



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-60
Regulation title	Standards and Regulations for Licensed Adult Day Care Centers
Document preparation date	December 12, 2007

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 63.2-1733 of the Code of Virginia gives the State Board of Social Services authority to adopt and enforce regulations to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There are no less burdensome alternatives for achieving the purpose of the existing regulation. The Code of Virginia mandates that regulations be adopted and enforced to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Virginia Adult Day Services Association	The licensure standards of Adult Day Care Centers should include all facilities that purport to provide day care for 4 or more adults, whether for-profit or non-profit, as defined in 22 VAC 40-60-10. Some non-profit agencies provide care and are not held accountable to ADCC standards. This will guarantee quality of care for all consumers of adult day care.	Section 63.2-100 of the Code of Virginia defines "adult day care center" as a facility that is either operated for profit or desires licensure and provides supplementary care during only part of the day to four or more aged, infirm or disabled adults who live elsewhere. The requirement at § 63.2-1701 of the Code of Virginia for licensure of adult day care centers does not apply to non-profit agencies since they do not meet this definition.
Virginia Adult Day Services Association	22 VAC 40-60-10. "Respite care" - Some residential and other agencies are advertising respite care for less than 24 hours and they are not held accountable to ADCC standards.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-10. The definition of "respite care" is vague and allows misuse by centers that can effectively provide assisted living care under the auspices of providing respite care.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-50. Require that the regulation apply to centers that provide supplementary care and protection to four or more aged, infirm or disabled adults who are in for less than 12 hours per day instead of for less than 24 hours per day as in the current regulation.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-60. Under the list of facilities not covered by the regulation, give examples of facilities licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60 150 through 180. Combine requirements for recordkeeping, confidentiality, record updating and consent for disclosure with requirements for resident information.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.

Cheryl Flowers, Manager, Loudoun County Adult Day Center	22 VAC 40-60-235. Requirements for initial and subsequent tuberculosis evaluations and reports for staff should be the same as the requirements for initial and subsequent tuberculosis evaluations and reports for staff in licensed assisted living facilities.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-235. Initial tuberculosis examination for staff should require a risk assessment and the staff member should not have seven days after employment or contact with participants to submit a TB clearance statement.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-280. Require completion of staff orientation training to be documented in writing.	The Division of Licensing Programs issued a model form for documentation of staff orientation training and issued a guidance document on criteria for provider training that includes documentation requirements. The Division will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-340. Require staff members who supervise volunteers to have background checks.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-400 and 410. Wouldn't the approval by other agencies required by 22 VAC 40-60-420 address the potential for harm by the physical environment and location of the facility?	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-470. Require air conditioning at a future date.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-490 C. 1. Require furnishings to be maintained in good condition.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-510 A. and C. These requirements for restroom facilities are redundant.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.

Patrick Harvey, Licensing Inspector	22 VAC 40-60-560 C. Add that only persons who meet the admission criteria shall be retained at the center.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-600 C Initial tuberculosis examination for participants should require a risk assessment.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification will be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-660, 680 and 690. Combine requirements related to the discharge of participants.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Virginia Adult Day Services Association	22 VAC 40-60-695 item 'D' should be eliminated as item 'B' adequately provides a mechanism for referral for care. Since the ADCC provides only day care, the family or responsible party arranges for health care. Although ADCC staff can certainly raise issues that could be treated by rehabilitative therapies, they cannot directly refer. This reduces redundancy and potential for confusion.	The Division of Licensing Programs issued a guidance document on this subject and will recommend that the clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-695 E. Require that proof of licensure of the rehabilitative professional rendering services be available.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-698 B. "Authorized agent of the physician" needs to be clarified.	The Division of Licensing Programs will recommend that this clarification be included in the next proposed comprehensive revision of the adult day care center regulation.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-698 D. 7. c. Documentation of medications should include the diagnosis.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-698 E. For PRN medications, add a requirement recording the effectiveness of the medications.	At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.
Patrick Harvey, Licensing Inspector	22 VAC 40-60-705. Add that volunteers may not be left in charge of activities.	The clarification is unnecessary. The standard requires an adequate number of staff to lead the activity, assist participants, supervise the area and re-direct individuals who require different activities. The definition of "staff" is "compensated administrative, program and service personnel."

<p>Virginia Adult Day Services Association</p>	<p>22 VAC 40-60-698 E (4) should be changed from “center staff” to “unlicensed center staff” or “center certified medication management staff” AND from “verbal order” to “written order.” Only licensed nurses are allowed to act on verbal orders. This reduces potential for confusion as non-nurses must have written orders.</p>	<p>The Division of Licensing Programs will recommend that this clarification be included in the next proposed comprehensive revision of the adult day care center regulation.</p>
<p>Virginia Adult Day Services Association</p>	<p>22 VAC 40-60-800 items ‘A’ and ‘C’ regarding menus and special diets are redundant. We suggest the Department of Social Services eliminate item ‘C.’ This reduces redundancy and potential for confusion.</p>	<p>At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.</p>
<p>Patrick Harvey, Licensing Inspector</p>	<p>22 VAC 40-60-960. Require that all staff have first aid training.</p>	<p>At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.</p>
<p>Virginia Adult Day Services Association</p>	<p>22 VAC 40-60-980 A. Items #15 (syrup of ipecac) and #16 (activated charcoal preparation) should be removed from the (First aid and emergency supplies) standard as they are no longer the standard for care per the Center for Disease Control recommendation that these items not be administered to older adults for health and safety reasons. This will better guarantee that ADCCs “do no harm” while they maintain quality of care for consumers of adult day care.</p>	<p>The Division of Licensing Programs will recommend that this clarification be included in the next proposed comprehensive revision of the adult day care center regulation.</p>
<p>Patrick Harvey, Licensing Inspector</p>	<p>22 VAC 40-60-980 C. Require that the first aid kit be checked monthly for expiration dates.</p>	<p>At the time of the next proposed comprehensive revision of the adult day care center regulation, the Division of Licensing Programs will discuss this suggestion with an informal advisory group.</p>
<p>Patrick Harvey, Licensing Inspector</p>	<p>22 VAC 40-60-1020. Add that a written plan be developed for participant-related emergencies such as physical or mental health episodes/incidents.</p>	<p>This requirement is currently in the adult day care center regulation.</p>

No informal advisory group was formed for the purpose of assisting with the periodic review. All licensed adult day care centers and the department’s licensing staff were contacted for comment.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation is essential to protect the health, safety and welfare of participants of adult day care centers because there has been an increase in the health care needs of participants and a decrease in the functional level and independence of these participants.

The regulation is clearly written and understandable by the individuals affected. There have been very few questions regarding the clarity or understandability from licensees or the department's licensing staff since the regulation became effective in July 2000.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The agency is recommending that the regulation stay in effect without change.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

By receiving care in licensed adult day care centers that protects their health, safety and welfare, participants are able to remain in their own homes or in the homes of their families instead of requiring institutional care. Often family members are able to continue employment because the participants are receiving needed care during part of the day. Families and caregivers should have increased confidence in the care being given their center participant as a result of this regulation.