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**Prepared by the Legislative Council staff
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STATE DEPARTMENT OF HEALTH

OCTOBER 2015

CHAPTER 33-03-24.1

33-03-24.1-23. Optional end-of-life care service. A facility that intends to retain residents who require end-of-life care must comply with the requirements of this section, apply on an application as specified by the department, and receive written approval from the department prior to providing the services. The facility must meet the following requirements:

1. A facility may not retain residents who require more than intermittent nursing care unless the resident requires and elects to receive end-of-life care from a licensed and Medicare-certified hospice agency and the facility is licensed to provide end-of-life care.
2. A facility providing end-of-life care must employ or contract with a registered nurse to supervise resident care to meet the needs of the residents at all times, either directly or indirectly. The facility must employ a licensed nurse who is on the premises at least forty hours per week to identify and respond to resident needs, care plan accordingly, provide oversight related to care, and review and document the resident's individual needs and care provided.
3. Individuals in need of end-of-life care who require skilled nursing care or are not capable of self-preservation may not be admitted.
4. The facility and the licensed and Medicare-certified hospice agency shall enter into an agreement that delineates responsibilities, with the licensed and Medicare-certified hospice agency retaining the professional management responsibility for the hospice service.
5. The facility and licensed and Medicare-certified hospice agency in consultation with the resident shall develop and implement an interdisciplinary care plan that identifies how the resident's needs are met and includes the following:
 - a. What services are to be provided;

- b. Who will provide the services, the facility or hospice agency;
 - c. How the services will be provided;
 - d. Delineation of the roles of facility staff and the hospice agency in the care plan process;
 - e. Documentation of the care and services that are provided with the signature of the person who provided the care and services; and
 - f. A list of the current medications or biologicals the resident receives and who is authorized to administer the medications.
6. The facility shall notify the department within forty-eight hours of election the name of the resident that has elected hospice, the date the hospice was elected, and the name of the hospice agency serving the resident.
7. The facility shall notify the department within forty-eight hours of the hospice resident's discharge, transfer, death, or when the resident is no longer capable of self-preservation.
8. A facility that retains a resident requiring end-of-life care that is not capable of self-preservation shall be equipped with an approved automatic sprinkler system designed to comply with the national fire protection association standard 13 or 13R, or shall meet the national fire protection association 101 Life Safety Code, 2012 edition, health care occupancy requirements.
9. Facility evacuation or E scores shall be completed at a minimum of weekly and when there is a significant change in the resident's capability for self evacuation when a resident is receiving end-of-life care. Facility staffing must be adjusted consistent with the E scores to maintain a slow evacuation capability. Hospice staff, family members, volunteers, or other nonfacility staff cannot replace required facility staff.
10. A facility approved to provide end-of-life care shall ensure training and competency evaluation is completed for all nursing and personal care staff members specific to the care and services necessary to meet the needs of the terminally ill resident, and the hospice philosophy and services. The training and competency evaluation may be completed, and documented, by the facility registered nurse, a registered nurse consultant, or a hospice agency nurse. Nursing and personal care staff members shall complete the above training and competency evaluation:
- a. Prior to facility approval from the department to provide end-of-life care;
 - b. Within thirty days of employment; and

c. Annually.

11. A facility that intends to retain residents who require end-of-life care shall comply with the additional requirements in this section and request and receive approval on a printed new license from the department, prior to providing end-of-life care to residents.
12. The facility approved and licensed to retain residents in need of end-of-life care remains responsible for the appropriate delivery of end-of-life care in coordination with the licensed and Medicare-certified hospice agency. If the facility is unable, or becomes unable, to meet the needs of the resident requiring end-of-life care, the resident rescinds election of the hospice benefit, or the facility is unable to comply with these requirements, the facility shall promptly make arrangements to discharge or transfer the resident to a safe and appropriate placement consistent with the level of care required to meet the resident's needs.

History: Effective July 1, 2015.

General Authority: NDCC 23-09.3-09, 28-32-02

Law Implemented: NDCC 23-09.3-04, 23-09.3-09

TITLE 45
INSURANCE COMMISSIONER

OCTOBER 2015

**CHAPTER 45-04-08
ANNUITY TABLES**

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45-04-08-01. Definitions. As used in this chapter:

1. "1983 GAM Table" means that mortality table developed by the society of actuaries committee on annuities and adopted as a recognized mortality table for annuities in December 1983 by the national association of insurance commissioners.
2. "1983 Table 'a'" means that mortality table developed by the society of actuaries committee to recommend a new mortality basis for individual annuity valuation and adopted as a recognized mortality table for annuities in June 1982 by the national association of insurance commissioners.
3. "1994 GAR Table" means that mortality table developed by the society of actuaries group annuity valuation table task force and shown at XLVII transactions of the society of actuaries 866-867 (1995).
4. "2012 IAR Table" means that generational mortality table developed by the society of actuaries committee on life insurance research and containing rates, q_x^{2012+n} , derived from a combination of the 2012 IAM Period Table and Projection Scale G2.
5. "2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table" or "2012 IAM Period Table" means the period table containing loaded

mortality rates for calendar year 2012. This table contains rates, G_x^{2012} , developed by the society of actuaries committee on life insurance.

4. 6. "Annuity 2000 Mortality Table" means that mortality table developed by the society of actuaries committee on life insurance research and shown at XLVII transactions of the society of actuaries 240 (1995).
7. "Projection Scale G2 (Scale G2)" is a table of annual rates, G_x^A , of which mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the society of actuaries committee on life insurance research.

History: Effective January 1, 1985; amended effective September 1, 1999; October 1, 2015.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-35

45-04-08-02. Individual annuity or pure endowment contracts.

1. Except as provided in subsections 2 and 3, 1983 Table "a" is recognized and approved as an individual mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1983.
 2. Except as provided in subsection 3, 1983 Table "a" is to be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986.
 3. Except as provided in subsection 4, the Annuity 2000 Mortality Table must be used for determining the minimum standard of valuation of any individual annuity or pure endowment contract issued on or after September 1, 1999.
 4. Except as provided in subsection 5, the 2012 IAR Table must be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2016.
4. 5. The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after September 1, 1999, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:
- a. Settlements of various forms of claims pertaining to court settlements or out-of-court settlements from tort actions;
 - b. Settlements involving similar actions such as workers' compensation claims; or

- c. Settlements of long-term disability claims when a temporary or life annuity has been used in lieu of continuing disability payments.

History: Effective January 1, 1985; amended effective September 1, 1999; October 1, 2015.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-35

45-04-08-02.1. Application of the 2012 IAR Mortality Table. In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows:

$$q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$$

The resulting q_x^{2012+n} shall be rounded to three decimal places per 1,000 (e.g., 0.741 deaths per 1,000). Also, the rounding shall occur according to the formula above, starting at the 2012 Period Table rate.

For example, for a male age 30, $q_x^{2012} = 0.741$.

$$q_x^{2013} = 0.741 * (1 - 0.010) ^ 1 = 0.73358, \text{ which is rounded to } 0.734.$$

$$q_x^{2014} = 0.741 * (1 - 0.010) ^ 2 = 0.7262541, \text{ which is rounded to } 0.726.$$

A method leading to incorrect rounding would be to calculate q_x^{2014} as $q_x^{2013} * (1 - 0.010)$, or $0.734 * 0.99 = 0.727$. It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014} .

History: Effective October 1, 2015.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 26.1-35

TITLE 70
REAL ESTATE COMMISSION

OCTOBER 2015

CHAPTER 70-02-01

70-02-01-04. Renewal of license. All licenses expire on December thirty-first of each year. Persons desiring to continue in business must make proper application for renewal on or before ~~January first~~ November fifteenth of each year in order for the respective license to be renewed on a timely basis for the following license period. Failing to do this subjects such persons to loss of the right to charge a commission and also prosecution for doing business without a license after December thirty-first. Any person whose license has been canceled for failure to renew the person's license when due must comply with all the requirements of a new applicant to regain a license.

History: Amended effective October 1, 2015.

General Authority: NDCC 43-23-11.1(3)

Law Implemented: NDCC 43-23-13(4)

70-02-01-06. Nonresident brokers and salespersons.

1. Any person who becomes an applicant for a nonresident license shall become subject to the same rules required of an applicant whose residence is in North Dakota. A designated broker shall obtain a nonresident license before an associate broker or salesperson licensed under the designated broker can be issued a nonresident license.
2. An applicant for nonresident broker's or salesperson's license shall hold a currently valid broker's or salesperson's license in the state of the applicant's domicile and that state shall certify that the applicant is in good standing and no complaints are pending.
3. A nonresident broker must maintain an active place of business as a real estate broker in the state of the broker's residence. The nonresident broker shall furnish proof of maintaining an active place of business by submitting information deemed necessary by the commission. A North Dakota firm license shall be obtained if the company is a partnership, corporation, limited liability company, or association.

4. North Dakota will not recognize the licensee from another state for a reciprocal license unless an agreement granting reciprocal privileges to North Dakota licensees has been made by the commission with the proper regulatory authorities of that state. The agreement shall set out the terms and the regulations to be followed.
5. An applicant currently licensed in a nonreciprocal state who has successfully passed the real estate licensing examination given in another state need only take the state portion of the examination in North Dakota.

History: Amended effective May 1, 1986; January 1, 1992; April 1, 2008; October 1, 2015.

General Authority: NDCC 28-32-02, 43-23-08(6)

Law Implemented: NDCC 43-23-10

70-02-01-15. Trust account requirements - Handling of funds - Records.

1. All moneys belonging to others and accepted by the broker while acting in the capacity as a broker shall be deposited in an authorized financial institution in this state in an account separate from money belonging to the broker. Clients' funds shall be retained in the depository until the transaction involved is consummated or terminated, at which time the broker shall account for the full amounts received.
 - a. Definitions. The term "authorized financial institution" means a bank, savings bank, trust company, savings and loan association, savings association, credit union, or federally regulated investment company authorized by federal or state law to do business in this state and insured by the federal deposit insurance corporation, the national credit union share insurance fund, or the federal savings and loan insurance corporation.
 - b. Name of account. The name of such separate account shall be identified by the words "trust account" or "escrow account".
 - c. Notification. Each broker shall notify the commission of the name of the institution in which the trust account or accounts are maintained and also the name of the accounts on forms provided therefore. A trust account card shall be filed with the commission by each new applicant for a real estate broker's license. A new form shall be filed with the commission each time a broker changes the real estate trust account in any manner whatsoever including, but not limited to, change of depository, change of account number, change of business name, or change of method of doing business. The form shall be filed with the commission within ten days after the aforementioned change takes place.

- d. Authorization. Each broker shall authorize the commission to examine and audit the trust account and shall complete an authorization form attesting to the trust account and consenting to the examination and audit of the account by a duly authorized representative of the commission.
 - e. Commingling prohibited. Each broker shall only deposit trust funds received on real estate transactions in the broker's trust account and shall not commingle the broker's personal funds or other funds in the trust account with the exception that a broker may deposit and keep a sum not to exceed five hundred dollars in the account from the broker's personal funds which sum shall be specifically identified and deposited to cover service charges relating to the trust account.
 - f. Number of accounts. A broker may maintain more than one trust account provided the commission is advised of the account.
 - g. Time of deposit. Each broker shall deposit all real estate trust money received by the broker or the broker's salesperson in the trust account within twenty-four hours of receipt of the money by the broker or the salesperson unless otherwise provided in the purchase contract. In the event the trust money is received on a day prior to a holiday or other day the depository is closed, the money shall then be deposited on the next business day of the depository.
 - h. Responsibility. When a broker is registered in the office of the real estate commission as in the employ of another broker, the responsibility for the maintenance of a separate account shall be the responsibility of the employing broker.
 - i. Interest-bearing accounts. All trust accounts must be interest-bearing and the interest earned must be disbursed only as provided by law, unless all persons having an interest in the funds have otherwise agreed in writing and a copy of the agreement is maintained by the broker for inspection by the commission.
2. Brokers are responsible at all times for deposits and earnest money accepted by them or their salespersons.
- a. Personal payments. No payments of personal indebtedness of the broker shall be made from the separate account other than a withdrawal of earned commissions payable to the broker or withdrawals made on behalf of the beneficiaries of the separate account.
 - b. Withdrawals. Money held in the separate account which is due and payable to the broker should be withdrawn promptly.

- c. Earnest money. A broker shall not be entitled to any part of the earnest money or other moneys paid to the broker in connection with any real estate transaction as part or all of the broker's commission or fee until the transaction has been consummated or terminated. The earnest money contract shall include a separate written provision, approved by all parties including the broker, for any division of moneys taken in earnest, when the transaction is not consummated and such moneys are retained as forfeiture payment.
 - d. Abandoned deposits. Any deposits in a broker's trust account that remain unclaimed for three years and are deemed abandoned by North Dakota Century Code chapter 47-30.1 shall be reported and delivered by the broker to the administrator of the state abandoned property office as required by North Dakota Century Code chapter 47-30.1.
3. A broker shall maintain in the broker's office a complete record of all moneys received or escrowed on real estate transactions, in the following manner:
- a. Bank deposit slips. A bank deposit slip showing the date of deposit, amount, source of the money, and where deposited.
 - b. Bank statements. Monthly bank statements are to be retained and kept on file.
 - c. Trust account checks. Trust account checks should be numbered and all voided checks retained. The checks should denote the broker's business name, address, and should be designated as "real estate trust account".
 - d. Journal. A permanently bound record book called a journal which shows the chronological sequence in which funds are received and disbursed:
 - (1) For funds received, the journal must include the date, the name of the party who is giving the money, the name of the principal, and the amount.
 - (2) For disbursements, the journal must include the date, the payee, and the amount.
 - (3) For interest earned and withdrawn, the journal must include the amount, the date earned or withdrawn, and the payee.
 - (4) A running balance must be shown after each entry (receipt or disbursement).

- e. Ledger. This record book will show the receipt and the disbursements as they affect a single, particular transaction as between buyer and seller, etc. The ledger must include the names of both parties to a transaction, the dates, and the amounts received. When disbursing funds, the date, payee, and amount must be shown.
- f. Reconciliation. The trust account must be reconciled monthly except in the case where there had been no activity during that month.
- g. Maintain records. Every broker shall keep permanent records of all funds and property of others received by the broker for not less than six years from the date of receipt of any such funds or property.

History: Amended effective August 1, 1981; January 1, 1992; April 1, 1992; December 1, 1999; July 1, 2010; October 1, 2015.

General Authority: NDCC 43-23-14.1, 43-23.4-06(2)

Law Implemented: NDCC 43-23-11.1(1)

CHAPTER 70-02-02

70-02-02-10. Classroom hour. A classroom hour in a course shall be defined as fifty minutes of lecture in classroom attendance or the equivalent materials through correspondence in a school approved by the department of public instruction. No more than eight hours of instruction can be taken in one day.

History: Amended effective October 1, 2015.

General Authority: NDCC 43-23-08

Law Implemented: NDCC 43-23-08

CHAPTER 70-02-03

70-02-03-03. Commission split - Out of state. A licensed broker in this state may divide or share a real estate commission with a licensed broker in another state, ~~where~~ if the latter broker does not carry on any of the negotiations in this state, ~~and where similar privileges are extended by the other state to licensed brokers in this state~~ either by physically entering the state or by communicating with the broker electronically or through other media.

History: Amended effective October 1, 2015.

General Authority: NDCC 43-23-11.1(1)

Law Implemented: NDCC 43-23-11.1(1)

CHAPTER 70-02-04

70-02-04-02. Hours required. To qualify for the renewal of a real estate license, each broker or salesperson must complete nine hours of continuing education in approved courses every continuing education period. The continuing education period is ~~one calendar year~~ twelve months preceding the renewal application deadline date. The commission may require that a portion or all of the continuing education hours must be in one or more specific areas. Such areas may include the following:

1. Fair housing and antitrust.
2. Environmental issues.
3. License law and ethics.
4. Agency law and principles.
5. Contracts.

History: Effective August 1, 1981; amended effective January 1, 1992; October 1, 1993; December 1, 1999; July 1, 2010; October 1, 2015.

General Authority: NDCC 28-32-02, 43-23-08(6)

Law Implemented: NDCC 43-23-08.2

70-02-04-14. Maximum hours of accreditation per day. The commission will allow a maximum of eight hours of accreditation per day for prelicensing, postlicensing, and continuing education.

History: Effective August 1, 1981; amended effective October 1, 2015.

General Authority: NDCC 43-23-08.2

Law Implemented: NDCC 43-23-08.2