-11.1-17 or 75-03-11.1-18.
7. The operatorowner shall display prominently the provisional license and agreement.
8. The operatorowner shall provide parents written notice that the school-age child care program is operating on a provisional license and the basis for the provisional license.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-08

SECTION 73. Subsection 3 of section 75-03-11.1-06.1 is amended as follows:

3. When necessary to inform parents that the operatorowner is licensed, but is restricted to operating in certain rooms or floors of the facility or restricted from using specific outdoor space of the facility.

History: Effective January 1, 2011; amended effective April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04

SECTION 74. Section 75-03-11.1-07 is amended as follows:

75-03-11.1-07. Application for and nontransferability of school-age child care program license.

1. An applicant shall submit an application for a license to the department ~~or its authorized agent~~. Application must be made in the form and manner prescribed by the department.
2. A license issued under this chapter is nontransferable and is valid only for the premises indicated on the license.
3. An application for a new license must be filed upon change of ~~operator~~owner or location.
4. The department may not issue more than one in-home registration, self-declaration, or license per residence. A residence means real property that is typically used as a single family dwelling.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-03, 50-11.1-04, 50-11.1-06.2, 50-11.1-07, 50-11.1-08

SECTION 75. Section 75-03-11.1-08 is amended as follows:

75-03-11.1-08. Duties of school-age child care program operator.

The operator of a school-age child care program is responsible for compliance with the requirements set forth in this chapter and North Dakota Century Code chapter 50-11.1. The operator:

1. Shall designate a qualified director, shall delegate appropriate duties to the director, and shall:
 - a. Ensure that the director is present at the school-age child care program at least sixty percent of the time that the program is open. If the operator has legal responsibility and the administrative authority over two or more school-age child care programs, a director shared between two or more school-age child care programs shall be present a combined total of sixty percent of the school-age programs' hours of operation.
 - b. Ensure that when the director and designated acting director are not present at the program, ~~a person~~an individual who meets the qualifications of a supervisor is on duty.
 - c. Ensure that the individual designated as an acting director for longer than thirty consecutive days meets the qualifications of a school-age child care program director.

- d. Ensure that if the operator of the school-age child care program is also the director, that the operator meets the qualifications of a director set forth in section 75-03-11.1-08.1;
- 2. ~~Shall apply for a license for the school-age child care program;~~
- 3. ~~Shall provide an environment that is physically and socially adequate for children;~~
- 4.3. Shall notify the department or its authorized agent of any major changes in the operation of, or in the ownership or governing body of the school-age child care program, including staff member changes;
- 5.4. Shall ensure that the school-age child care program carries liability insurance against bodily injury and property damage;
- 6.5. Shall formulate written policies and procedures for the operation of the school-age child care program relating to:
 - a. Hiring practices and personnel policies for all staff members;
 - b. Methods for obtaining references and employment histories of staff members;
 - c. Methods of conducting staff member performance evaluations;
 - d. Children's activities, care, and enrollment;
 - e. The responsibilities and rights of staff members and parents;
 - f. An explanation of how accidents and illnesses may be handled;
 - g. The methods of developmentally appropriate discipline and guidance techniques that are to be used;
 - h. The process for a parent or staff member to report a complaint, a suspected licensing violation, and suspected child abuse or neglect;
 - i. The care and safeguarding of personal belongings brought to the school-age child care center program by a child or by another on a child's behalf;
 - j. Procedure for accountability when a child fails to arrive as expected at the school-age child care program; and

- k. Transportation procedures, if the operator provides transportation;
- ~~7-6.~~ Shall maintain enrollment, attendance, health, and other required records;
- ~~8-7.~~ May select an emergency designee;
- ~~9-8.~~ Shall maintain necessary information to verify staff member qualifications and to ensure safe care for the children in the school-age child care program;
- ~~10-9.~~ Shall inform parents of enrolled children and other interested parties about the school-age child care program's goals, policies, procedures, and content of the program;
- ~~11-10.~~ Shall advise parents of enrolled children of the school-age child care program's service fees, operating policies and procedures, location, and the name, address, and telephone number of the operator and the director;
- ~~12-11.~~ Shall provide parents of enrolled children information regarding the effective date, duration, scope, and impact of any significant changes in the school-age child care program's services;
- ~~13-12.~~ Shall ensure that the school-age child care program is sufficiently staffed at all times to meet the child to staff ratios for children in attendance and that no more children than the licensed capacity are served at any one time;
- ~~14-13.~~ Shall ensure that the school-age child care program has sufficient qualified staff members available to substitute for regularly assigned staff who are sick, on leave, or who are otherwise unable to be on duty;
- ~~15-14.~~ Shall ensure that there are signed written agreements with the parents of each child that specify the fees to be paid, methods of payment, and policies regarding delinquency of fees;
- ~~16-15.~~ Shall provide parents with unlimited access and opportunities for parents to observe their children while in care and provide parents with regular opportunities to meet with staff members responsible for caring for or teaching children before and during enrollment to discuss their children's needs. Providing unlimited access does not prohibit a school-age child care program from locking its doors when children are in care;
- ~~17-16.~~ Shall provide parents, upon request, with progress reports on their children;
- ~~18-17.~~ Shall ensure that provisions are made for safe arrival and departure of all children, and a system is developed to ensure that children are released only as authorized by the parent;

- ~~19-18.~~ Shall develop a system to ensure the safety of children whose parents have agreed to allow them to leave the program without supervision, which must include, at a minimum:
- a. Written permission from the parents allowing a child to leave the program without supervision; and
 - b. Consistent sign-out procedures for released children;
- ~~20-19.~~ Shall report immediately, as a mandated reporter, any suspected child abuse or neglect as required by North Dakota Century Code chapter 50-25.1;
- ~~21-20.~~ Shall meet the qualifications of the director set forth in section 75-03-11.1-08.1 if the operator of the school-age child care program is also the director;
- ~~22-21.~~ Shall ensure that staff members responsible for caring for or teaching children under the age of eighteen are directly supervised by an adult staff member; ~~and~~
- ~~23-22.~~ Shall report to the department ~~or its authorized agent~~ within twenty-four hours:
- a. The death or serious accident or illness requiring hospitalization of a child while in the care of the program or attributable to care received in the program;
 - b. An injury to any child which occurs while the child is in the care of the program and which requires medical treatment;
 - c. Poisonings or errors in the administration of medication;
 - d. Closures or relocations of child care programs due to emergencies; and
 - e. Fire that occurs or explosions that occur in or on the premises of the school-age child care program; and
- ~~24-23.~~ Shall ensure that each child is released only to the child's parent, legal custodian, guardian, or an individual who has been authorized by the child's parent, legal custodian, or guardian.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 76. Subsection 4 of section 75-03-11.1-08.1 is amended as follows:

4. Certify annual completion of a minimum of thirteen hours of department-approved training related to child care, including one hour on mandated reporter of suspected child abuse or neglect. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course, with the exception of mandated reporter annual training.

History: Effective January 1, 1999; amended effective January 1, 2011; January 1, 2013; April 1, 2018; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 77. Subsection 4 of section 75-03-11.1-08.3 is amended as follows:

4. The supervisor shall certify annual completion of a minimum of thirteen hours of department-approved training related to child care annually, including one hour on mandated reporter of suspected child abuse or neglect. The same training courses may be counted toward licensing annual requirements only if three years has passed since the last completion date of that training course, with the exception of mandated reporter annual training.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2014; April 1, 2018; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 78. Section 75-03-11.1-08.4 is amended as follows:

75-03-11.1-08.4. Minimum qualifications for all school-age child care program staff members responsible for caring for or teaching children.

1. Each staff member shall be at least sixteen years of age, shall be an individual of good physical, cognitive, social, and emotional health, and shall use mature judgment when making decisions impacting the quality of child care.
2. a. Each staff member shall certify the staff member's own annual completion of department-approved training related to child care as set forth below:
 - (1) Staff members working more than thirty hours per week shall

certify a minimum of thirteen hours of department-approved training annually;

- (2) Staff members working fewer than thirty hours and at least twenty hours per week shall certify a minimum of eleven hours of department-approved training annually;
- (3) Staff members working fewer than twenty hours and at least ten hours per week shall certify a minimum of nine hours of department-approved training annually; and
- (4) Staff members working fewer than ten hours per week shall certify a minimum of seven hours of department-approved training annually.

b. Certify annual completion of one hour of department-approved mandated reporter of suspected child abuse or neglect training.

c. The same training courses may be counted toward licensing annual requirements only if at least three years has passed since the last completion date of that training course, with the exception of subdivision b.

d. Substitute staff and emergency designees are exempt from the annual training requirement with the exception of subdivision b.

3. All staff members responsible for caring for or teaching children shall certify completion of a department-approved basic child care course within ninety days of employment.

4. The director shall provide newly hired staff members with responsibilities for caring for or teaching children a ~~two-day onsite~~ an orientation to the school-age child care program during the first week of employment. The director shall document orientation of each staff member on an orientation certification form. The orientation must address:

- a. Emergency health, fire, and safety procedures for the school-age child care program;
- b. The importance of handwashing and sanitation procedures to reduce the spread of infection and disease among children and staff members;
- c. Any special health or nutrition ~~problems~~ instructions of the children assigned to the staff member;

- d. Any special needs of the children assigned to the staff member;
 - e. The planned program of activities at the school-age child care program;
 - f. Rules and policies of the school-age child care program; and
 - g. Child abuse and neglect reporting laws.
5. Staff members shall ensure safe care for children under supervision. For the school-age child, supervision means a staff member responsible for caring for or teaching children being available for assistance and care so that the child's health and safety are protected.
 6. A staff member may not place a child in an environment that would be harmful or dangerous to the child's physical, cognitive, social, or emotional health.
 7. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in infant and pediatric cardiopulmonary resuscitation and the use of an automated external defibrillator by the American heart association, American red cross, or other similar cardiopulmonary resuscitation and automated external defibrillator training programs that are approved by the department.
 8. All staff members shall be currently certified within ninety days of employment and prior to staff member having unsupervised access to children under care, in pediatric first aid by a program approved by the department.

History: Effective January 1, 1999; amended effective January 1, 2011; April 1, 2016; April 1, 2018; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 79. Subsection 1 of section 75-03-11.1-17 is amended as follows:

1. The operator shall ensure that annual fire inspections are completed by local or state fire authorities. The operator shall correct or have corrected any code violations noted by the fire inspector and shall file reports of the inspections and any corrections with the department ~~or its authorized agent~~.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 80. Section 75-03-11.1-18 is amended as follows:

75-03-11.1-18. Minimum sanitation and safety requirements.

1. ~~In~~The operator shall ensure that school-age child care programs for more than thirty children, where meals are prepared, ~~the operator shall ensure that~~comply with the public health division of the department of health and human services ~~conducts an annual inspection~~child care food service establishment license requirements pursuant to North Dakota Century Code chapter 23-09. The operator shall correct any code violations noted by the health inspector and shall file reports of the inspections and corrections made with the department ~~or its authorized agent.~~ If only snacks or occasional cooking projects are prepared, an inspection by the public health division of the department ~~of health and human services~~ is not required.
2. The operator shall ensure that the school-age child care program's building, grounds, and equipment are located, cleaned, and maintained to protect the health and safety of children. The operator shall establish routine maintenance and cleaning procedures to protect the health of the children and the staff members.
3. The operator shall ensure that the school-age child care program ground areas are free from accumulations of refuse, standing water, unprotected wells, debris, flammable material, and other health and safety hazards.
4. The operator shall ensure that exterior play areas in close proximity to busy streets and other unsafe areas are contained or fenced, or have natural barriers to restrict children from those unsafe areas. Outdoor play areas must be inspected daily for hazards and necessary maintenance.
5. The operator shall ensure that garbage stored outside is kept away from areas used by children and is kept in containers with lids. Open burning is not permitted. The operator shall keep indoor garbage in covered containers. The operator may allow paper waste to be kept in open waste containers.
6. The operator shall ensure that wading pools used by the school-age child care program are strictly supervised and are emptied, cleaned, and sanitized daily.
7. The operator shall ensure that all swimming pools are approved annually by the local health unit.
8. Aquatic activities:

- a. The operator shall have policies which ensure the health and safety of children in care while participating in aquatic activities, including types of aquatic activities the program may participate in, staff-to-child ratios appropriate to the ages and swimming ability of children participating in aquatic activities, and additional safety precautions to be taken.
 - b. The operator may not permit any child to participate in an aquatic activity without written parental permission, which includes parent disclosure of the child's swimming ability.
9. The operator shall ensure that all school-age child care program buildings erected before January 1, 1970, which contain painted surfaces in a peeling, flaking, chipped, or chipped condition in any area where children may be present, have painted surfaces repainted or shall submit evidence that the paints or finishes do not contain hazardous levels of lead-bearing substances. For the purposes of this chapter, "hazardous levels of lead-bearing substances" means any paint, varnish, lacquer, putty, plaster, or similar coating of structural material which contains lead or its compounds in excess of seven-tenths of one milligram per square centimeter, or in excess of five-tenths of one percent in the dried film or coating, when measured by a lead-detecting instrument approved by the department of environmental quality.
10. The operator shall ensure that indoor and outdoor equipment, toys, and supplies are safe, strong, nontoxic, and in good repair. The operator shall ensure that all toys are kept clean and in a sanitary condition. Books and other toys that are not readily cleanable must be sanitized as much as possible without damaging the integrity or educational value of the item.
11. The operator shall ensure that indoor floors and steps are not slippery and do not have splinters. The operator shall ensure that steps and walkways are kept free from accumulations of water, ice, snow, or debris.
12. The operator shall ensure that elevated areas, including stairs and porches, have railings and safety gates where necessary to prevent falls.
13. If the school-age child care program is providing care to children in wheelchairs, the operator shall provide doors of sufficient width and construction to accommodate any children in wheelchairs who are receiving care.
14. The operator shall ensure that exit doorways and pathways are not blocked.
15. The operator shall ensure that light bulbs in areas used by children are

properly shielded or shatterproof.

16. The operator shall ensure that combustible materials are kept away from light bulbs and other heat sources.
17. The operator shall ensure adequate heating, ventilation, humidity, and lighting for the comfort and protection of the health of the children. All heating devices must be approved by local fire authorities. During the heating season when the school-age child care program is occupied by children, the room temperature must not be less than sixty-five degrees Fahrenheit [18 degrees Celsius] and not more than seventy-five degrees Fahrenheit [24 degrees Celsius].
18. The operator shall ensure that school-age child care program bathroom sinks, toilets, tables, chairs, and floors are cleaned daily.
19. The operator shall ensure that personal items including combs and toothbrushes are individually identified and stored in a sanitary manner.
20. Staff members and children shall wash their hands, according to recommendations by the federal centers for disease control and prevention, before preparing or serving meals, after using toilet facilities, and after any other procedure that may involve contact with bodily fluids. Hand soap and paper towels, sanitary hand-drying equipment, or single-use or individually designated cloth towels must be available at each sink.
21. The operator shall ensure that potential hazards, such as guns, household cleaning chemicals, uninsulated wires, medicines, poisonous plants, and open stairways are not accessible to children. The operator shall keep guns and ammunition in locked storage, each separate from the other, or shall use trigger locks. The operator shall ensure other weapons and dangerous sporting equipment, such as bows and arrows, are not accessible to children.
22. Water supply standards:
 - a. The operator shall ensure that the school-age child care program has a drinking supply from an approved community water system or from a source tested and approved annually by the department of environmental quality;
 - b. Drinking water must be easily accessible to the children and must be provided by either an angle-jet drinking fountain with mouthguard or by a running water supply with individual, single-serve drinking cups; and

- c. The school-age child care program must have hot and cold running water.
23. Toilet and sink facilities:
- a. The operator shall provide toilet and sink facilities which are easily accessible to the areas used by the children and staff members;
 - b. Toilets must be located in rooms separate from those used for cooking, eating, and sleeping;
 - c. A minimum of one flush toilet must be provided for each fifteen children;
 - d. The operator shall provide separate restrooms for boys and girls and shall ensure that partitions are installed to separate toilets in these restrooms;
 - e. The operator shall provide at least one handwashing sink per toilet room facility; and
 - f. The operator shall provide safe step stools to allow children to use standard-size toilets and sinks or the operator shall ensure the availability of child-size toilets and sinks.
24. The operator of a school-age child care program not on a municipal or public water supply or wastewater disposal system shall ensure the school-age child care program's sewage and wastewater system has been approved by the department of environmental quality.
25. Laundry:
- a. If the school-age child care program provides laundry service for common use linens, towels, or blankets, it shall have adequate space and equipment for safe and effective operation;
 - b. The operator shall ensure that soiled linens are placed in closed containers or hampers during storage and transportation;
 - c. The operator shall ensure that in all new or extensively remodeled school-age child care programs, the handling, sorting, or washing of soiled linens or blankets takes place in a designated area that is separated by a permanent partition from food preparation, serving, and kitchen areas;
 - d. The operator shall ensure that in an existing school-age child care

program where physical separation of laundry and kitchen areas is impractical, procedures are developed to prohibit the washing or transportation of laundry while meals are being prepared or served;

- e. The operator shall ensure that sorting of laundry is not allowed in food preparation, serving, or kitchen areas;
 - f. If the school-age child care program provides laundry service for common use linens, towels, or blankets, or if different children's clothing, towels, or blankets are laundered together, the water temperature must be greater than one hundred forty degrees Fahrenheit [60 degrees Celsius]; and
 - g. The operator shall ensure that if the water temperature is less than one hundred forty degrees Fahrenheit [60 degrees Celsius], bleach or sanitizer is used in the laundry process during the rinse cycle or the program shall use a clothes dryer that reaches a temperature of at least one hundred forty degrees Fahrenheit [60 degrees Celsius].
26. The operator shall take steps to keep the school-age child care program free of insects and rodents. Chemicals for insect and rodent control may not be applied in areas accessible to children when children are present in the school-age child care program. Insect repellent may be applied outdoors on children with written parental permission.
27. Pets and animals:
- a. The operator shall ensure that only small pets that are contained in an aquarium or other approved enclosed container, cats, and dogs are present in areas occupied by children. Wire cages are not approved containers. Other indoor pets and animals must be restricted by a solid barrier and must not be accessible to children. The department may restrict any pet or animal from the premises that may pose a risk to children or may approve additional pets that do not pose a health or safety risk to children.
 - b. The operator shall ensure that animals are maintained in good health and appropriately immunized. Pet immunizations must be documented with a current certificate from a veterinarian.
 - c. The operator shall ensure parents are aware of the presence of pets and animals in the school-age child care program.
 - d. The operator shall notify parents immediately if a child is bitten or scratched and skin is broken.

- e. A staff member responsible for caring for or teaching children shall supervise closely all contact between pets or animals and children. The staff member shall remove the pet or animal immediately if the pet or animal shows signs of distress or the child shows signs of treating the pet or animal inappropriately.
 - f. The operator shall ensure that pets, pet feeding dishes, cages, and litter boxes are not present in any food preparation, food storage, or serving areas. The operator shall ensure that pet and animal feeding dishes and litter boxes are not placed in areas accessible to children.
 - g. The operator shall ensure that indoor and outdoor areas accessible to children are free of animal excrement.
 - h. The operator shall ensure that the school-age child care program is in compliance with all applicable state and local ordinances regarding the number, type, and health status of pets or animals.
28. The operator shall ensure that beds, cots, mats, or cribs, complete with a mattress or pad, are available and the operator shall ensure:
- a. Pillows and mattresses have clean coverings.
 - b. Sheets and pillowcases are changed as often as necessary for cleanliness and hygiene, at least weekly.
 - c. If beds, cots, mats, or cribs are used by different children, sheets and pillowcases are laundered before use by other children.
 - d. Cots, mats, or cribs are cleaned as often as necessary for cleanliness and hygiene, at least weekly, and after each use if used by different children;
 - e. That cots, mats, and cribs are single occupancy.
 - f. Each bed, cot, or mat has sufficient blankets available.
 - g. That aisles between beds, cots, mats, or cribs are a minimum space of two feet [60.96 centimeters] and are kept free of all obstructions while beds, cots, mats, or cribs are occupied.
 - h. Provide separate storage for personal blankets or coverings.
 - i. That mattresses and sheets are properly fitted.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2016; April 1, 2018; July 1, 2020; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 81. Subsection 4 of section 75-03-11.1-21 is amended as follows:

4. When the operator is responsible for providing food to children, menus must be prepared on a weekly basis and made available to the parents, the department ~~or its authorized agent~~, and other appropriate individuals.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; July 1, 2020; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

SECTION 82. Section 75-03-11.1-22 is amended as follows:

75-03-11.1-22. Records.

1. The operator shall keep a copy of this chapter on the premises of the school-age child care program and shall make it available to staff members at all times.
2. The operator shall maintain the following records and shall keep copies at the school age program premises where the child is enrolled:
 - a. The child's full name, birth date, and current home address;
 - b. Legal names of the child's parents, and current business and personal telephone numbers where they can be reached;
 - c. Names and telephone numbers of individuals who may assume responsibility for the child if the individual legally responsible for the child cannot be reached immediately in an emergency;
 - d. A written statement from the parents authorizing emergency medical care;
 - e. Names and telephone numbers of individuals authorized to take the child from the school-age child care program;
 - f. Verification that the child has received all immunizations appropriate for the child's age, as prescribed by the public health division of the department of health and human services, or have on file a document stating that the child is medically exempt or exempt from immunizations based on religious, philosophical, or moral beliefs; and

- g. A current health assessment or a health assessment statement completed by the parent, obtained at the time of initial enrollment of the child which must indicate any special precautions for diet, medication, or activity. This assessment must be completed annually.
- 3. The operator shall record and verify the identification of the child through official documentation such as a certified birth certificate, certified school records, passport, or any other documentary evidence the operator considers appropriate proof of identity and shall comply with North Dakota Century Code section 12-60-26.
- 4. The operator shall ensure that all records, photographs, and information maintained with respect to children receiving child care services are kept confidential, and that access is limited to staff members, the parents, and to the following, unless protected by law:
 - a. ~~The authorized agent~~ and department representatives;
 - b. Individuals having a definite interest in the well-being of the child concerned and who, in the judgment of the department, are in a position to serve the child's interests should that be necessary; and
 - c. Individuals who possess written authorization from the child's parent. The school-age child care program shall have a release of information form available and shall have the form signed prior to the release of information.

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; April 1, 2016; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 83. Subsection 10 of section 75-03-11.1-26 is amended as follows:

- 10. Establish and implement practices in accordance with guidance obtained through consultation with local health unit authorities or authorities from the public health division of the department ~~of health and human services~~ regarding the exclusion and return of children with infectious or communicable conditions. The ~~program~~operator may obtain this guidance directly or through current published material regarding exclusion and return to the school-age child care program;

History: Effective June 1, 1995; amended effective January 1, 1999; January 1, 2011; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01

SECTION 84. Subsection 5 of section 75-03-11.1-27 is amended as follows:

5. An ~~operator~~owner shall submit an application for a fingerprint-based criminal history record check at the time of application and within five years from the date of initial approval and at least once every five years thereafter. The ~~operator~~owner shall ensure that each staff member submits an application for a fingerprint-based criminal history record check upon hire and within five years from the date of initial approval and at least once every five years thereafter. The department may excuse ~~a person~~an individual from providing fingerprints if usable prints have not been obtained after two sets of prints have been submitted and rejected. If ~~a person~~an individual is excused from providing fingerprints, the department shall submit a request to the bureau of criminal investigation for a nationwide name-based criminal history record check.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; April 1, 2014; April 1, 2016; April 1, 2018; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-06.1, 50-11.1-06.2, 50-11.1-07, 50-11.1-08, 50-11.1-09

SECTION 85. Section 75-03-11.1-28 is amended as follows:

75-03-11.1-28. Child abuse and neglect decisions.

An owner and operator shall ensure safe care for the children receiving services in the school-age child care program.

1. If a confirmed decision made under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists, indicating that a child has been abused or neglected by an applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, staff member, or household member, that decision has a direct bearing on the applicant's, owner, or operator's ability to serve the public in a capacity involving the provision of child care and the application or license may be denied or revoked. If a confirmed determination under North Dakota Century Code chapter 50-25.1 or a similar finding in another jurisdiction which requires proof of substantially similar elements exists indicating that a child has been abused or neglected by the applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, staff member, or household member, the applicant or operator shall furnish information satisfactory to the department from which the department can determine the applicant's, operator's, owner, director's, supervisor's, emergency designee's,

substitute staff member's, or staff member's ability to provide care that is free of abuse and neglect. The department shall furnish the determination of current ability to the applicant or operator.

2. Each applicant, owner, operator, director, supervisor, emergency designee, substitute staff member, and staff member shall complete, and the operator shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form no later than the first day of employment.
3. Household members age twelve and older shall complete, and the operator shall submit to the department ~~or its authorized agent~~, a department-approved authorization for background check form at the time of application, relicensure, or upon obtaining residence at the location of the school-age child care.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; April 1, 2016; July 1, 2020; January 1, 2022; January 1, 2023; April 1, 2024.

General Authority: NDCC 50-11.1-04, 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-04, 50-11.1-07, 50-11.1-08

SECTION 86. Section 75-03-11.1-29 is amended as follows:

75-03-11.1-29. Correction of violations.

1. Within ~~thirteen~~ seven business days ~~of the receipt~~ upon mailing or three days upon electronic transmission of a correction order, the ~~operator~~ owner shall notify the parents of each child receiving care at the school-age child care program that a correction order has been issued. In addition to providing notice to the parent of each child, the ~~operator~~ owner shall post the correction order in a conspicuous location within the school-age child care program until the violation has been corrected or for five days, whichever is longer.
2. Violations noted in a correction order must be corrected:
 - a. For a violation of North Dakota Century Code section 50-11.1-02.2; subsection 13 of section 75-03-11.1-08; subsection 4 or 5 of section 75-03-11.1-08.4; section 75-03-11.1-09; subsection 2, 3, 10, or 20 of section 75-03-11.1-18; or section 75-03-11.1-23, within twenty-four hours.
 - b. For a violation requiring the hiring of a school-age child care program director with those qualifications set forth in section 75-03-11.1-08.1 or a child care supervisor with those qualifications set forth in section

75-03-11.1-08.3, within sixty days.

- c. For a violation that requires an inspection by a state fire marshal or local fire department authority pursuant to section 75-03-11.1-17, within sixty days.
 - d. For a violation that requires substantial building remodeling, construction, or change, within sixty days.
 - e. For all other violations, within twenty days.
3. All time periods for correction begin on the date of receipt of the correction order by the owner and operator.
 4. The department may grant an extension of additional time to correct violations, up to a period of one-half the original allowable time allotted. An extension may be granted upon application by the ~~operator~~owner and a showing that the need for the extension is created by unforeseeable circumstances and the ~~operator~~owner has diligently pursued the correction of the violation.
 5. The ~~operator~~owner shall furnish a written notice to the department ~~or its authorized agent~~ upon completion of the required corrective action. The correction order remains in effect until the department ~~or its authorized agent~~ confirms that the corrections have been made.
 6. At the end of the period allowed for correction, the department ~~or its authorized agent~~ shall reinspect a school-age child care program that has been issued a correction order. If, upon reinspection, the department ~~or its authorized agent~~ determines that the school-age child care program has not corrected a violation identified in the correction order, the department ~~or its authorized agent~~ shall mail or send by electronic mail a notice of noncompliance with the correction order ~~by certified mail to the school-age child care program~~owner and operator. The notice must specify the violations not corrected and the penalties assessed in accordance with North Dakota Century Code section 50-11.1-07.5.
 7. If a school-age child care program receives more than one correction order in a single year, the department ~~or authorized agent~~ may refer the school-age child care program for consulting services to assist the ~~operator~~owner in maintaining compliance to avoid future corrective action.
 8. Refutation process for a correction order:
 - a. An ~~operator~~owner may refute a correction order by submitting a refutation request in writing on the form provided by the department

within five calendar days of receiving the correction order.

- b. The department shall respond to written refutations within five business days of receipt.

History: Effective June 1, 1995; amended effective July 1, 1996; July 1, 1996, amendments voided by the Administrative Rules Committee effective August 24, 1996; amended effective January 1, 1999; January 1, 2011; January 1, 2013; April 1, 2014; July 1, 2020; January 1, 2022; April 1, 2024.

General Authority: NDCC 50-11.1-08

Law Implemented: NDCC 50-11.1-01, 50-11.1-07.1, 50-11.1-07.2, 50-11.1-07.3