

CHAPTER 75-03-17
PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN

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75-03-17-01. Definitions.

1. "Applicant" means the entity requesting licensure as a psychiatric residential treatment facility for children under this chapter.
2. "Child" or "children" means a person or persons under the age of twenty-one.
3. "Clinical supervision" means the oversight responsibility for individual treatment plans and individual service delivery provided by qualified mental health professionals.
4. "Department" means the department of human services.
5. "Diagnostic assessment" means a written summary of the history, diagnosis, and individual treatment needs of a mentally ill person using diagnostic, interview, and other relevant assessment techniques provided by a mental health professional.
6. "Individual treatment plan" means a written plan of intervention, treatment, and services for a mentally ill person that is developed under the clinical supervision of a mental health professional on the basis of a diagnostic assessment.

7. "Initial license" means a license for a new facility that is in effect for one year.
8. "Mental health professional" means:
 - a. A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota state board of psychologist examiners;
 - b. A social worker with a master's degree in social work from an accredited program;
 - c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program;
 - d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a registered nurse, as defined by subdivision c, or an expert examiner;
 - e. A licensed addiction counselor; or
 - f. A licensed professional counselor with a master's degree in counseling from an accredited program who has either successfully completed the advanced training beyond a master's degree, as required by the national academy of mental health counselors, or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.
9. "Mentally ill person" means an individual with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. "Mentally ill person" does not include a mentally retarded person of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although an individual who is mentally retarded may suffer from a mental illness. Chemical dependency does not constitute mental illness, although an individual suffering from that condition may be suffering from mental illness.
10. "Psychiatric residential treatment facility for children" means a facility or a distinct part of a facility that provides to children and adolescents a total, twenty-four-hour, therapeutic environment integrating group living, educational services, and a clinical program based upon a comprehensive, interdisciplinary clinical assessment and an individualized treatment plan that meets the needs of the child and family. The services are available to children in need of and able to respond to active psychotherapeutic intervention and who cannot be effectively treated in their own family, in another home, or in a less

restrictive setting. The facility must be in compliance with requirements for psychiatric residential treatment facilities under 42 U.S.C. 1396d [Pub. L. 89-97; 79 Stat. 351] and title 42, Code of Federal Regulations, part 441.

11. "Qualified mental health professional" means a licensed physician who is a psychiatrist, a licensed clinical psychologist who is qualified for listing on the national register of health service providers in psychology, a licensed certified social worker who is a board-certified diplomat in clinical social work, or a nurse who holds advanced licensure in psychiatric nursing.
12. "Residential treatment" means a twenty-four-hour a day program under the clinical supervision of a mental health professional, in a community residential setting other than an acute care hospital, for the active treatment of mentally ill persons.
13. "Special treatment procedures" are defined as follows:
 - a. "Drug used as a restraint" means any drug that:
 - (1) Is administered to manage a resident's behavior in a way that reduces the safety risk to the resident or others;
 - (2) Has a temporary effect of restricting the resident's freedom of movement; and
 - (3) Is not a standard treatment for the resident's medical or psychiatric condition.
 - b. "Emergency safety interventions" means the use of restraint or seclusion as an immediate response to an emergency safety situation.
 - c. "Emergency safety situation" means unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention.
 - d. "Mechanical restraint" means any device attached or adjacent to the resident's body that the resident cannot easily remove that restricts freedom of movement or normal access to the resident's body.
 - e. "Personal restraint" means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order

to calm or comfort the resident, or holding a resident's hand to safely escort a resident from one area to another.

- f. "Physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder, or back for the purpose of inducing a resident who is acting out to walk to a safe location.
- g. "Restraint" means a personal restraint, mechanical restraint, or drug used as a restraint.
- h. "Seclusion" means the voluntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.
- i. "Serious injury" means any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.
- j. "Timeout" means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-01, 25-03.2-03

75-03-17-02. Procedures for licensing.

1. **Application.** An application for license or for renewal as a facility must be submitted to the department which shall determine the suitability of the applicant for licensure under this chapter. The application must contain any materials that the department may require, including:
 - a. An architectural plan;
 - b. A comprehensive description of the program plan which includes:
 - (1) A plan demonstrating compliance with this chapter;
 - (2) The treatment modalities offered, including milieu therapy, family therapy, psychopharmacology, and psychotherapy;
 - (3) Prohibited treatment modalities; and

- (4) The services provided directly by the facility and those provided by other community resources, including special education as required by law;
 - c. The funding base for building and operating the facility, including a projected twelve-month budget based on predictable funds and, for a new facility, a statement of available funds or documentation of available credit sufficient to meet the operating costs for the first twelve months of operation; and
 - d. A copy of all policies required by this chapter.
 - e. A list of qualified mental health professionals and mental health professional staff employed by the facility.
 - f. The license to operate a psychiatric residential treatment facility for children must specify:
 - (1) The name of the licensee;
 - (2) The premises to which the license is applicable;
 - (3) The number of children who may be received in the premises at any one time; and
 - (4) The date of expiration of the license.
2. **Initial license and license renewal.** An initial license for a new facility is in effect for one year. Subsequent licenses shall be renewed every two years, either through a full onsite license review or the facility may receive deemed status, at the discretion of the department. The license must identify the number and age groupings of children who may receive care, is valid only on the premises indicated, and is not transferable.
3. **Provisional license.** A facility may receive a provisional license for ninety days if the facility has failed to comply with any of the standards of this chapter or other state law or regulation is cause for issuance of a provisional license. The facility will have ninety days from the issuance of the provisional license to submit a written plan of correction for the department's review and approval. The department may perform an onsite followup visit to assure that the standards have been met by the facility.
4. **Denial and revocation of a license.** Failure to comply with any of the standards of this chapter or other state law or regulation is cause for refusal or revocation of a license. Conviction of an offense by an owner or operator of a facility does not disqualify the facility from licensure unless the department determines that the offense has a direct bearing

upon a person's ability to serve the public as an owner or operator of a psychiatric residential treatment facility for children, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

5. **Appeal.** An applicant may appeal a license denial in accordance with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code chapter 75-01-03.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-05

75-03-17-03. Organization and administration.

1. **Governing body.** The applicant must have a governing body that designates or assigns responsibility for the operation, policies, program, and practice of the facility. The governing body shall:
 - a. Define:
 - (1) The facility's philosophy;
 - (2) The facility's purpose;
 - (3) The facility's function;
 - (4) The geographical area served by the facility;
 - (5) The ages and types of children accepted for care by the facility; and
 - (6) The clinical disorders addressed by the facility's program;
 - b. Ensure that all policies required by this chapter are in writing and on file at the facility;
 - c. Develop a records retention policy consistent with state and federal law;
 - d. Assure that all vehicles transporting children are:
 - (1) Subject to routine inspection and maintenance;
 - (2) Licensed by the state motor vehicle department;
 - (3) Equipped with seatbelts for every passenger;

- (4) Equipped with a first-aid kit and a fire extinguisher;
 - (5) Carrying no more individuals than the manufacturer's recommended maximum capacity;
 - (6) Disability accessible where appropriate; and
 - (7) Driven by an individual who holds a valid driver's license, of a class appropriate to the vehicle driven, issued by the driver's jurisdiction of residence; and
- e. Obtain sufficient insurance, including:
- (1) Liability insurance covering bodily injury, property damage, personal injury, professional liability; and
 - (2) Automobile or vehicle insurance covering property damage, comprehensive, collision, uninsured motorist, bodily injury, and no fault.

2. **Legal status.** The applicant shall provide to the department:

- a. A copy of the articles of incorporation, bylaws, partnership agreement, or articles of organization and any evidence of required legal registration of the entity;
- b. A current list of partners or members of the governing body and any advisory board, including the address, telephone number, principal occupation, and term of office of each listed person;
- c. A statement disclosing the owner of record of any building, facility, or major piece of equipment occupied or used by the applicant, the relationship of the owner to the applicant, the cost of such use, if any, to the applicant, and the identity of the entity responsible for the maintenance and upkeep of the property; and
- d. Whether the owner, operator, or an employee of the facility is or has been found guilty of an offense determined by the department to have a direct bearing on the person's ability to serve as an owner, operator, or employee, or the department determined, following conviction of an offense, that the person is not sufficiently rehabilitated under North Dakota Century Code section 12.1-33-02.1.

3. **Financial plan.** The applicant shall have a financing plan which includes a twelve-month budget, and which shows the facility's financial ability to carry out its purposes and function. A new applicant shall have sufficient funds available for the first year of operation.

4. **Audits.** All financial accounts must be audited annually by a certified public accountant. The report must be made a part of the facility's records and contain the accountant's opinion about the facility's present and predicted financial solvency. The report must be submitted with an application for license renewal.
5. **Quality assurance.** The applicant shall have a quality assurance program that monitors and evaluates the quality and appropriateness of child care, and provides a method for problem identification, corrective action, and outcome monitoring. The quality assurance program must include:
 - a. A plan for child and staff safety and protection;
 - b. A method to evaluate personnel performance and the utilization of personnel;
 - c. A system of credentialing, granting, and withholding staff privileges;
 - d. A method to review and update policies and procedures assuring the usefulness and appropriateness of policies and procedures;
 - e. A method to review the appropriateness of admissions, care provided, and staff utilization;
 - f. A plan for the review of individual treatment plans;
 - g. A plan for program evaluations that includes measurements of progress toward the facility's stated goals and objectives; and
 - h. A method to evaluate and monitor standards of resident care.
6. **Children's case records.** The applicant shall maintain a confidential record for each child which must be current and reviewed monthly. Each record must contain:
 - a. An application for service;
 - b. A social history;
 - c. A medical treatment consent form signed by a person who may lawfully act on behalf of the child and any consent for the use of psychotropic medications as required under subdivision d of subsection 10 of section 75-03-17-07;
 - d. The name, address, and telephone number of individuals to be contacted in an emergency;

- e. Reports on medical examinations, including immunizations, any medications received, allergies, dental examinations, and psychological and psychiatric examinations;
- f. An explanation of custody and legal responsibility for the child and relevant court documents, including custody or guardianship papers;
- g. A record of the medical care given at the facility, including:
 - (1) Hospitalization records;
 - (2) Prescriptions used, with the quantity, directions, physician's name, date of issue, and name of the pharmacy indicated; and
 - (3) Significant illnesses or accidents; and
- h. A written agreement between a person who may lawfully act on behalf of the child and the facility and a record that the person who acted on behalf of the child received a copy. The agreement must include:
 - (1) A statement as to who has financial responsibility;
 - (2) How payments are to be made to cover the cost of care;
 - (3) Which items are covered by the normal or regular facility charges for care;
 - (4) Medical arrangements, including the cost of medical care;
 - (5) Visiting arrangements and expectations;
 - (6) Arrangements for clothing and allowances;
 - (7) Arrangements for therapeutic leave;
 - (8) Regulations about gifts permitted;
 - (9) Arrangements for participation by the person who acted on behalf of the child through regularly scheduled interviews with designated staff;
 - (10) The facility's policy on personal monetary allowance to be provided to the child at the facility;
 - (11) Records of special treatment orders; and

(12) Educational arrangements.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-04. Admissions.

1. A child may be admitted to a psychiatric residential treatment facility for children if the child has been diagnosed by a psychiatrist or psychologist as suffering from a mental illness or emotional disturbance and the child is in need of and is able to respond to active psychotherapeutic intervention and cannot be effectively treated in the child's family, in another home, or in a less restrictive setting. The facility shall take into account the age and diagnosis of the child in order to provide an environment that is safe and therapeutic for all children. The facility may admit only those prospective children who are found eligible according to the facility's admission policies. Every facility shall have specific admission policies that describe which professional staff have admission authority and describe the membership of the facility's admission committee or committees. Admission committee membership must include a psychiatrist.
2. a. Admission decisions must be based upon:
 - (1) A social history which includes presenting problems, family background, developmental history, educational history, and employment;
 - (2) A medical history which includes current status, any relevant findings of previous physical or psychiatric evaluations, and a list of the prospective child's current medications and allergies and the facility will provide for a medical and psychological assessment of each child within seventy-two hours of admission and thereafter as needed by the child; and
 - (3) Prior psychological and addiction evaluations.
- b. The known history and prior evaluations should be obtained before admission, and if not obtained before admission, then the information must be requested within three working days after admission.
3. The facility shall grant or deny admission within fourteen days of receipt of a completed application.

4. If admission is denied, the facility shall indicate the reason in writing.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-06

75-03-17-05. Diagnosis and treatment while at the facility.

1. **Duties of the facility.** The facility shall:
 - a. Keep the child in contact with the child's family and relatives if possible;
 - b. Involve the families in the treatment plan if possible;
 - c. Provide or arrange for family therapy when necessary;
 - d. Provide conferences involving the facility, the person who may lawfully act on behalf of the child, the referring agency, and when appropriate, the child, to review the case status and progress on a monthly basis;
 - e. Provide a progress report to the referring agency, and the person who acted on the child's behalf every three months; and
 - f. Complete a written biopsychosocial assessment for each child admitted for care within five business days and develop an individual treatment plan.
2. **Specialists.** The services of specialists in the fields of medicine, psychiatry, nursing, psychology, and education must be used as needed. Each facility shall provide a minimum of one-half hour per week per bed of psychiatric time and twenty hours per week of nursing time.
3. **Individual treatment plan.**
 - a. The facility shall develop and implement an individual treatment plan. The plan must be based upon a comprehensive interdisciplinary diagnostic assessment, which includes the role of the family, identifies the goals and objectives of the therapeutic activities and treatment, provides a schedule for accomplishing the therapeutic activities and treatment goals and objectives, and identifies the individuals responsible for providing services to children consistent with the individual treatment plan. Clinical supervision for the individual treatment plan must be accomplished by full-time or part-time employment of or contracts with qualified mental health professionals. Clinical supervision

must be documented by the qualified mental health professionals cosigning individual treatment plans and by entries in the child's record regarding supervisory activity. To the extent possible, the child, and the person who acted on the child's behalf, must be involved in all phases of developing and implementing the individual treatment plan.

b. The plan must be:

- (1) Based on a determination of a diagnosis using the first three axes of the multiaxial classification of the current Diagnostic and Statistical Manual of Mental Disorders and a biopsychosocial assessment. In cases where a current diagnosis by a mental health professional has been completed within thirty days preceding admission, only updating is necessary;
- (2) Developed within five business days of admission; and
- (3) Reviewed at least monthly and updated or amended to meet the needs of the child by an interdisciplinary team including one qualified mental health professional.

c. The plan must identify:

- (1) Treatment goals to address the problems of the child and family;
- (2) Timeframes for achieving the goals;
- (3) Indicators of goal achievement;
- (4) The individuals responsible for coordinating and implementing child and family treatment goals;
- (5) Staff intervention or techniques or both for achieving the child's treatment goals;
- (6) The projected length of stay and next placement; and
- (7) When referrals are made to other service providers, and the reasons referrals are made.

4. **Work experience.**

a. If a facility has a work program, it shall:

- (1) Provide work experience that is appropriate to the age and abilities of the child;

- (2) Differentiate between the chores that children are expected to perform as their share in the process of living together, specific work assignments available to children as a means of earning money, and jobs performed in or out of the facility to gain vocational training; and
 - (3) Give children some choice in their chores and offer change from routine duties to provide a variety of experiences.
 - b. Work may not interfere with the child's time for school study periods, play, sleep, normal community contacts, or visits with the child's family.
5. **Solicitation of funds.** A facility may not use a child for advertising, soliciting funds, or in any other way that may cause harm or embarrassment to a child or the child's family. A facility may not make public or otherwise disclose by electronic, print, or other media for fundraising, publicity, or illustrative purposes, any image or identifying information concerning any child or member of a child's immediate family, without first securing the child's written consent and the written consent of the person who may lawfully act on behalf of the child. The written consent must apply to an event that occurs no later than ninety days from the date the consent was signed and must specifically identify the image or information that may be disclosed by reference to dates, locations, and other event-specific information. Consent documents that do not identify a specific event are invalid to confer consent for fundraising, publicity, or illustrative purposes. The duration of an event identified in a consent document may not exceed fourteen days.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-06. Special treatment procedures. A facility shall have written procedures on special treatment procedures. Special treatment procedures must not be used for punishment, for the convenience of staff, or as substitute for therapeutic programming. The facility shall provide education to the children, providing instructions on alternative behaviors that would have allowed the staff to avoid the use of special treatment procedures. Physicians shall review the use of special treatment procedures.

1. Timeout. Use of timeout procedures must be supervised by staff at all times, and appropriate entries must be documented in the child's file.
2. Physical escort. Use of physical escort procedures shall be supervised by staff at all times and appropriate entries shall be documented in the child's file.

3. Physical restraints.
 - a. Restraints are imposed only in emergency circumstances and only to ensure the immediate physical safety of the child, a staff member, or others and less restrictive interventions have been determined to be ineffective. The health, safety, and well-being of the children cared for and treated in the facility must be properly safeguarded;
 - b. All safety holds must be applied by staff trained in the use of safety holds; and
 - c. The facility staff shall have established protocols that require:
 - (1) Entries made in the child's file as to the date, time, staff involved, reasons for the use of, and the extent of physical restraints;
 - (2) Timely notification within twenty-four hours of the individual who may lawfully act on behalf of the child; and
 - (3) Face-to-face assessment of children in restraint must be completed by a physician, registered nurse, or other licensed health care professional or practitioner who is trained in the use of safety, emergency interventions. The face-to-face assessment must include assessing the mental and physical well-being of the child. The face-to-face assessment must take place as soon as possible, but in no case later than one hour after the initiation of restraint or seclusion.
4. Seclusion. Seclusion may be imposed only in emergency circumstances and only to ensure the immediate physical safety of the child, a staff member, or others and after less restrictive interventions have been determined to be ineffective. If seclusion is indicated, the facility shall ensure that:
 - a. The proximity of the staff allows for visual and auditory contact with the child at all times and includes assessments every fifteen minutes;
 - b. All nontherapeutic objects are removed from the child's presence;
 - c. All fixtures within the room are tamperproof, with switches located outside the room;
 - d. Smoke-monitoring or fire-monitoring devices are an inherent part of the seclusion room;
 - e. Mattresses are security mattresses of fire-resistant material;

- f. The room is properly ventilated;
 - g. Timely notification within twenty-four hours of the individual who may lawfully act on behalf of the child;
 - h. A child under special treatment procedures is provided the same diet that other children in the facility are receiving;
 - i. No child remains in seclusion:
 - (1) For more than four hours in a twenty-four-hour period; and
 - (2) Without physician approval;
 - j. Seclusion is limited to the maximum timeframe per episode for fifteen minutes for children aged nine and younger and one hour for children aged ten and older;
 - k. Physicians shall review the use of seclusion procedures; and
 - l. Face-to-face assessment of children in seclusion is completed by a physician, registered nurse, or other licensed health care professional or practitioner who is trained in the use of safety, emergency interventions. The face-to-face assessment must include assessing the mental and physical well-being of the child. The face-to-face assessment must take place as soon as possible, but in no case later than one hour after the initiation of restraint or seclusion.
5. Following each use of seclusion, a debriefing must be conducted within twenty-four hours that includes appropriate personnel and the child and:
- a. Evaluates and documents in the child's file the well-being of the child served and identifies the need for counseling or other services related to the incident;
 - b. Identifies antecedent behaviors and modifies the individual treatment plan as appropriate; and
 - c. Analyzes how the incident was handled and identifies needed changes to procedures or staff training, or both.
6. Special treatment procedure training. Each facility must have a specific training in the use of physical restraints and seclusion, which includes training on the needs and behaviors of the population served, relationship building, alternatives to restraint and seclusion, de-escalation methods, conflict resolution, thresholds for restraints and seclusion, the physiological and psychological impact of restraint and seclusion, monitoring physical signs of distress and obtaining

medical assistance, legal issues, position asphyxia, escape and evasion techniques, time limits, the process for obtaining approval for continuation of restraints and seclusion, documentation, debriefing techniques, and investigation for injuries and complaints.

7. Reporting requirement for serious injury or death.
 - a. Each facility shall notify the department of each death that occurs at each facility.
 - b. The report must include the name of the child.
 - c. The report must be provided no later than twenty-four hours after the time of the child's death.
 - d. The report must contain information on the use of seclusion or restraints as related to the child.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 50-11-03, 50-11-03.2

75-03-17-07. Medical care.

1. **Medical examination.** Each child shall have a medical examination within thirty days prior to admission or within seventy-two hours of admission.
2. **Immunizations.** A child shall have current immunizations as required by North Dakota Century Code section 23-07-17.1.
3. **Medical care arrangements.** A facility shall make arrangements with a physician and a psychiatrist for medical and psychiatric care of children.
4. **Annual medical examination.** Every child shall have a medical examination annually.
5. **Staff instruction.** The facility shall inform staff members as to what medical care, including first aid, may be given by staff without specific orders from a physician. Staff shall be instructed as to how to obtain further medical care and how to handle emergency cases.
 - a. At least one staff member on duty shall have satisfactorily completed current first aid, therapeutic crisis intervention and crisis prevention intervention, universal infection control precautions, and cardiopulmonary resuscitation training and have on file at the facility a certificate of satisfactory completion.

- b. Each staff member shall be able to recognize the common symptoms of illnesses of children and to note any marked physical defects of children. A sterile clinical thermometer and a complete first-aid kit must be available.
6. **Hospital admission.** Arrangements must be made with a hospital for the admission of children from the facility in the event of serious illness or an emergency.
7. **Medical records.** A child's medical records must include:
- a. Current medical, psychological, or psychiatric records;
 - b. A record of the child's immunizations;
 - c. The consent for medical care by a person with lawful authority to act on behalf of the child;
 - d. Records of the annual medical examination; and
 - e. A record of the medical care given at the facility, including:
 - (1) Hospitalization records;
 - (2) Prescriptions used with the quantity, directions, physician's name, date of issue, and name of the pharmacy indicated; and
 - (3) Significant illnesses or accidents.
8. **Hospitalization or death reports.** Any accident or illness requiring hospitalization must be reported immediately to an individual who may lawfully act on behalf of the child. Deaths must immediately be reported to the department, an individual who may lawfully act on behalf of the child, a law enforcement agency, and the county coroner.
9. **Prescription labels.** Prescribed drugs and medicines must be obtained on an individual prescription basis with the following labeling:
- a. The name of the pharmacy;
 - b. The child's name;
 - c. The prescription number;
 - d. The prescribing practitioner;
 - e. The directions for use;

- f. The date of original issue or renewal;
- g. The name of the drug;
- h. The potency of the drug;
- i. The quantity of the drug; and
- j. The expiration date, when applicable.

10. **Administration of medications.**

- a. Medications must be administered by a designated staff person in accordance with medical instructions. All medications must be stored in a locked cabinet, with the keys for the cabinet kept under the supervision of the designated staff person assigned to administer the medications. The medication cabinet must be equipped with separate cubicles, plainly labeled with the child's name.
- b. Medications belonging to the child must be returned to the person who may lawfully act on behalf of the child upon discharge, or must be destroyed in the presence of a witness by the designated person in charge of medication storage by flushing the medications into the sewer system and removing and destroying the labels from the container and documentation of the return or destruction must be included in the child's file.
- c. The facility may possess a limited quantity of nonprescription medications and administer them under the supervision of designated staff.
- d. The facility shall have policies governing the use of psychotropic medications. A person with lawful authority to act on behalf of a child who receives psychotropic medication must be informed of benefits, risks, side effects, and potential effects of medications. Written consent for use of the medication must be obtained from that person and filed in the child's record.
- e. Upon admission, when a new psychotropic medication is prescribed, and when a psychotropic medication is discontinued, a child's psychotropic medication regime must be reviewed by the attending psychiatrist every seven days for the first thirty days and every thirty days thereafter.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-08. Dental care. Each child shall have an annual dental examination. If a child has not had an examination in the twelve months prior to admission, an examination must be scheduled within ninety days of admission.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-09. General health.

1. **Sleep.** Each child shall have enough sleep for the child's age at regular and reasonable hours, and under conditions conducive to rest.
2. **Personal hygiene.** Children shall be encouraged and helped to keep themselves clean.
3. **Bathing facilities.** Bathing and toilet facilities must be properly maintained and kept clean.
4. **Personal articles.** Each child shall have a toothbrush, comb, an adequate supply of towels, washcloths, and personal toiletry articles.
5. **Daily diet.** Menus must provide a varied diet that meets a child's daily nutritional requirements.
6. **Clothing.** Each child shall have clothing for the child's exclusive use. The clothing must be comfortable and appropriate for current weather conditions.
7. **Play.** The facility shall provide safe, age-appropriate equipment for indoor and outdoor play. The facility shall provide safety instructions on all equipment prior to the child participating in the activity.
8. **Services.** The facility shall provide sufficient treatment, educational, recreational and leisure, and physical services and facilities must be available to the children in the facility.
9. **Spirituality.** The facility shall make a reasonable effort to make opportunities available for children to attend spiritual ceremonies within the area in which the facility is located, giving reasonable consideration to requests by the child or a person with lawful authority to act on behalf of the child. The facility shall respect the spiritual beliefs of the child and the child's family.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-10. Education and training.

1. **Public education.** Any primary or secondary program offered by a facility must be in compliance with standards established by the department of public instruction. The facility shall ensure that children comply with all state school attendance laws.
2. **Staff training.** The facility shall provide annual training to staff which is relevant to the needs of the client population.
3. **Discipline.** Discipline must be constructive or educational in nature. Discipline may include diversion, separation from a problem situation, and discussion with the child about the situation, and praise for appropriate behavior. A facility shall adopt and implement written policies for discipline and behavior management consistent with the following:
 - a. Only staff members of the facility may prescribe, administer, or supervise the discipline of children. Authority to discipline may not be delegated to children, volunteers, or interns.
 - b. A child may not be slapped, punched, spanked, shaken, pinched, roughly handled, struck with an object, or otherwise receive any inappropriate physical treatment.
 - c. Verbal abuse and derogatory actions or remarks about the child, the child's family, religion, or cultural background may not be used or permitted.
 - d. A child may not be locked in any room or other enclosure unless seclusion is indicated and the procedures under section 75-03-17-06 are followed.
 - e. The facility shall request that a person with lawful authority to act on behalf of the child to assist the facility in the development of effective means of discipline.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-11. Children as employees prohibited. Children may not be solely responsible for any major phase of the facility's operation or maintenance, including cooking, laundering, housekeeping, farming, or repairing.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-12. Discharge.

1. The decision that a child no longer needs or cannot benefit from the facility's treatment must be made by a discharge committee comprised of three staff or consultants involved in the child's care and treatment and a person with lawful authority to act on behalf of the child.
2. The facility shall assist the child and the person with lawful authority to act on behalf of the child in preparing for termination of placement in the facility, whether the move is to return the child home, to a foster family, adoptive family, an institution, or to the home of relatives.
3. Prior to discharge, the facility shall complete a discharge plan and coordinate facility services and related community services with partial discharge plans with each child's family, school, and community to ensure continuity of care. The plan must include:
 - a. A progress report, including an update on the child's psychiatric care and treatment recommendations;
 - b. The reason for discharge;
 - c. An assessment of the child's and the family's needs and recommended services;
 - d. A statement that the discharge plan recommendations have been reviewed with the child and a person with lawful authority to act on behalf of the child;
 - e. The potential for readmission; and
 - f. The name and title of the individual to whom the child was discharged.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-13. Responsibility for notification of runaway children.

When a facility confirms that a child's whereabouts are unknown, the facility shall immediately notify law enforcement officials and the individual who may lawfully act on behalf of the child. The child's return must be reported immediately to law enforcement and the individual who may lawfully act on behalf of the child.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-14. Employee health qualifications.

1. All personnel, including volunteers and interns, must be in good health and physically and mentally capable of performing assigned tasks.
2. Except as specified in subsection 4, the good physical health of each employee must be verified by a health screening, including a test for tuberculosis, performed by or under the supervision of a physician not more than one year prior to or thirty days after employment. The individual performing the screening shall sign a report indicating the presence of any health condition that would create a hazard to children of the facility or other staff members.
3. Unless effective measures are taken to prevent transmission, an employee suffering from a serious communicable disease shall be isolated from other employees and children of the facility who have not been infected.
4. Information obtained concerning the medical condition or history of an employee must be collected and maintained on forms and in medical files separate from other forms and files and must be treated as a confidential medical record.
5. The facility shall develop a policy regarding health requirements for volunteers, interns, and student placements that addresses tuberculin testing.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-04, 25-03.2-07

75-03-17-15. Staff to child ratio.

1. The ratio of staff to children during waking hours is dependent on the needs of the children and the requirements of the individualized treatment plans, but may not be less than two staff members. At night,

night staff must be awake and within hearing distance of children and other staff must be available to be summoned in an emergency.

2. The ratio of professional staff to children is dependent on the needs of the children.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-16. Personnel policies.

1. The facility shall have clearly written personnel policies. The policies must be made available to each employee and must include:
 - a. A staff training and development plan;
 - b. Procedures for reporting suspected child abuse and neglect;
 - c. Procedures for staff evaluation, disciplinary actions, and termination;
 - d. A prohibition of sexual contact between staff and children in accordance with the Prison Rape Elimination Act of 2003 [Pub. L. 108-79];
 - e. Procedures for employee grievances;
 - f. Both oral and written instructions regarding employee responsibility for preserving confidentiality;
 - g. Evaluation procedures that include a written evaluation following the probationary period for new staff and at least annually thereafter; and
 - h. A plan for review of the personnel policies and practices with staff participation at least once every three years, or more often if necessary.
2. A facility operator may not be, and a facility may not employ, in any capacity, that involves or permits contact between the employee and any child of the facility, any individual who has been found guilty of, pled guilty to, or pled no contest to:
 - a. An offense described in North Dakota Century Code chapters 12.1-16, homicide; 12.1-17, assaults - threats - coercion; or 12.1-18, kidnapping; North Dakota Century Code sections

12.1-20-03, gross sexual imposition; 12.1-20-04, sexual imposition; 12.1-20-05, corruption or solicitation of minors; 12.1-20-06, sexual abuse of wards; 12.1-20-07, sexual assault; 12.1-22-01, robbery; or 12.1-22-02, burglary, if a class B felony under subdivision b of subsection 2 of that section; North Dakota Century Code chapter 12.1-27.2, sexual performances by children; or North Dakota Century Code sections 12.1-29-01, promoting - prostitution; 12.1-29-02, facilitating prostitution; or 12.1-31-05, child procurement; or an offense under the laws of another jurisdiction which requires proof of substantially similar elements as required for conviction under any of the enumerated North Dakota statutes; or

- b. An offense, other than an offense identified in subdivision a, if the department, in the case of the facility operator, or the facility, in the case of an employee, determines that the individual has not been sufficiently rehabilitated.
3. A facility shall establish written policies, and engage in practices that conform to those policies, to effectively implement subsection 2.
4. For purposes of subdivision b of subsection 2, an offender's completion of a period of five years after final discharge or release from any term of probation, parole, or other form of community correction, or imprisonment, without subsequent conviction, is prima facie evidence of sufficient rehabilitation.
5. The department has determined that the offenses enumerated in subdivision a of subsection 2 have a direct bearing on the individual's ability to serve the public as a facility operator or employee.
6. Interns, volunteers, and student placement workers are subject to the provisions of this section.
7. A prospective employee shall consent to and have completed background checks in criminal conviction records and child abuse or neglect records prior to direct care and contact with children residing in the facility.
8. When a position involves transporting children by motor vehicle, the prospective employee must authorize release of a complete motor vehicle operator's license background report.
9. If a prospective employee has previously been employed by one or more group homes, residential child care facilities, or facilities, the facility shall request a reference from all previous group home, residential child care facility, and facility employers regarding the existence of any determination or incident of reported child abuse or neglect in which the prospective employee is the perpetrator subject.

10. The department may perform a background check for reported suspected child abuse or neglect each year on each facility employee.
11. A facility shall maintain an individual personnel file on each employee. The personnel file must include:
 - a. The application for employment, including a record of previous employment, and the applicant's answer to the question, "Have you been convicted of a crime?";
 - b. Annual performance evaluations;
 - c. Annual staff development and training records, including first-aid training, cardiopulmonary resuscitation training, universal infection control precautions training, and therapeutic crisis intervention or crisis prevention intervention training records. "Record" means documentation, including with respect to development or training presentations the:
 - (1) Name of presenter;
 - (2) Date of presentation;
 - (3) Length of presentation; and
 - (4) Topic of presentation;
 - d. Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records;
 - e. Any other evaluation or background check deemed necessary by the administrator of the facility;
 - f. Documentation of the existence of any license or qualification for position or the tasks assigned to the employee; and
 - g. All direct care staff not currently under orientation status must have satisfactorily completed first aid, therapeutic crisis intervention or crisis prevention intervention, universal infection control precautions, and cardiopulmonary resuscitation and have on file at the facility a certificate of completion.
12. A facility shall maintain an individual personnel file on each volunteer, student, and intern. The personnel file must include:
 - a. Personal identification information; and

- b. Results of background checks for criminal conviction records, motor vehicle violations, and child abuse or neglect records.
13. The facility shall adopt a policy regarding the retention of personnel records.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-16.1. Child abuse and neglect reporting.

1. All facility employees, interns, volunteers, and student placement workers shall certify having read the law requiring the reporting of suspected child abuse or neglect, North Dakota Century Code chapter 50-25.1, and having read and received a copy of the facility's written child abuse and neglect reporting procedures.
2. The facility shall adopt written procedures requiring an employee to report cases of suspected child abuse and neglect. The procedures must include the following statements:

All employers shall comply with North Dakota Century Code chapter 50-25.1, child abuse and neglect. It is the policy of this facility that an employee who knows or reasonably suspects that a child in residence has been, or appears to have been, harmed in health or welfare as a result of abuse, neglect, or sexual molestation shall immediately report this information to the regional human service center in the region in which the facility is located.

Failure to report this information in the prescribed manner constitutes grounds for dismissal from employment and referral of the employee to the office of the state's attorney for investigation of possible criminal violation.

3. The facility's procedure must address:
 - a. To whom a report is made;
 - b. When a report must be made;
 - c. The contents of the report;
 - d. The responsibility of each individual in the reporting chain;
 - e. The status of an employee who is the alleged perpetrator subject of a report pending assessment, administrative proceeding, or criminal proceeding;

- f. The discipline of an employee who is the perpetrator subject of a decision that services are required or a determination that institutional child abuse or neglect is indicated, up to and including termination; and
 - g. The status and discipline of an employee who fails to report suspected child abuse or neglect.
4. The facility shall cooperate fully with the department throughout the course of an investigation of an allegation of child abuse or neglect concerning care furnished to a child. The facility shall, at a minimum, provide the investigators or reviewers with all documents and records available to the facility and reasonably relevant to the investigation, and shall permit confidential interviews with both staff and children.

History: Effective September 1, 1998; amended effective April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-17. Facility staff.

1. The facility's staff shall include:
 - a. An executive director who has a bachelor's degree in a behavioral science, or a bachelor's degree in any field and two years of experience in administration;
 - b. A program director who has a master's degree in social work, psychology, or in a related field with two years of professional experience in the treatment of children suffering from mental illnesses or emotional disturbances;
 - c. Facility care staff who are at least twenty-one years of age and have sufficient training and demonstrated skills experience to perform assigned duties;
 - d. The clinical services of a psychologist, psychiatrist, alcohol and drug addiction counselor, nurse, and physician, which may be obtained on a consultation basis; and
 - e. Educators, where onsite education is provided.
2. Volunteer services may be used to augment and assist other staff in carrying out program or treatment plans. Volunteers shall receive

orientation training regarding the program, staff, and children of the facility, and the functions to be performed.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-18. Safety, buildings, and grounds.

1. **Compliance with fire, sanitation, and zoning standards.** An applicant shall demonstrate compliance with applicable state or local fire, sanitation, and zoning standards. The premises to be used must be in fit, safe, and sanitary condition and properly equipped to provide good care and treatment.
 - a. **Fire.** For fire safety, the facility shall meet the applicable life safety standards established by the city. If the city has not established life safety standards, the facility shall comply with chapter 21 of the Life Safety Code of the national fire protection association, 1985 edition, and amendments thereto.
 - (1) Compliance is shown by submitting the written report of an authorized fire inspector, following an initial or subsequent inspection of a building which states the:
 - (a) Rated occupancy and approval of the building for occupancy; or
 - (b) Existing hazards, and recommendations for correction which, if followed, would result in approval of the building for occupancy.
 - (2) All electrical and heating equipment must be approved by underwriters laboratories, incorporated, or another nationally recognized testing laboratory.
 - b. **Sanitation.** Compliance with sanitation standards is shown by submitting a statement prepared by a licensed environmental health professional or authorized public health officer, following an initial or subsequent annual inspection, that the building's plumbing, sewer disposal, water supply, milk supply, and food storage and handling comply with the applicable rules of the state department of health.
 - c. **Zoning.** Compliance with zoning requirements is shown by submitting a statement prepared by the appropriate county or municipal official having jurisdiction that the premises are in compliance with local zoning laws and ordinances.

2. **Safety.** Safety requirements of a facility must include:
 - a. Prohibition of smoking on the premises;
 - b. Procedures for water safety where swimming facilities are on the grounds;
 - c. A copy of the Red Cross manual on first-aid measures, or a book of its equivalent, and first-aid supplies;
 - d. Prohibiting a child's possession and use of any firearms while at the facility;
 - e. Advising children of emergency and evacuation procedures upon admission and thereafter every two months;
 - f. Training in properly reporting a fire, in extinguishing a fire, and in evacuation from the building in case of fire. Fire drills must be held monthly. Fire extinguishers must be provided and maintained throughout each building in accordance with standards of the state fire marshal; and
 - g. Telephones with emergency numbers posted by each telephone in all buildings that house children.

3. **Buildings and grounds.** The facility must have sufficient outdoor recreational space, and the facility's buildings must meet the following standards:
 - a. Bedrooms. Each child must have eighty square feet [7.43 square meters] in a single sleeping room, and sixty square feet [5.57 square meters] per individual in a multiple occupancy sleeping room; the child's own bed, and bed covering in good condition; and a private area to store the child's personal belongings. A facility may not permit more than two children in each sleeping room; children to sleep in basements or attics; nonambulatory children to sleep above the first floor; and a child to share a bedroom with a child of the opposite sex.
 - b. Bathrooms. The facility's bathroom facilities must have an adequate supply of hot and cold water; be maintained in a sanitary condition; have separate toilet and bath facilities for male and female children, and employees; and have one bathroom that contains a toilet, washbasin, and tub or shower with hot and cold water for every four children.

- c. Dining and living rooms must have suitably equipped furnishings designed for use by children within the age range of children served by the facility.
- d. The facility shall provide sufficient space for indoor quiet play and active group play.
- e. Adequate heating, lighting, and ventilation must be provided.
- f. Staff quarters must be separate from those of children, although near enough to assure proper supervision of children.
- g. A facility shall provide a quiet area for studying.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-07

75-03-17-19. Interstate compact on the placement of children.

- 1. The facility shall comply with the interstate compact on the placement of children and the interstate compact for juveniles.
- 2. All placements from any state which has not adopted the interstate compact on the placement of children or the interstate compact on juveniles must comply with all North Dakota laws and rules prior to the arrival of a child at a facility.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-03, 25-03.2-06

75-03-17-20. Rights and obligations of the applicant.

- 1. **Right to apply for license.** An applicant has the right to apply to receive a license to operate a facility under this chapter.
- 2. **Entry and inspection.** The applicant shall allow authorized representatives of the department to enter any of the applicant's buildings or facilities in order to determine the extent to which the applicant is in compliance with the rules of the department, to verify information submitted with an application for licensure or license renewal, and to investigate complaints. Inspections must be scheduled for the mutual convenience of the department and the facility unless the effectiveness of the inspection would be substantially diminished by prearrangement.

3. **Access to records.** The applicant shall allow duly authorized representatives of the department to inspect the records of the applicant, to facilitate verification of the information submitted with an application for licensure, and to determine the extent to which the applicant is in compliance with the rules of the department.
4. **Denial of access to facilities and records.** Any applicant or licensee which denies access, by the authorized representative of the department, to a facility or records for the purpose of determining the applicant's or licensee's state of compliance with the rules of the department shall have its license revoked or application denied.
5. **License refusal or revocation.** Failure to comply with any of the standards of this chapter or other state law or regulation is cause for refusal or revocation of a license. Conviction of an offense by an owner or operator of a facility does not disqualify the facility from licensure unless the department determines that the offense has a direct bearing upon a person's ability to serve the public as an owner or operator of a psychiatric residential treatment facility for children or that, following conviction of any offense, the person is not sufficiently rehabilitated under North Dakota Century Code section 12.1-33-02.1.
6. **Appeal.** An applicant may appeal a license denial in accordance with North Dakota Century Code chapter 28-32 and North Dakota Administrative Code chapter 75-01-03.
7. **Deemed status.** The department recognizes "deemed status" for those providers who are accredited by nationally recognized bodies who review and certify providers of psychiatric residential treatment services for children. When applying for licensure or licensure renewal, proof of accreditation or "deemed status" in the form of the accreditation agency's most recent review and certification must be submitted to the department. "Deemed status" means status conferred on a program accredited by a national accreditation body based on standards that exceed the standards set forth in these licensure rules.

History: Effective December 1, 1989; amended effective September 1, 1998; April 1, 2008.

General Authority: NDCC 25-03.2-10

Law Implemented: NDCC 25-03.2-02, 25-03.2-03, 25-03.2-07, 25-03.2-08, 25-03.2-09