

**ARTICLE 33-XX  
COMMUNITY HEALTH WORKER**

Chapter  
33-XX-01 Community Health Worker

**CHAPTER 33-XX-01  
COMMUNITY HEALTH WORKER**

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**33-XX-01-01. Definitions.**

1. "Abuse" includes mental, physical, sexual, and verbal abuse. "Mental abuse" includes humiliation, harassment, threats of punishment, or deprivation. "Physical abuse" includes hitting, slapping, pinching, kicking, and controlling behavior through corporal punishment. "Sexual abuse" includes sexual harassment, sexual coercion, sexual contact, or sexual assault. "Verbal abuse" includes any use of oral, written, or gestured language that includes disparaging and derogatory terms to clients or their families, or within their hearing distance, to describe clients, regardless of their age, ability to comprehend, or disability.
2. "Certified community health worker" means an individual who has successfully completed the requirements for a department-approved certified community health worker training program, or a department-approved certified community health worker experience pathway.
3. "Competence" means the application and integration of knowledge, skills, ability, and judgment necessary to meet standards.
4. "Deny" means the department's refusal to issue ~~or renew a current~~ certification ~~or recertification~~.
5. "Department" means the state department of health and human services.
- ~~6. "Encumber" means to place on probation.~~

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~~7. "Letter of concern" means a statement of the department's concerns regarding the conduct of a certified individual"~~

~~8-6. "Community health worker training program" means a program to train community health workers offered by a public or private organization that has been approved by the department.~~

~~9. "Other misconduct" means a conviction of a crime or proof of behavior which has a direct bearing on the individual's ability to care for others or is a threat to the health and safety of patients or clients.~~

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~~7. "Preventative services" means services to prevent a disease, disability, or other health condition or the progression of a disease, disability, or other health condition which are provided to an individual:~~

~~a. With a chronic condition;~~

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~~b. At risk for a chronic condition who is unable to self-manage the chronic condition; or~~

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~~c. With a documented barrier that affects the individual's health.~~

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~~10-8. "Revoke" means the withdrawal by the department of the community health worker certification of an individual for a specified period of time of no less than one year. If no specified period of time is identified by the department, revocation is permanent.~~

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~~14-9. "Supervision" means maintaining accountability to determine whether services provided by a community health worker are adequate and delivered appropriately.~~

~~12-10. "Suspend" means the temporary withholding or withdrawing by the department of the certification of a community health worker for a specified or indefinite period of time not to exceed one year.~~

History: Effective ~~Effective ??~~.

General Authority: NDCC 43-66-XX

Law Implemented: NDCC 43-66-XX

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**33-XX-01-02. Scope of Practice.**

1. A community health worker is a frontline public health worker who ~~serves as a liaison, link, or intermediary between health and social service and the community. Community health workers facilitate access to services and improve the quality and cultural competence of service delivery. Community health workers also build individual and community capacity by increasing health knowledge and self-sufficiency through a range of activities such as outreach, community education, informal counseling, social support, and advocacy is certified by the department to provide preventative services.~~

2. Community health workers ~~services do not may not perform include any services~~ which require licensure or training outside what is required for community health worker certification.

History: Effective ??.

General Authority: NDCC 43-66-03

Law Implemented: NDCC 43-66-03

**33-XX-01-03 Community health worker competencies**

A community health worker or community health representative must have the following competencies:

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1. Roles, advocacy, and outreach
2. Organization and resources
3. Teaching and capacity building
4. Legal and ethical responsibilities
5. Coordination and documentation
6. Communication and cultural competency
7. Health promotion

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**33-XX-01-04 Responsibilities of training programs for screening of potential students.**

1. Community health worker training programs must screen potential students or individuals seeking entry into a training program. This screening should be completed prior to beginning the training program and should occur in sufficient advance of the training to minimize delays and allow for changes in career choices in a timely manner.
2. Those applicants with a history including conviction of a crime substantially related to the qualification, functions, or duties of a community health worker or a finding on a federal registry should be informed they might not be allowed to begin the training program without providing specific information relating to their background, criminal history, or impairment.
3. The training program is responsible to provide sufficient screening to identify those individuals that would be a risk to the populations served by the community health worker and to submit that information to the department for review prior to entering the individual into a program.

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History: Effective ??-  
General Authority: NDCC 43-66-03  
Law Implemented: NDCC 43-66-03

**33-XX-01-045. Community health worker training program requirements.**

1. An individual employed to provide services within the scope of practice of a community health worker must successfully complete a department approved community health worker training program consisting of a minimum of forty hours of instruction, including a minimum of two hours of instruction on legal and ethical responsibilities, and an internship of a minimum of two hundred hours. The internship may include supervised work or be exclusively supervised work.

b.a. Community health worker training programs must include the following components and the associated competencies identified in 33-XX-01-03:

- (1) Understanding the scope;
- (2) How to find local health systems and resources;
- (3) Coaching, reinforcing health education;

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- (4) Confidentiality, mandatory reporting, conflict of interest, and ethical practice;
- (5) Working with a care team and under a care plan, service documentation;
- (6) Motivational interviewing, active listening, trauma informed care, knowledge of cultural practices in the community; and
- (7) Health promotion and disease prevention.

~~e.b.~~ Instructors providing community health worker training must be department-approved and knowledgeable in course content, effective in teaching their assigned subject, and capable through academic preparation, training, and experience to teach topics to which they are assigned.

~~e.c.~~ Community health worker students may function within the scope of practice for community health worker while in class and during the internship while under direct supervision of an instructor or other appropriate individual.

**History:** ~~Effective~~ ~~Effective ??~~

**General Authority:** NDCC 43-66-03

**Law Implemented:** NDCC 43-66-03

**33-XX-01-056. Community health worker certification.**

An applicant for community health worker certification shall file an application on forms provided by the department showing to the department's satisfaction that the applicant has satisfied all the requirements of N.D.C.C. chapter 43-66 and these administrative rules, including:

1. Successful completion of one of the following:

- a. A department-approved community health worker training program; or
- b. Training by the Indian health service to provide community-based and medically-guided health care, which may include traditional native concepts; or
- c. The applicant had functioned within the scope of practice of a community health worker under supervision, where the supervised experience:

- 1) Equaled or exceeded one thousand hours;
- 2) Occurred within the last three years from the date of application; and
- 3) The individual providing supervision of the applicant provides a letter of recommendation that attests to the applicant's knowledge and abilities while functioning within the scope of practice of a community health worker; and

2. Successful completion of an internship of a minimum of two hundred hours. The internship may include supervised work or be exclusively supervised work;

3. The applicant must be eighteen years of age or older;

4. The applicant must have current or pending employment as a community health worker in North Dakota; and

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5. The applicant has submitted the required initial certification fee.

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6. The application must be accompanied by the documents, affidavits, and certificates necessary to establish that the applicant has satisfied the requirements of this section.

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1. Upon completion and department approval of a certification application, eligible applicants may be certified by the department.

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**33-XX-01-06. Community health worker certification by reciprocity.**

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An application for community health worker certification by reciprocity shall be considered by the department if the applicant has filed an application on forms provided by the department and the following requirements are met:

1. The applicant holds a current valid license or certification in good standing to practice as a community health worker or community health representative in another state or jurisdiction. Official written verification of licensure or certification status must be received by the department from the other state or jurisdiction;

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2. The licensure or certification requirements of the other state or jurisdiction are substantially similar at the time the application for reciprocal certification is submitted as in North Dakota; and

3. The applicant has submitted the required initial certification fee.

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History: Effective

General Authority: NDCC 43-66-03

Law Implemented: NDCC 43-66-03 Eligibility requirements:

- a. applicant is eighteen years of age or older; applicant has successfully completed a department approved community health worker training program; or
- b. applicant is recognized by a tribal community as a community health representative; or
- b. applicant has proof of meeting the requirements of another jurisdiction that are substantially similar to those of the department as determined by the department; or
- e. applicant had functioned within the scope of practice of a community health worker under supervision; and:
  - (0) the supervised experience equaled or exceeded one thousand hours;
  - (0) the supervised experience occurred within the last three years from the date of application; and
  - (0) an individual providing supervision of the applicant provides a letter of recommendation that attests to the applicant's knowledge and abilities while functioning within the scope of practice of a community health worker.
- 2. The applicant must be employed as a community health worker in North Dakota.
- 2. The applicant must pay a certification fee determined by the department.
- 2. Certification as a community health worker expires on December 31 of even numbered years.

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General Authority: NDCC 43-66-03

**Law Implemented:** NDCC 43-66-03

**33-XX-01-07. ~~Renewal of certification.~~**

1. Community health worker certifications expire on December 31 of even-numbered years.
- ~~4.2. Certifications may be renewed by December thirty-first of even-numbered years by filing a recertification application on forms provided by the Department and a recertification fee if the community health worker's certification is current and in good standing with the department or grounds for denial under section 33-XX-12 do not exist. Upon completion and department approval of a certification application, eligible applicants may be recertified by the department.~~
- ~~2.3. The applicant must be currently certified by the department as a community health worker with six or fewer months remaining on the certification.~~
4. The applicant must complete 12 hours of continuing education in topics related to the scope of practice of a community health worker, including two hours of legal and ethical responsibilities.
5. If the recertification application and recertification fee are not received by December thirty-first, the certification expires and the community health worker may not practice.
6. If an individual with an expired community health worker certification is identified as continuing to practice, the department will notify the individual and the individual's employer, if known, that the individual must immediately cease practicing until the recertification process is completed and the individual's certification status becomes current.
7. For thirty days after expiration, an expired license may be renewed by submitted the recertification fee.
- ~~3-8. If an expired license is not renewed within thirty days after expiration, an expired license may not be renewed and an applicant must apply for initial certification.~~
- ~~4. The applicant must be employed as a community health worker in North Dakota.~~
5. The applicant must pay a recertification fee determined by the department.
- ~~5. Certification as a community health worker expires on December 31 of even-numbered years.~~

**History:** Effective . Effective ??.

**General Authority:** NDCC 43-66-03

**Law Implemented:** NDCC 43-66-03

~~33-XX-01-08. Renewal of lapsed certification.~~

**33-XX-01-08. Denial of certification or recertification.**

1. The department may deny an application for the issuance of a certification or recertification made by an applicant:
  - a. Who failed to comply with certification or recertification statutes or rules;
  - b. Who has been convicted of a crime determined by the department to be substantially related to the qualifications, functions, or duties of a community health worker;

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- c. Who has knowingly provided false information to the board to obtain or attempt to obtain certification or recertification;
  - d. Who is currently under certification or license suspension or discipline in any jurisdiction for any type of professional licensure related to health care;
  - e. Who has previously had a community health worker certification revoked; or
  - f. Who has otherwise violated the laws or rules regarding community health workers.
2. If a certification application is denied by the department, an applicant may request a hearing pursuant to chapter 28-32, in writing, within thirty days of notification of the denial.

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**General Authority:** NDCC 43-66-03  
**Law Implemented:** NDCC 43-66-03

- 1. ~~Upon completion and department approval of a certification application, eligible applicants may be recertified by the department.~~
- 1. ~~The applicant must have been certified by the department as a community health worker within the previous five years.~~
- 1. ~~The applicant must complete 24 hours of continuing education in topics related to the scope of practice of a community health worker, including two hours of legal and ethical responsibilities.~~
- 1. ~~The applicant must be employed as a community health worker in North Dakota.~~
- 1. ~~The applicant must pay a recertification fee determined by the department.~~
- 1. ~~Certification as a community health worker expires on December 31 of even numbered years.~~

**History:** Effective ??  
**General Authority:** NDCC 43-66-03  
**Law Implemented:** NDCC 43-66-03

**33-XX-01-09. Registry information.**

- 1. The department is responsible for maintaining a registry of community health workers.
- 2. Information included on the registry must include, but is not limited to, name, address, social security number, birth date, certification date, expiration date, recertification date, certification number, and the place of employment. The social security number will not be included in registry information released to the public.
- 2. ~~The department shall include documentation of findings of abuse, neglect, misappropriation of client property, or other misconduct by the community health worker on the registry when validated by the department.~~

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**General Authority:** NDCC 43-66-03  
**Law Implemented:** NDCC 43-66-03

**33-XX-01-10. Disclosure of information.**

~~1. Information contained in the registry will be disclosable to any employer of community health workers, or other individuals requesting information.~~

~~2. Upon request, the department shall provide the requester with the following information:~~

~~— The individual's name and certification status.~~

~~a. Any documented validated findings of abuse, neglect, misappropriation, or other misconduct, including the nature of the allegation and summary of the evidence supporting the validated finding, the date and outcome of hearing if one occurred, and any statement by the individual disputing the allegation that led to the validated finding.~~

~~a. Any additional information that the department deems necessary.~~

~~2. All information contained on the registry regarding a community health worker will be provided to that individual upon written request to the department.~~

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~~History: Effective ??.~~

~~General Authority: NDCC 43-66-03.~~

~~Law Implemented: NDCC 43-66-03.~~

### ~~33-XX-01-11. Complaint investigations.~~

~~0. The department will investigate complaints involving community health workers.~~

~~0. The complaint investigation will be conducted according to the department's established complaint investigation policies and procedures.~~

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~~General Authority: NDCC 43-66-03.~~

~~Law Implemented: NDCC 43-66-03.~~

### ~~33-XX-01-102. Disciplinary actions.~~

~~1. The department may deny, suspend, revoke, or enumber take other such action as provided in this section regarding the certification of, or issue a letter of concern against, a community health worker who:~~

~~a. Has obtained or attempted to obtain certification as a community health worker by fraud, deceit, or intentional misrepresentation;~~

~~b. Has been convicted of a crime determined by the department to be substantially related to the qualifications, functions, or duties of a community health worker;~~

~~c. Has impersonated a licensed health care provider;~~

~~e.d. Has operated as a community health worker without a current certification from the department;~~

~~e. Has intentionally or negligently engaged in conduct that has been determined by the department to have resulted in a significant risk to the health or safety of a client or in injury to a client;~~

~~f. Used alcohol or drugs to such a degree as to interfere with the community health worker's ability to safely practice;~~

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- g. Has a physical or mental disability materially affecting the ability of the community health worker to perform the duties of the profession in a competent manner;
  - h. Violates this chapter or North Dakota Century Code chapter 43-66;
  - e.i. Has failed to cooperate with an investigation or disciplinary action by the Department;
  - e.j. Is incapable of working with reasonable skill, competence, and safety for the public; or
  - k. Has misappropriated the property of, abused, or neglected a client;
2. Any person may file a complaint against a community health worker with the department. The complaint must state the claims and it must be signed. The complaint may include supporting documentation.
  3. Upon receiving the complaint, the department shall serve a copy of the complaint and any supporting documentation on the community health worker in the manner prescribed by the North Dakota Rules of Civil Procedure.
  4. The community health worker has twenty days from the date the individual receives the complaint within which to file a response with the department. The response may include supporting documentation.
  5. If the community health worker files a timely response, the department shall consider the complaint, response, and any documentation submitted by the parties, and based on this information, the department may:
    - a. Dismiss the complaint as unfounded; or
    - b. (1) Determine there is a reasonable basis to believe the claims or charges are true and subject to action by the board under this chapter;
      - (2) File a formal complaint against the individual in accordance with chapter 28-32; and
      - (3) Schedule and hold a public hearing on the complaint in accordance with chapter 28-32.
2. ~~An individual denied certification will be notified of the individual's right to request a hearing regarding the department's decision to deny certification or revoke, suspend, or encumber the individual's certification within thirty days of the notification.~~
  6. If the department determines to initiate formal disciplinary action against the community health worker, the board shall prepare a complaint and serve the complaint, along with a notice of hearing, on the community health worker and thereafter proceed with the matter under chapter 28-32. If the matter is unable to be informally resolved and a hearing is held under chapter 28-32, all hearings must be held in Bismarck unless the department and the community health worker agree otherwise.
  - 4-7. If the employer continues to use the individual during the disciplinary action investigation process, the employer must take reasonable steps to prevent further harm to clients.

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~~3. If an individual on the department's community health worker registry is identified as functioning as a community health worker with an expired certification, the department will notify the individual and the individual's employer, if known, that the individual must immediately cease to work until the recertification process is completed and the individual's certification status becomes current. Should the individual continue functioning as a community health worker with an expired certification after notification by the department to cease to work, the individual's lapsed certification will no longer be recognized by the department and the department may deny the individual's recertification application or take other appropriate disciplinary action.~~

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~~**33-XX-01-13. Hearing process for individuals on the community health worker registry.**~~

- ~~1. Individuals who have been denied certification will be informed of the reasons why and provided an opportunity for a hearing consistent with this section.~~
- ~~2. Certified community health workers against whom allegations of abuse, neglect, misappropriation of client property, or other misconduct are made will be:
  - ~~a. Informed by the department of the allegations;~~
  - ~~b. Informed of the investigation results; and~~
  - ~~c. If the allegations are found valid, notified of their right to request a hearing regarding the department's decision to revoke, suspend, or encumber the individual's certification within thirty days of the notification.~~~~
- ~~3. If a hearing is not requested within thirty days of the notification, the department's finding will be final, and the department will submit information specific to validated allegations to the community health worker registry.~~
- ~~4. If a hearing is requested within thirty days of notification, the department will apply to the office of administrative hearings for appointment of an administrative law judge. The office of administrative hearings will notify the accused of the date set for the hearing.~~
- ~~5. The administrative law judge will conduct the hearing and prepare recommended findings of fact and conclusions of law, as well as a recommended order. If through the department's investigation process, there is evidence that abuse, neglect, misappropriation of client property, or other misconduct has occurred, the department will notify law enforcement officials and other officials as determined appropriate.~~
- ~~6. Within thirty days following the recommended order of the administrative law judge, the department will provide the individual with a copy of all information which will be maintained in the community health worker registry.~~

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**33-XX-01-14. Waiver provision.**

~~Any provisions of this chapter may be waived by the department for a specified period in specific instances, provided such a waiver does not adversely affect the health and safety of the clients and would result in unreasonable hardship upon the entity requesting the waiver. A waiver may be granted for a specific period of time not to exceed one year and shall expire on December thirty-first of the year issued.~~

~~History: Effective ??.~~

~~General Authority: NDCC 43-66-03~~

~~Law Implemented: NDCC 43-66-03~~

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**Commented [AH13]:** There is no statutory authority for a waiver.

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