

CHAPTER 75-03-34
LICENSING OF ASSISTED LIVING FACILITIES

Section

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75-03-34-01. Definitions.

1. "Assisted living facility" means a building or structure containing a series of at least five living units operated as one entity to provide services for five or more individuals who are not related by blood, marriage, or guardianship to the owner or manager of the entity and which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible. An assisted living facility does not include a facility that is a congregate housing facility, licensed as a basic care facility, or licensed under North Dakota Century Code chapter 23-16 or 25-16 or section 50-11-01.4.
2. "Department" means the North Dakota department of human services.
3. "Entity" means an individual, institution, organization, limited liability company, or corporation, whether or not organized for profit.
4. "Individualized support services" means services provided to individuals who may require assistance with the activities of daily living of bathing, dressing, toileting, transferring, eating, medication management, and personal hygiene.
5. "Living unit" means a portion of an assisted living facility that contains a sleeping area, an entry door that can be locked, and a private bath with a toilet, bathtub or shower, and sink and which is occupied as the living quarters of an individual who has entered into a lease agreement with the assisted living facility.
6. "Medication management" means providing assistance to an assisted living facility tenant with prescribed medications.
7. "Related by blood or marriage to the owner or manager" means an individual who is a spouse or former spouse of the owner or manager or is a parent, stepparent, grandparent, stepgrandparent, child, stepchild, grandchild, stepgrandchild, brother, sister, half-brother, half-sister, stepbrother, or stepsister of the owner or manager or the owner or manager's spouse or former spouse.

History: Effective January 1, 2002; amended effective March 1, 2004; July 1, 2006.

General Authority: NDCC 50-32-03

Law Implemented: NDCC 50-32-01

75-03-34-02. Licensing.

1. An assisted living facility shall apply to the department for a license in the form and manner prescribed by the department. The department shall notify a licensed assisted living facility of the need to renew its license at least thirty days prior to expiration of that license. The notice must include the form required to renew a license.
2. An application for a license is not complete until the applying assisted living facility submits all required information and verification to the department.

3. The department shall approve or deny an application for a license within thirty days of the department's receipt of complete application materials from an assisted living facility.
4. In order to receive and maintain a license, an assisted living facility shall:
 - a. Pay a licensing fee of seventy-five dollars to the department annually. The licensing fee shall not be prorated nor is any part refundable;
 - b. Maintain a written agreement with each tenant that includes the rates for rent and services provided to the tenant, payment terms, refund policies, rate changes, tenancy criteria, and living unit inspections;
 - c. Provide each tenant with written notice of how a tenant may report a complaint regarding the assisted living facility, which includes the telephone number of the department's senior info-line and the address of the aging services division of the department; and
 - d. Certify that operation of its facility is in compliance with all applicable federal, state, and local laws and, upon request, make available to the department copies of current certifications, licenses, permits, and other similar documents evidencing compliance with such laws.
5. A license is valid for the calendar year in which it is issued. A license is not subject to sale, assignment, or other transfer, voluntary or involuntary. A license is not valid for any premises or entity other than those for which it was originally issued.
6. An assisted living facility must submit to the department an application for license renewal thirty days prior to the calendar yearend. An assisted living facility is subject to the same requirements and has the same responsibility to furnish information for a renewal of its license as it did during its initial application.
7. An assisted living facility shall display its license in a conspicuous place on its premises.
8. No more than two people may occupy one bedroom of each living unit of an assisted living facility.

History: Effective January 1, 2002; amended effective March 1, 2004; July 1, 2006.

General Authority: NDCC 50-32-03

Law Implemented: NDCC 50-32-02

75-03-34-03. Revocation of license.

1. The department may deny or revoke an assisted living facility's license if:
 - a. The application for a license or renewal of a license or supporting documents contain fraudulent or untrue representations or if the license was otherwise issued based upon bribery or fraudulent or untrue representations;
 - b. The assisted living facility is in violation of this chapter or is unwilling or unable to conform to the requirements of this chapter;
 - c. The assisted living facility, or the premises proposed for the assisted living facility, is not or will not be maintained according to this chapter;
 - d. The assisted living facility is denied any license necessary under federal, state, or local law or such license has been revoked;
 - e. The assisted living facility refuses to allow the department access to any material or information necessary to determine compliance with licensing requirements; or

- f. The assisted living facility demonstrates a pattern of failing to abide by the terms of its contract with tenants.
2. Except when conditions exist that present imminent danger to assisted living facility tenants, the effective date of a revocation of a license shall be thirty days from the date the department provides written notification to the assisted living facility of the department's decision to revoke the license.
3. The revocation notice to the assisted living facility must include the basis of the department's decision, the effective date of the revocation, and information regarding the assisted living facility's right to request reconsideration by the department.
4. The assisted living facility must notify all tenants and third-party payers of the department's revocation of its license within fifteen days from the date of the final revocation notice.

History: Effective January 1, 2002; amended effective March 1, 2004.

General Authority: NDCC 50-32-03

Law Implemented: NDCC 50-32-02

75-03-34-04. Complaints.

1. The department shall receive complaints made by, or on behalf of, assisted living facility tenants. The department shall forward complaints regarding assisted living facilities to the appropriate agency, entity, or program for investigation.
2. The department shall request the agency to which complaints are referred to report its findings and disposition of the complaint to the department.

History: Effective January 1, 2002.

General Authority: NDCC 50-32-03

Law Implemented: NDCC 50-32-02

75-03-34-05. Enforcement.

1. The department shall provide written notice of the need for a license to any individual, institution, organization, limited liability company, or public or private corporation that provides assisted living services or uses the term assisted living in its marketing which does not have a license issued by the department.
2. Sixty days after the written notification of noncompliance with annual licensing, the department may assess a fine of up to fifty dollars per day against any individual, institution, organization, limited liability company, or public or private corporation that provides assisted living services or uses the term assisted living in its marketing without a license issued by the department.

History: Effective January 1, 2002; amended effective March 1, 2004.

General Authority: NDCC 50-32-03

Law Implemented: NDCC 50-32-02