

Administrative Rules Committee

June 10, 2015 – 10:05 a.m.

Rules from the State Department of Health

My name is Darleen Bartz, Ph.D., and I am the Section Chief of the Health Resources Section with the State Department of Health. I am here today to provide the testimony requested related to the following proposed rule changes:

- Adopt N.D. A.C. Chapter 33-03-24.2 General Standards for Construction and Equipment for Basic Care Facilities; and Section 33-03-24.1-21 Optional End of Life Care Service;
- Amend Sections 33-07-02.1-03 Codes and Standards, 33-07-04.2-09 Codes and Standards, 33-03-24.1-01 Definitions, 33-03-24.1-03 Issuance of License, 33-03-24.1-05 Plans of Correction, 33-03-24.1-09 Governing Body, and 33-03-24.1-10 Fire Safety; and
- Repeal Section 33-03-24.1-22 General Building Requirements.

The responses to the questions are as follows:

1. The requested rule changes did not result from statutory changes made by the Legislative Assembly. The rule changes were made based on requests from the industry and the public, and to update to reflect current standards.
2. The rules changes are not currently related to changes in federal statute, however we anticipate there will be changes in the federal standards in the future related to nursing facilities and hospitals consistent with the changes proposed.
3. A public notice of the intent to hold a public hearing on the rules identified above was sent out on December 2, 2014 to be placed in newspapers throughout the state. In addition, a copy of the public notice and the proposed rule changes were emailed to the regulated community, including the representative associations. A public hearing was held on January 21, 2015. Three individuals were present related to the changes in Basic Care rules, and one written comment was received in support. Six individuals were present related to the Basic Care construction and equipment rules, and three written comments were received in support. Three individuals were present related to the Nursing Facility codes and standards rules, and one written comment was received in support. Six individuals were present related to the Hospital codes and standards rules, and three written comments were received in support. The period for written comments closed on February 2, 2015. All written and oral comments were carefully considered. The rules were reviewed by the Office of the Attorney General and adopted by the State Health Council.

4. Written and oral comments received were fully considered by the department with regards to these rules, and changes were made as deemed appropriate. No overall objections or complaints were received during the comment period. A summary of the comments, department response, and recommended changes is attached.
5. The approximate cost of giving public notice and review for legality by the Attorney General's office was approximately \$2,100.00. This does not include staff time.
6. The proposed rule changes result in more current standards being applied for construction and remodeling of Basic Care Facilities, Hospitals, and Nursing Facilities in North Dakota, adds definitions to the Basic Care Facilities rules for End of Life Care and Secured Units or Facilities, provides an option for Basic Care Facilities to provide End of Life Care to residents if they meet the specified requirements, and provides for posting of findings related to compliance of Basic Care Facilities on the Department's website.
7. A regulatory analysis consistent with NDCC Section 28-32-08 was prepared, and is attached for your review.
8. A small entity regulatory analysis and economic impact statement as required by NDCC 28-32-08.1 were completed, and are attached for your review.
9. It is not anticipated that these rules will have a fiscal impact on state revenues or expenditures, including funds controlled by the department. Therefore, no fiscal note has been attached.
10. A takings assessment was not required as the rules do not result in takings in the context of NDCC Section 28-32-09.
11. These rules were not adopted as emergency (interim final) rules under NDCC Section 28-32-03.

This concludes my testimony. I would be happy to respond to any questions you may have.

Summary of Public Comments

Basic Care Facilities

Addition of NDAC Sections 33-03-24.1-21. Optional end of life care services;
Amendment of NDAC Sections 33-07-02.1-01. Definitions;
33-03-24.1-03. Issuance of license; 33-03-24.1-05. Plans of correction;
33-03-24.1-09. Governing body; 33-03-24.1-10. Fire safety; and
Repeal of NDAC 33-03-24.1-22. General building requirements.

The public hearing was held for the above identified sections of NDAC Chapter 33-03-24.1 on January 21, 2015 in AV Room 212 at the State Capital, Judicial Wing, Bismarck, ND. The public hearing was opened at 9:10 am. Three individuals were present at the hearing. One individual representing the North Dakota Long Term Care Association and one individual representing the North Dakota Hospital Association provided comments. The period for written comments closed on February 2, 2015. One written comment was received in support of proposed rule changes.

Comments received were in support with the following requests clarification or modification. A summary of the specific comments requesting clarification or changes that were received, the department responses, and recommended changes are addressed below. In addition, some minor edits in the form of typographical corrections have been made.

Comment: 33-03-24.1-05. Plans of Correction. 6. – One commenter stated, and was supported by a second commenter, “In that section you are putting in a new requirement regarding placing on the department’s website and available to the public, the deficiency statement and acceptable plan of correction. Right now that is a federal requirement for nursing facilities and is out on the CMS website as well as the state health department website so we understand the issue transparency and having information out there. What we would recommend in this section, and since it is brand new to basic care, is that standard be applied to all healthcare providers equally. If it is a standard to put all the health department deficiencies out there on your website then it seems fair and reasonable, our position is to treat everyone the same.”

Department Response: We concur with the commenter that this information should be available for all provider types consistent with state and federal requirements. It is our intent, as state regulations are updated for licensed health care providers or suppliers, to add a provision for placing the deficiency statements on the department’s website so that they are available to the public.

Recommended Change: No change recommended.

Comment: NDAC 33-03-24.1-09. Governing body. f. – One commenter states, and was supported by a second commenter, “Regarding the issue on reporting to the department significant medication administration errors by the facility staff which results in a negative outcome to a resident or pattern of medication errors. The questions that we have on that one, is the issue what is in that the definitions doesn’t indicate what a significant medication error is. There have been numerous comments on what is the standard as to what is significant.”
“ The other thing that it is says is to report errors by a facility staff member. Our recommendation under that is that you be more specific, generally you have a nurse and

medication aide. The Health Department regulates the medication aide through their registry. So recommend in that section that we report qualified medications under that specific rule. Right now LPN's and RN's for significant medication errors that result in harm are reported to the North Dakota Board of Nursing. So rather than having two reports in two different locations, and since this relates more to med administration and the department's regulation, we recommend that language be changed there."

Department Response: We concur with the recommendations provided. We have clarified in the definitions who may administer medication in basic care facilities, and have defined a significant medication error. In addition, in the governing body section, we have clarified that significant medication errors should be reported to officials consistent with state law, and that medication errors made by the medication assistants I and II should be reported to the department.

Recommended Change:

NDAC 33-03-24.1-01. Definitions.

13. "Medication administration" means an act in which a drug or biological is given to a resident by an individual who is authorized in accordance with state laws and regulations governing such acts, and may include a licensed health care practitioner, licensed nurse, or licensed medication assistant.

20. "Significant medication error(s)" means a medication error which causes the resident discomfort or jeopardizes his or her health and safety, or a pattern of more than three medication errors that has the potential for causing a negative impact or harm to residents.

NDAC 33-03-24.1-09. Governing body. 2.

f. Reporting significant medication error(s) to officials in accordance with state law. Significant medication error(s) by a medication assistant I or II shall be reported to the department of health.

Comment: It was noted that "33-03-24.1-21. Optional End of Life Care Service" should be included in the table of contents, and that the number should read "33-03-24.1-23."

Department Response: This change will be made.

Recommended Change: 33-03-24.1-23. Optional End of Life Care Service" was added to the table of contents, and the numbering of this particular proposed section was changed from 33-03-24.1-21 to 33-03-24.1-23.

Summary of Public Comments

Basic Care Facilities

Addition of NDAC Chapter 33-03-24.2 General Standards for Construction and Equipment for Basic Care Facilities

The public hearing was held for the above identified sections of NDAC Chapter 33-03-24.2 on January 21, 2015 in AV Room 212 at the State Capital, Judicial Wing, Bismarck, ND. The public hearing was opened at 9:19 am. Six individuals were present at the hearing. One individual representing the North Dakota Long Term Care Association and one individual representing the North Dakota Hospital Association provided positive comments, with no recommended changes. The period for written comments closed on February 2, 2015. Three written comments were received, all of which were in support of the changes, and one commenter who provided comments in writing overall supportive with the recommended changes or edits which are identified below:

Comments: NDAC 33-03-24.2-06, #4. One commenter stated, “Our normal course of action would be to submit as-built marked up record plans noting any adjustments to the permitted construction documents. Is note #4 suggesting that ‘change orders’ need to be submitted to the State for review prior to completion of the project? This would create significant delays in the construction process and the ability to stick to schedules with liquidated damage clauses in place.”

Department Response: This rule regarding changes to approved projects is consistent with the current construction standards for hospitals and nursing facilities. This step ensures that modifications to the plans approved are consistent with required codes and standards and reduces the number of corrections that need to be made after construction has occurred.

Recommended Change: No change recommended.

Comment: NDAC 33-03-24.2-07. Codes and standards. 1. b. and c. – One commenter stated, “Get the names of the Guideline and the Institute correct and capitalized – “b. Guidelines for Design and Construction of Residential Health, Care and Support Facilities, 2014 edition, compiled by *The Facility Guidelines Institute*.” “c. The National Fire protection Association 101 Life Safety Code, 2012 edition.”

Department Response: The punctuation is consistent with guidelines from Legislative Council and will be verified with them during their review.

Recommended Change: No change recommended.

Comment: NDAC 33-03-24.2-08. Fire safety. 1. – One commenter stated, “Get the names of the code Guidelines and Institute (Code) correct and capitalized – “National Fire Protection Association Life Safety Code.”

Department Response: The punctuation is consistent with guidelines from Legislative Council and will be verified with them during their review.

Recommended Change: No change recommended.

Comment: NDAC 33-03-24.2-09. General building requirements. 4. Resident bedrooms. b., d., g., and h. –One commenter stated, “I noted that stops in operable windows is advisable. I think

dictating specific furniture is problematic. Simply saying appropriate furniture for resident clothing and personal belongings including closet and dresser functions is required. (I don't think they make beds with springs anymore). Recommended changes: "b...Windows may have stops to prevent full opening that could result in accidental falls or unintended exiting from window openings." "d..."bed and mattress..."Each bed must be provided *with* springs in *good repair and* a clean, firm, comfortable mattress of appropriate size for the bed, as well as a minimum of one clean, comfortable pillow." g. ...Memory Care Facilities are not required to have mirrors." h. ..."Minimum of two adequately sized dresser drawers, a chair, a bedside table or stand, an individual towel rack, and closet, locker, or wardrobe space for hanging clothing within the room."

Department Response: We have reviewed the comments submitted. We agree with the recommendation to include the language for window stops and to incorporate both the bed and the mattress into the requirement. Whether a mirror should be placed in a dementia resident's bathroom will depend on assessment and plan for each resident. This option will be added. Based on the survey of basic care facilities, we believe that it is necessary to identify the minimum furniture requirements for each resident/bed. This language will not be changed.

Recommended Change: The recommended changes to 33-03-24.2-09 General building requirements. 4. Resident bedrooms. are as follows:

- b. Add as sentence at the end which reads: Windows may have stops to prevent full opening that could result in accidental falls or unintended exiting from window openings.
- d. At the end of the first sentence, the words and mattress will be added.
- g. At the end of this subsection, add the following sentence: Bedrooms or bathroom in a secured unit or secured facility may or may not have mirrors based upon the assessment of the resident.

Comment: NDAC 33-03-24.2-09. General building requirements. 5. Toilet rooms and bathing facilities. – One commenter stated, "There is no mention of showers or tubs for basic care residents. – Add "c. Showers and tubs??"

Department Response: Requirements for bathing facilities will be found in referenced standards at 33-03-24.2-07.

Recommended Change: No change recommended.

Summary of Public Comments

Nursing Facilities

Addition of NDAC Chapter 33-07-04.2-09 Codes and Standards for Nursing Facilities

The public hearing was held for the above identified sections of NDAC Chapter 33-07-04.2-09 Codes and Standards for Nursing Facilities on January 21, 2015 in AV Room 212 at the State Capital, Judicial Wing, Bismarck, ND. The hearing was opened at 9:22 am. Three individuals were present at the hearing. One individual representing the North Dakota Long Term Care Association and one individual representing the North Dakota Hospital Association provided positive comments. The period for written comments closed on February 2, 2015. Written comments were received from three individuals in support, and one individual who overall provided support with the recommended change or edit which is identified below.

Comment: NDAC 33-07-04.2-09. Codes and standards. 1. b. – One commenter stated, “Get the names of the Guideline and the Institute correct and capitalized – “Guidelines For the Design and Construction of Residential Health, Care and Support Facilities, 2014 edition, compiled by *The Facility Guidelines Institute*.”

Department Response: The punctuation is consistent with guidelines from Legislative Council and will be verified with them during their review.

Recommended Change: No change recommended.

Summary of Public Comments

Hospitals

Addition of NDAC Chapter 33-07-02.1-03 Codes and Standards for Hospitals

The public hearing was held for the above identified sections of NDAC Chapter 33-07-02.1-03 Codes and Standards for Hospitals on January 21, 2015 in AV Room 212 at the State Capital, Judicial Wing, Bismarck, ND. The hearing was opened at 9:26 am. Six individuals were present at the hearing. One individual representing the North Dakota Hospital Association provided comments and three industry representatives provided comments, all in support of the changes. Written comments were received from three individuals in support of the changes, and one individual provided written comments which were overall in support of the changes with the following recommended edits or changes. The period for written comments closed on February 2, 2015. A summary of the specific comments requesting edits or changes that were received, the department responses, and recommended changes are identified below:

Comment: One commenter stated, “What I might suggest is that they adopt the most current edition of the NFPA 101 that way future editions would not have to be adopted specifically. When they issue an update NFPA 101 it would automatically happen. Some states have done that. That could be considered for the FGI Guidelines too, however, sometimes that could be a bit more problematic. For some of these other codes, the NFP 70, if we went with the most current edition it would simplify having to go through with this process.”

Department Response: Adopting the most recent edition of NFPA 101 will place the state hospital construction standards in conflict with the Centers for Medicare and Medicaid Services (CMS) requirements for compliance with NFPA 101. CMS does not adopt the newest edition of NFPA 101.

Recommended Change: No change recommended.

Comment: NDAC 33-07-02.1-03. Codes and standards. 1. b. – One commenter stated, “Get the name of the Guideline and the Institute correct and capitalized – “Guidelines for the Design and Construction of Hospitals and Outpatient Facilities, 2014 edition, compiled by *The Facility Guidelines Institute*.”

Department Response: The punctuation is consistent with guidelines from Legislative Council and will be verified with them during their review.

Recommended Change: No change recommended.

Addition of NDAC Sections 33-03-24.1-23. Optional end of life care services;
Amendment of NDAC Sections 33-07-02.1-01. Definitions; 33-03-24.1-03. Issuance of
license;
33-03-24.1-05. Plans of correction; 33-03-24.1-09, Governing body; 33-03-24.1-10 Fire
safety; and
Repeal of NDAC 33-03-24.1-22. General building requirements.

Fiscal Note, Regulatory Analysis, Takings Assessment, Small Entity Regulatory Analysis,
and
Small Entity Economic Impact Statement

Fiscal Note (NDCC 28-32-08.2): A fiscal note is not required as these rules have no fiscal effect.

Regulatory Analysis (NDCC 28-32-08(2)):

- 1. Describe the classes of people most likely to be affected by the proposed rule, including classes bearing the cost of the proposed rule and classes benefiting from the proposed rule:** Basic Care Facilities and Basic Care Facility residents in need of end of life care services.
- 2. Describe the probable impact, including the economic impact, of the proposed rule:** This is an optional service that Basic Care Facilities have the option of providing. As a result, the proposed regulations may or may not have an impact on the facility. If end of life services are provided, there will be some additional costs for the facility related to staffing as care needs increase towards the end of life. The amount is unknown, however, Medical Services, Department of Human Services, has indicated they would work with the facilities related to this.
- 3. Describe the probable costs to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenue:** None were identified.
- 4. Describe any alternative methods of achieving the purpose of the proposed rule that were considered:** As the ability to provide end of life services in basic care facilities is at the request of the industry and provides another option to facilities that can only be done through regulation, no other option to the proposed rules were considered.

Takings Assessment (NDCC 38-32-09): A takings assessment is not required as the rule did not result in a takings in the context of NDCC 28-32-09.

Small Entity Regulatory Analysis:

- 1. Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?** Less stringent requirements were not considered as the new section on optional end of life care services was at the request of the industry to allow them to provide these services to residents in their facilities. Other clarifications or edits resulted from requests and questions which have come into the department, and the least stringent approach was taken. The update of construction codes and standards was updated at the request of regulated facilities and will be addressed in another section.

2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?** The industry is very interested in being able to implement the optional end of life care service in their facility as soon as possible. We will make every attempt to work with facilities that choose to implement this service as soon as the rules are effective. The update of construction codes and standards was updated at the request of facilities and will be addressed in another section, and become effective for new or remodeled basic care facilities after the effective date of these rules.
3. **Was consideration or simplification of compliance or reporting requirements for small entities considered? To what result?** Yes, consideration was given related to simplification or reporting requirements. Language was added related to reporting of significant medication errors according to officials consistent with state law so that significant medication errors were reported directly to the appropriate entity rather than to the department to decrease duplicative reporting.
4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?** No changes or minimal changes in performance or operational standards are part of these rules.
5. **Was exception of small entities from all or any part of the requirements in the proposed rule considered? To what result?** Yes, the end of life care services were made an optional service, so facilities can choose whether or not they want to provide this service.

Small Entity Economic Impact Statement:

1. **Which small entities are subject to the proposed rule?** Licensed Basic Care Facilities.
2. **What are the administrative and other costs required for compliance with the proposed rule?** It is unknown what the cost of providing optional end of life care services in a basic care facility will be, as there may or may not need to be changes to meet life safety code and staffing requirements. Other changes to the requirements should not result in added cost for the facilities.
3. **What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?** This is unknown as end of life care services are an optional service that may or may not be provided by the facility. Medicaid has indicated that they would work with facilities related to additional costs for staffing.
4. **What is the probable effect of the proposed rule on state revenues?** Overall, no increase or decrease in state revenue based on these changes.
5. **Is there any less intrusive or less costly alternative method of achieving the purpose of the proposed rule?** No less intrusive or less costly alternative method of achieving the purpose of the proposed rules was identified.

Addition of NDAC Chapter 33-03-24.2 General Standards for
Construction and Equipment for Basic Care Facilities

Fiscal Note, Regulatory Analysis, Takings Assessment, Small Entity Regulatory Analysis,
and
Small Entity Economic Impact Statement

Fiscal Note (NDCC 28-32-08.2): A fiscal note is not required as these rules have no fiscal effect.

Regulatory Analysis (NDCC 28-32-08(2)):

1. **Describe the classes of people most likely to be affected by the proposed rule, including classes bearing the cost of the proposed rule and classes benefiting from the proposed rule:** Basic Care Facilities.
2. **Describe the probable impact, including the economic impact, of the proposed rule:** The update of construction codes and standards is at the request of this industry. This update will bring the codes up to current standards and should provide more options for the facilities. No impact as a result of the rules was identified.
3. **Describe the probable costs to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenue:** None were identified.
4. **Describe any alternative methods of achieving the purpose of the proposed rule that were considered:** As the update in construction codes and standards was at the request of the industry and is necessary to adopt more current codes and standards, no other option to the proposed rules were considered.

Takings Assessment (NDCC 38-32-09): A takings assessment is not required as the rule did not result in a takings in the context of NDCC 28-32-08.

Small Entity Regulatory Analysis:

1. **Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?** Less stringent requirements were not considered as the update of construction codes and standards was undertaken at the request of the industry. Other clarifications or edits resulted from requests and questions which came to the department and the least stringent approach was taken.
2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?** The update of construction codes and standards was undertaken at the request of the industry and will become effective for new or remodeled basic care facilities after the effective date of these rules.
3. **Was consideration or simplification of compliance or reporting requirements for small entities considered? To what result?** The updated construction codes and standards should provide basic care facilities with more options to meet minimum standards for comfort and safety.
4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?** The updated construction codes and standards should provide basic care facilities with current

design and operational standards to provide a comfortable and safe environment for residents.

5. **Was exception of small entities from all or any part of the requirements in the proposed rule considered? To what result?** The updated construction codes and standards will continue to apply to all licensed basic care facilities.

Small Entity Economic Impact Statement:

1. **Which small entities are subject to the proposed rule?** Licensed Basic Care Facilities.
2. **What are the administrative and other costs required for compliance with the proposed rule?** The updated construction codes and standards should provide options for compliance that do not result in additional costs to licensed basic care facilities.
3. **What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?** The updated construction codes and standards should provide facilities with current design and operational standards to provide a comfortable and safe environment with positive benefits for residents.
4. **What is the probable effect of the proposed rule on state revenues?** Overall, no increase or decrease in state revenue is anticipated based on these changes.
5. **Is there any less intrusive or less costly alternative method of achieving the purpose of the proposed rule?** No less intrusive or less costly alternative method of achieving the purpose of the proposed rules was identified.

Update of NDAC Chapter 33-07-04.2-09 Codes and Standards for Nursing Facilities

Fiscal Note, Regulatory Analysis, Takings Assessment, Small Entity Regulatory Analysis,
and
Small Entity Economic Impact Statement

Fiscal Note (NDCC 28-32-08.2): A fiscal note is not required as these rules have no fiscal effect.

Regulatory Analysis (NDCC 28-32-08(2)):

1. **Describe the classes of people most likely to be affected by the proposed rule, including classes bearing the cost of the proposed rule and classes benefiting from the proposed rule:** Nursing Facilities.
2. **Describe the probable impact, including the economic impact, of the proposed rule:** The update of construction codes and standards is at the request of this industry. This update will bring the codes up to current standards and should provide more options for the facilities. No impact as a result of the rules was identified.
3. **Describe the probable costs to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenue:** None were identified.
4. **Describe any alternative methods of achieving the purpose of the proposed rule that were considered:** As the update in construction codes and standards was at the request of the industry and is necessary to adopt more current codes and standards, no other option to the proposed rules were considered.

Takings Assessment (NDCC 38-32-09): A takings assessment is not required as the rule did not result in a takings in the context of NDCC 28-32-08.

Small Entity Regulatory Analysis:

1. **Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?** Less stringent requirements were not considered as the update of construction codes and standards was undertaken at the request of the industry.
2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?** The update of construction codes and standards was undertaken at the request of the industry and will become effective for new or remodeled nursing facilities after the effective date of these rules.
3. **Was consideration or simplification of compliance or reporting requirements for small entities considered? To what result?** The updated construction codes and standards should provide nursing facilities with more options to meet minimum standards for comfort and safety.
4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?** The updated construction codes and standards should provide nursing facilities with current design and operational standards to provide a comfortable and safe environment for residents.

5. **Was exception of small entities from all or any part of the requirements in the proposed rule considered? To what result?** The updated construction codes and standards will continue to apply to all licensed nursing facilities.

Small Entity Economic Impact Statement:

1. **Which small entities are subject to the proposed rule?** Licensed nursing facilities.
2. **What are the administrative and other costs required for compliance with the proposed rule?** The updated construction codes and standards should provide options for compliance that do not result in additional costs to licensed nursing facilities.
3. **What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?** The updated construction codes and standards should provide nursing facilities with current design and operational standards to provide a comfortable and safe environment with positive benefits for residents.
4. **What is the probable effect of the proposed rule on state revenues?** Overall, no increase or decrease in state revenue is anticipated based on these changes.
5. **Is there any less intrusive or less costly alternative method of achieving the purpose of the proposed rule?** No less intrusive or less costly alternative method of achieving the purpose of the proposed rules was identified.

Update of NDAC Chapter 33-07-02.1-03 Codes and Standards for Hospitals

Fiscal Note, Regulatory Analysis, Takings Assessment, Small Entity Regulatory Analysis, and Small Entity Economic Impact Statement

Fiscal Note (NDCC 28-32-08.2): A fiscal note is not required as these rules have no fiscal effect.

Regulatory Analysis (NDCC 28-32-08(2)):

- 1. Describe the classes of people most likely to be affected by the proposed rule, including classes bearing the cost of the proposed rule and classes benefiting from the proposed rule:** Hospitals.
- 2. Describe the probable impact, including the economic impact, of the proposed rule:** The update of construction codes and standards is at the request of this industry. This update will bring the codes up to current standards and should provide more options for the facilities. No impact as a result of the rules was identified.
- 3. Describe the probable costs to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenue:** None were identified.
- 4. Describe any alternative methods of achieving the purpose of the proposed rule that were considered:** As the update in construction codes and standards was at the request of the industry and is necessary to adopt more current codes and standards, no other option to the proposed rules were considered.

Takings Assessment (NDCC 38-32-09): A takings assessment is not required as the rule did not result in a takings in the context of NDCC 28-32-08.

Small Entity Regulatory Analysis:

- 1. Was establishment of less stringent compliance or reporting requirements for small entities considered? To what result?** Less stringent requirements were not considered as the update of construction codes and standards was undertaken at the request of the industry.
- 2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? To what result?** The update of construction codes and standards was undertaken at the request of the industry and will become effective for new or remodeled hospitals after the effective date of these rules.
- 3. Was consideration or simplification of compliance or reporting requirements for small entities considered? To what result?** The updated construction codes and standards should provide hospitals with more options to meet minimum standards for comfort and safety.
- 4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? To what result?** The updated construction codes and standards should provide hospitals with current design and operational standards to provide a comfortable and safe environment for residents.

5. **Was exception of small entities from all or any part of the requirements in the proposed rule considered? To what result?** The updated construction codes and standards will continue to apply to all licensed hospitals.

Small Entity Economic Impact Statement:

1. **Which small entities are subject to the proposed rule?** Licensed hospitals.
2. **What are the administrative and other costs required for compliance with the proposed rule?** The updated construction codes and standards should provide options for compliance that do not result in additional costs to licensed hospitals.
3. **What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?** The updated construction codes and standards should provide hospitals with current design and operational standards to provide a comfortable and safe environment with positive benefits for patients.
4. **What is the probable effect of the proposed rule on state revenues?** Overall, no increase or decrease in state revenue is anticipated based on these changes.
5. **Is there any less intrusive or less costly alternative method of achieving the purpose of the proposed rule?** No less intrusive or less costly alternative method of achieving the purpose of the proposed rules was identified.