



# COMMONWEALTH of VIRGINIA

Office of the Attorney General

Mark R. Herring  
Attorney General

202 North Ninth Street  
Richmond, Virginia 23219  
804-786-2071  
Fax 804-786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

**TO: MARGARET SCHULTZE, Commissioner**  
Virginia Department of Social Services

**FROM: ERIC J. REYNOLDS**  
Assistant Attorney General

**DATE: November 8, 2016**

**SUBJECT: 22VAC40-60/22VAC40-61 – Standards and Regulations for Licensed Adult Day Care Centers**

I am in receipt of the proposed regulations regarding licensed adult day care centers. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

This regulation repeals the existing section 60 of the regulations and replaces it with the adoption of new section 61. The comprehensive new regulation is intended to (1) provide greater protection for participants in care, (2) improve the organization of the standards, (3) increase clarity and consistency, (4) incorporate changed practices and procedures, (5) incorporate improvements in the language and reflect current federal and state law, and (6) eliminate unnecessarily burdensome or intrusive requirements.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority.

It is my view that this regulation is not exempt from but is subject to the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a). If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

cc: Kim F. Piner, Esquire

**Project 4545 - Proposed**

**DEPARTMENT OF SOCIAL SERVICES**

**CH 60 Licensed Adult Day Care Centers Regulation Comprehensive Revision**

**CHAPTER 60**

**STANDARDS AND REGULATIONS FOR LICENSED ADULT DAY CARE CENTERS**

**Part I**

**General Provisions**

**22VAC40-60-10. Definitions. (Repealed.)**

~~The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:~~

~~"Administer medication" means to open a container of medicine or to remove the prescribed dosage and to give it to the participant for whom it is prescribed.~~

~~Section 54.1-3408 of the Code of Virginia states that only persons authorized by state law may administer drugs. People authorized to administer medication include licensed physicians, registered nurses, licensed practical nurses, physician assistants, and other individuals who meet the requirements of the law. In addition to these persons designated by law, a person may administer medications who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping, when the drugs administered would be normally self-administered by a program participant in an adult day care center licensed by the Department of Social Services.~~

~~"Adult" means any person 18 years of age or older.~~

~~"Adult day care center" means " any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage." (§ 63.2-100 of the Code of Virginia)~~

~~"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia.~~

~~"Ambulatory" means the condition of a participant who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such participant may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.~~

~~"Care" means assistance with the activities and tasks of daily living provided to participants.~~

~~"Character and reputation" means findings have established that knowledgeable and objective people agree that the subject maintains business and professional, family, and community relationships which are characterized by honesty, fairness, truthfulness, and a concern for the well-being of others to the extent that the subject is considered suitable to be entrusted with the health, safety, and welfare of aged, infirm, or disabled adults.~~

~~"Commissioner" means the Commissioner of Social Services, also known as the Director of the Virginia Department of Social Services.~~

~~"Communicable disease" means a disease that may be transmitted directly or indirectly from one individual to another.~~

~~"Contrast" means a significant difference in diversity of adjacent parts by color, tone, or light.~~

~~"Department" means the Virginia Department of Social Services.~~

~~"Department's representative" means an employee or designee of the Virginia Department of Social Services who is acting as the authorized agent of the Commissioner of Social Services.~~

~~"Direct care staff" means the staff in an adult day care center who are actively providing care, guidance, and interaction with participants.~~

~~"Director" means the person who has been delegated responsibility for the programmatic and administrative functions of the adult day care program.~~

~~"Disabled" means the inability to perform some or all of the activities and tasks of daily living due to physical or mental impairments or injuries.~~

~~"Infirm" means the inability to perform some or all of the activities and tasks of daily living because of weakness or illness.~~

~~"Legal guardian" means an individual who has legal control and management of the person, or the property, or of both the person and the property of the participant. A legal guardian is appointed by a court. A legal guardian of the person is appointed to see that the participant has proper care and supervision in keeping with his needs. A legal guardian of the property is appointed to manage the financial affairs in the best interest of the participant.~~

~~"Licensee" means any person, association, partnership, corporation or governmental unit to whom the license is issued.~~

~~"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a clinical social worker, dentist, licensed practical nurse, nurse practitioner, pharmacist, physical therapist, physician, physician assistant, psychologist, registered nurse, and speech language pathologist.~~

~~"Licensed practical nurse" means any individual who holds a current, valid, license from the Commonwealth of Virginia as an L.P.N.~~

~~"Nonambulatory" means the condition of a participant of an adult day care center who by reason of physical or mental impairment is not capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such safe refuge area within the structure.~~

~~"Nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as a licensed practical nurse or as a registered nurse.~~

~~"Participant" means an aged, infirm or disabled adult who takes part in the program of care and receives services from the center.~~

~~"Personal representative" means the person representing or standing in the place of the resident for the conduct of his affairs. This may include a guardian, committee, attorney-in-fact under the durable power of attorney, next of kin, descendant, trustee, or other person expressly named by the participant as his agent.~~

~~"Physician" means any individual licensed to practice medicine in any of the 50 states or the District of Columbia.~~

~~"Program director" means the person responsible for programmatic functions and supervision of all staff who work directly with participants.~~

~~"Protection" means the intent to prevent harm and to provide oversight of the participant.~~

~~"Registered nurse" means any individual who holds a current, valid license from the Commonwealth of Virginia as an R.N.~~

~~"Respite care" means temporary care given to a person to relieve family members or other caregivers. These standards apply only if respite care is provided during part of the day. If 24-hour respite care is planned or provided for four or more people, the Standards for Licensed Assisted Living Facilities (22VAC40-72) shall apply.~~

~~"Snack" means a light meal or nutritious meal supplement.~~

~~"Sponsor" means an individual, partnership, association, or corporation responsible for the operation of an adult day care center subject to licensure.~~

~~"Staff or staff person" means compensated administrative, program, and service personnel including the licensee when the licensee is an individual.~~

~~"Standard precautions" means an approach to infection control. According to the concept of standard precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus, and other blood borne pathogens.~~

~~"Supplementary care" means a part of the total care that is required by participants. Supplementary care augments the care that the family or other persons provide. Care provided by an adult day care center is supplementary care.~~

~~"Supervision" means the general oversight of the physical and mental well-being of participants.~~

~~"These standards" means the requirements in this chapter, 22VAC40-60, Standards and Regulations for Licensed Adult Day Care Centers.~~

~~"Volunteer" means a person who works at the center and:~~

- ~~1. Is not compensated; and~~
- ~~2. Is supervised by a staff member when working with participants.~~

**22VAC40-60-20. Legal base. (Repealed.)**

~~Chapter 17 of Title 63.2 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of adult day care centers.~~

**22VAC40-60-30. Board authority. (Repealed.)**

~~Section 63.2-1733 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services, and facilities for adult day care centers.~~

**22VAC40-60-40. Purpose. (Repealed.)**

~~The purpose of this chapter is to protect aged, infirm, or disabled adults who are away from their homes during a part of the day by:~~

- ~~1. Ensuring that the activities, services, and facilities of adult day care centers are conducive to the well-being of the participants; and~~
- ~~2. Reducing risks in the caregiving environment.~~

**22VAC40-60-50. Applicability. (Repealed.)**

~~This chapter applies to any facility:~~

- ~~1. That is operated for profit or desires to be licensed; and~~
- ~~2. That provides supplementary care and protection for four or more adults:
  - ~~a. Who are aged, infirm or disabled;~~~~

b. Who are in care for less than 24 hours per day; and

c. Who reside elsewhere.

**22VAC40-60-60. Facilities not covered. (Repealed.)**

The following types of facilities are not subject to licensure as an adult day care center:

1. A facility or portion of a facility licensed by the State Board of Health;
2. A facility or portion of a facility licensed by the State Board of Behavioral Health and Developmental Services;
3. A home or residence of an individual who provides care only for persons related to him by blood or marriage;
4. A facility or a portion of a facility that is licensed by the Department of Behavioral Health and Developmental Services, and that conducts a mental health program where treatment is provided for adults who are experiencing varying degrees of mental health related problems;
5. A facility or a portion of a facility licensed by the Department of Behavioral Health and Developmental Services that conducts a mental retardation program where treatment is provided for mentally retarded or developmentally disabled adults;
6. A facility or a portion of a facility that conducts programs whose primary purpose is training or employment for physically or mentally impaired adults (e.g., sheltered workshops, etc.); and
7. A facility or a portion of a facility that conducts a socialization or recreation activity program for adults who do not receive assistance with the activities or tasks of daily living or protective oversight and supervision (e.g., senior centers, etc.).



Part II

Administration

**22VAC40-60-80. Licensee. (Repealed.)**

~~A. When the center is sponsored by an individual proprietorship, the individual is the licensee.~~

~~B. When the center is sponsored by a partnership, the partnership shall serve as the licensee and have a written agreement (articles of partnership) that allows operation and maintenance of an adult day care center.~~

~~C. When the center is sponsored by an unincorporated association, the association shall have a governing board that serves as the licensee and have a written constitution or written by-laws that allows the operation and maintenance of an adult day care center.~~

~~D. When the center is sponsored by a corporation, the corporation shall have a governing board that serves as the licensee and have a charter, articles of incorporation or certificate of authority to transact business in the Commonwealth of Virginia that specifies that the purpose of the corporation allows operation and maintenance of an adult day care center.~~

~~E. When the center is sponsored by a public agency, the governmental unit sponsoring the center shall be the licensee.~~

**22VAC40-60-90. Requirements for licensee. (Repealed.)**

~~A. The licensee shall ensure compliance with all regulations for licensed adult day care centers and terms of the license issued by the department; with other relevant federal, state or local laws and regulations; and with the center's own policies.~~

~~B. The licensee shall meet the following requirements:~~

~~1. The licensee shall be of good character and reputation.~~

~~2. The licensee shall protect the physical and mental well-being of the participants.~~

~~3. The licensee shall keep such records and make such reports as required by this chapter for licensed adult day care centers. Such records and reports may be inspected at any reasonable time in order to determine compliance with this chapter.~~

~~4. The licensee shall meet the qualifications of the administrator if he assumes those duties.~~

**22VAC40-60-110. Deceptive representation or advertisement. (Repealed.)**

~~An adult day care center shall not make, publish, disseminate, circulate, or place before the public, or cause, directly or indirectly, to be made an advertisement of any sort regarding services or anything so offered to the public, that contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.~~

**22VAC40-60-120. Operational responsibilities. (Repealed.)**

~~The licensee shall be responsible for the overall planning of the program and services to be provided by the center. The operational responsibilities of the licensee shall include, but not be limited to, the following:~~

~~1. To develop a written statement of the purpose and scope of the services to be provided by the center, a description of adults who may be accepted into the program as well as those whom the program cannot serve, and written policies under which the center will operate;~~

~~NOTE: This requirement applies only to initial application for licensure unless there is a significant change.~~

- ~~2. To ensure that the center's activities, services, and facilities are maintained in compliance with this chapter, with the terms of the current license issued by the department and with other relevant federal, state, or local laws and regulations;~~
- ~~3. To appoint and identify in writing a director to be responsible for the day-to-day operation and management of the center, except when the sponsor is an individual who serves as the director or a partnership in which a partner serves as the director;~~
- ~~4. To provide for an adequate number of qualified staff capable of carrying out the operation of the program;~~
- ~~5. To develop a written organizational chart indicating lines of authority and a staffing plan which includes a staffing schedule; and~~
- ~~6. To establish sound policies under which the center shall operate.~~

**22VAC40-60-140. Liability insurance. (Repealed.)**

~~The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$1,000,000 for each occurrence or \$1,000,000 aggregate. Evidence of insurance coverage shall be made available to the department's representative upon request.~~

~~NOTE: Language of specific policies may vary provided that the minimum amount of coverage is met.~~

**22VAC40-60-150. Recordkeeping requirement. (Repealed.)**

~~The licensee shall ensure that the center maintains a system of recordkeeping that complies with these standards.~~

**22VAC40-60-160. Confidentiality. (Repealed.)**

~~All participants' records shall be treated confidentially.~~

**22VAC40-60-170. Record updating. (Repealed.)**

~~Records shall be updated and kept current as changes occur.~~

**22VAC40-60-180. Consent for disclosure. (Repealed.)**

~~If the participant or personal representative consents in writing, records shall be shared with other facilities or agencies to coordinate care or upon referral or discharge.~~

**22VAC40-60-190. Record storage. (Repealed.)**

~~All records required by these standards for both participants and personnel shall be kept in a locked cabinet or area and retained at the center for five years after termination of enrollment or termination of employment, unless specified otherwise in this chapter.~~

Part III

Personnel

**22VAC40-60-200. General qualifications. (Repealed.)**

~~A. All staff members, including the administrator, shall:~~

- ~~1. Be of good character and reputation;~~
- ~~2. Be competent, qualified and capable of carrying out assigned responsibilities;~~
- ~~3. Be willing and able to accept training and supervision;~~
- ~~4. Be considerate, understanding and respectful of aged and disabled persons;~~
- ~~5. Be clean and well groomed; and~~
- ~~6. Meet the requirements specified in the Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (22VAC40-90).~~

~~B. All staff members shall be able to communicate in English effectively both orally and in writing as applicable to their job responsibilities.~~

~~C. All staff members shall be able to understand and apply these standards as they relate to their respective responsibilities.~~

~~D. All staff persons who work directly with participants and who are counted in the staff to participant ratio shall be at least 18 years of age.~~

**22VAC40-60-235. Employee records and health requirements. (Repealed.)**

~~A. A record shall be established for each staff member. It shall not be destroyed until five years after employment is terminated.~~

~~B. Personal and social data to be maintained on employees are as follows:~~

~~1. Name;~~

~~2. Birth date;~~

~~3. Current address and telephone number;~~

~~4. Position and date employed;~~

~~5. Last previous employment;~~

~~6. Copies of at least two references or notations of verbal references, obtained prior to employment, reflecting the date of the reference, the source and the content;~~

~~7. An original criminal record report and a sworn disclosure statement;~~

~~8. Previous experience or training or both;~~

~~9. Social Security number;~~

~~10. Name and telephone number of person to contact in an emergency;~~

~~11. Documentation of attendance of formal training received after employment, including title of course, location, date and number of contact hours; and~~

~~12. Date and reason for termination of employment.~~

~~C. The following required health information shall be maintained at the facility for the licensee or administrator or both, each staff member, and each volunteer who comes in contact with participants.~~

~~1. Initial tuberculosis examination and report.~~

~~a. Each individual shall obtain an evaluation documenting the absence of tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with participants.~~

~~b. Each individual shall submit the results of a Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician, documenting that the individual is free of tuberculosis in a communicable form.~~

~~c. The documentation shall include all information contained on the "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health. This documentation shall be maintained at the facility.~~

~~d. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed/certified by the Commonwealth of Virginia, (ii) has had a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to the new employer.~~

~~2. Subsequent evaluations for tuberculosis.~~

~~a. Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.~~

~~b. Any individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.~~

~~c. Any individual not previously reacting significantly to a Mantoux tuberculin skin test shall be retested annually. Annual chest x-rays are not required in the absence of symptoms.~~

~~d. Any individual with documented evidence of previously reacting significantly to a Mantoux tuberculin skin test shall be reevaluated annually by a physician or an official of the local health department. Annual chest x-rays are not required nor indicated except as in subdivisions 1 and 2 of this subsection.~~

~~3. Any individual suspected of having infectious tuberculosis shall not be allowed to return to work or have any contact with the participants and staff of the center until a physician has determined that the individual is free of infectious tuberculosis.~~

~~4. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.~~

~~D. At the request of the administrator of the center or the department, a report of examination by a licensed physician shall be obtained when there are indications that the safety of participants in care may be jeopardized by the physical or mental health of a staff member.~~

**22VAC40-60-260. Report affecting performance of duties. (Repealed.)**

~~Any individual who upon examination or as a result of tests shows indication of a physical or mental condition that may jeopardize the safety of participants in care or that would prevent performance of duties:~~

~~1. Shall be removed immediately from contact with participants and food served to participants; and~~

~~2. Shall not be allowed contact with participants or food served to participants until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed, dated statement from the physician.~~

**22VAC40-60-270. Removal of staff. (Repealed.)**

~~Any individual who cannot adequately perform his duties or who may jeopardize the health or safety of the participants shall be relieved of his duties and removed from the center.~~

**22VAC40-60-280. Orientation and staff training. (Repealed.)**

~~A. Prior to working directly with participants, all staff shall receive training in:~~

- ~~1. Their individual responsibilities in the event of fire, including the location and operation of any fire extinguishers and fire alarm boxes and approved exits;~~
- ~~2. Their individual responsibilities in the event of illness or injuries, including the location and use of the first aid and emergency supplies;~~
- ~~3. Their individual responsibilities in the event of emergencies, such as a lost or missing participant, severe weather, and loss of utilities;~~
- ~~4. Standard precautions; and~~
- ~~5. Participant rights.~~

~~B. Staff who work with participants shall receive at least 24 hours of training no later than three weeks after starting employment; part time staff shall receive the training no later than six weeks after employment.~~

~~C. A supervisor or designated trained staff shall closely oversee the individual's work with participants until training is complete.~~

~~D. The following areas or topics shall be covered in the staff training:~~

- ~~1. The purpose and goals of the adult day care center;~~
- ~~2. The policies of the center as they relate to the staff member's responsibilities and to the responsibilities of other staff members;~~



- ~~3. Procedures for detecting and reporting suspected abuse, neglect, or exploitation of participants to the appropriate local department of social services (§ 63.2-1606 of the Code of Virginia);~~
- ~~4. Confidential treatment of personal information about participants and their families;~~
- ~~5. This chapter as it relates to the employee's responsibilities;~~
- ~~6. Needs of the center's target population (for example, those with dementia, developmental disability, depression);~~
- ~~7. Individual capabilities and special needs of the elderly, the cognitively impaired adult, or the handicapped;~~
- ~~8. The specific needs of participants in care, including diagnoses, plans of care, and adjustment issues;~~
- ~~9. The schedule of activities;~~
- ~~10. Behavioral interventions, behavior acceptance and accommodation, and behavior management techniques;~~
- ~~11. Interdisciplinary team approach;~~
- ~~12. Communication skills;~~
- ~~13. Review of basic terminology;~~
- ~~14. Advance directive policies;~~
- ~~15. How to safely and appropriately help participants perform activities of daily living (ADLs), including good body mechanics;~~
- ~~16. Risk management; and~~
- ~~17. The needs of participants' family members or care givers.~~

~~E. The required 24 hours of training can be accomplished through a variety of methods including, but not limited to, formal lecture, observation, self-study of material provided by the center, supervised practice, and audio-visual training.~~

**22VAC40-60-300. Staff development. (Repealed.)**

~~On an annual basis, employed staff who are primarily responsible for the direct care of the participants shall attend at least eight contact hours of staff development activities which shall consist of in-service training programs, workshops, or conferences relevant to the needs of the population in care. These staff development activities shall be in addition to first aid, CPR, or orientation training.~~

**22VAC40-60-320. Director. (Repealed.)**

~~A. There shall be one person responsible for the center's program who is present at least 51% of the center's weekly hours of operation and whose responsibilities shall include, but not be limited to, the following areas:~~

- ~~1. The content of the program offered to the participants in care;~~
- ~~2. Programmatic functions, including orientation, training, and scheduling of all staff who directly supervise participants, whether or not the director personally performs these functions;~~
- ~~3. Management of the supervision provided to all staff who directly supervise participants, whether or not the director individually supervises such staff;~~
- ~~4. Assignment of a sufficient number of qualified staff to meet the participants' needs for:
  - ~~a. Adequate nutrition;~~
  - ~~b. Health supervision and maintenance;~~
  - ~~c. Personal care;~~~~

~~d. Socialization, recreation, activities and stimulation;~~

~~e. Supervision and protection;~~

~~f. Safety; and~~

~~5. The duties and responsibilities required by this chapter.~~

~~B. The director shall meet the following qualifications.~~

~~1. The director shall be at least 21 years of age.~~

~~2. The director shall have completed at least a bachelor's degree from an accredited college or university and two years of experience working with older adults or persons with disabilities. This may be paid full-time employment or its equivalent in part-time employment, volunteer work, or internship. The following qualifications may be substituted for a bachelor's degree:~~

~~a. Current licensure as a nursing home administrator from the Board of Long-Term Care Administrators; or~~

~~b. Current licensure in Virginia as a registered nurse who meets the experience requirements in subdivision 2 of this subsection.~~

~~EXCEPTION: Any person employed in an adult day care center licensed prior to July 1, 2000, as either a director or assistant director shall have completed at least 48 semester hours or 72 quarter hours of post-secondary education from an accredited college or institution and shall have completed at least two years experience working with older adults or persons with disabilities. This may be paid full-time employment or its equivalent in part-time employment or in volunteer work.~~

~~3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult day care program including: (i) knowledge and understanding~~

~~of impaired elderly or disabled individuals, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management sufficient to ensure program development and continuity.~~

~~4. The director shall demonstrate knowledge of supervisory and motivational techniques sufficient to: (i) accomplish day-to-day work; (ii) train, support and develop staff; (iii) plan responsibilities for auxiliary staff to ensure that services are provided to participants.~~

~~5. The director shall complete 24 hours of continuing education annually to maintain and develop skills. This training shall be in addition to first aid, CPR, or orientation training.~~

**22VAC40-60-330. Assistant director. (Repealed.)**

~~If the director is not routinely present in the center at least 51% of the weekly hours of operation, there shall be an officially designated assistant director who shall meet the qualifications of the director and who shall assume responsibility in the absence of the director.~~

**22VAC40-60-340. Volunteers. (Repealed.)**

~~A. All volunteers used shall:~~

~~1. Have qualifications appropriate to the services they render;~~

~~2. Be subject to laws and regulations governing confidential treatment of personal information; and~~

~~3. Be at least 13 years of age.~~

~~B. Duties and responsibilities of all volunteers shall be clearly defined.~~

~~C. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.~~

~~D. All volunteers used shall be under the direct supervision of a designated staff person when participants are present.~~

~~E. Volunteers may be counted in the staff-to-participant ratio if both of the following criteria are met:~~

- ~~1. These volunteers meet the qualifications and training requirements for compensated employees; and~~
- ~~2. For each volunteer, there shall be at least one compensated employee also counted in the staff-to-participant ratio.~~

~~F. Criminal history record checks are not required for volunteers.~~

#### Part IV

#### Supervision

#### **22VAC40-60-370. General supervision. (Repealed.)**

~~A. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the director or an adult staff member appointed by the licensee or designated by the director.~~

~~B. At least two staff persons shall be on duty at the center and on field trips at all times when one or more participants are present. Both of these staff persons must be at least 18 years of age and one of them must be at least 21 years of age. See 22VAC40-60-340 E for use of volunteers as staff.~~

#### **22VAC40-60-380. Staff-to-participant ratio. (Repealed.)**

~~There shall be a minimum of one staff person on duty providing direct care and supervision for every six participants in care, whether at the center or on field trips.~~

~~NOTE: The staff-to-participant ratio is to be calculated for the center rather than for a room or activity.~~

**~~22VAC40-60-390. Additional staffing. (Repealed.)~~**

~~The number of any additional staff persons required shall depend upon:~~

- ~~1. The program and services the center provides;~~
- ~~2. The functional levels of the participants; and~~
- ~~3. The size and physical layout of the building.~~

Part V

Buildings and Grounds

**~~22VAC40-60-400. Physical environment. (Repealed.)~~**

~~A center must provide an environment that protects the participants from physical harm but is not so restrictive as to inhibit physical, intellectual, emotional, or social stimulation.~~

**~~22VAC40-60-410. Location of facility. (Repealed.)~~**

~~An adult day care center shall not be located where conditions exist that would be hazardous to the physical health and safety of participants.~~

**~~22VAC40-60-420. Approval from other agencies; requirements prior to initial licensure.~~**

~~Before issuance of the first license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the applicant or licensee to the licensing representative:~~

- ~~1. Approval from the appropriate authority that each building is in compliance with building and fire codes, or that a plan of correction has been approved; and~~
- ~~2. Approval from the local health department, or approval of a plan of correction, for meeting the requirements for:
  - ~~a. Water supply;~~~~

b. Sewage disposal system; and

c. Food service, if applicable.

**~~22VAC40-60-425. Approval from other agencies; requirements subsequent to initial licensure.~~**

~~A. An annual fire inspection report shall be provided, or approval of a plan of correction, to the licensing representative from the appropriate fire official.~~

~~B. Annual approval from the local health department shall be provided, or approval of a plan of correction, for meeting requirements for:~~

~~1. Water supply;~~

~~2. Sewage disposal system; and~~

~~3. Food service, if applicable.~~

**~~22VAC40-60-430. Special requirements for nonambulatory or physically impaired individuals.~~**

~~A. If the center is licensed for nonambulatory participants, at least one separate entrance shall be ramped, wheelchair accessible, or at ground level, with no steps, so that participants can evacuate safely in the event of fire or emergency.~~

~~B. Doorways and passageways shall be wide enough to accommodate wheelchairs and walkers, before any participant who uses a wheelchair or a walker is accepted for care.~~

**~~22VAC40-60-440. Maintenance of buildings and grounds. (Repealed.)~~**

~~A. The buildings and grounds shall be well maintained and free from safety hazards.~~

~~B. An area shall be available and accessible so that participants shall have opportunities for supervised outdoor activities. The area shall be equipped with appropriate seasonal outdoor furniture.~~

~~C. A safe area for discharge and pick-up shall be available to accommodate daily arrival and departure of participants.~~

~~D. Adequate outdoor lighting shall be provided to ensure safe ambulation and loading and unloading of participants upon arrival and departure if the center operates during hours of dim light or darkness.~~

~~E. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice.~~

~~F. All interior and exterior stairways and ramps shall have a nonslip surface or carpet. If carpet or other covering is used, it shall be secured to the stairways or ramps.~~

~~G. Sturdy handrails shall be provided on all stairways, ramps, elevators, and at all changes in floor level.~~

~~H. All interior and exterior stairways, changes in floor level, and ramps shall be indicated by a warning strip or contrast in color to aid participants who have impaired vision.~~

**22VAC40-60-450. Sanitation. (Repealed.)**

~~A. The facility and all furnishings and equipment, inside and out, shall be clean and maintained in good repair and in safe condition.~~

~~B. Adequate provisions for the collection and legal disposal of garbage, ashes and waste material shall be made.~~

~~1. Covered, vermin-proof, watertight containers shall be used outdoors.~~

~~2. Outdoor containers shall be emptied once a week and kept clean.~~

~~3. Indoor wastebaskets shall be emptied daily.~~

~~C. The facility shall be free from insects, rodents, and other pests. The grounds shall be kept free of their breeding places.~~



~~D. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.~~

~~E. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals and snacks or for the catering of meals.~~

~~F. Sufficient working refrigeration shall be available to store perishable food and medicine.~~

~~G. Drinking water shall be available at all times.~~

~~H. Drinking fountains, if used, shall be of a type approved by the local health department.~~

~~I. Individual disposable cups shall be provided for drinking water when fountains are not used.~~

~~J. If disposable dishes, cups or utensils, or both, are used, they shall be sturdy enough to prevent them from being a safety hazard. They shall be used once and then discarded.~~

~~K. All sheets and pillow cases shall be laundered before being used by another person.~~

~~L. All blankets, spreads, and coverings shall be laundered or dry cleaned, as needed.~~

**22VAC40-60-460. Lighting. (Repealed.)**

~~A. All areas of the facility shall be well lighted for the safety and comfort of the participants during all hours of operation according to the nature of activities.~~

~~NOTE: Special lighting requirements relating to medications are in 22VAC40-60-698 D 3 b.~~

~~B. Artificial lighting shall be by electricity.~~

~~C. Emergency lighting.~~

~~1. Flashlights or battery lanterns in working order shall be available at all times.~~

~~2. Open flame lighting is prohibited.~~

~~D. Additional lighting, as necessary to provide and ensure presence of contrast, shall be available for immediate use in areas that may present safety hazards, such as but not limited to stairways, doorways, passageways, changes in floor level, kitchens, bathrooms and basements.~~

~~E. Hallways, stairwells, foyers, doorways, and exits used by participants shall be kept well lighted at all times when participants are present in the building or buildings. Whenever natural light is not sufficient, artificial lighting shall be used.~~

~~F. Glare shall be kept at a minimum in rooms used by participants.~~

~~1. When necessary to reduce glare, windows shall be equipped with shades, curtains or other coverings.~~

~~2. All lights, including fluorescent lights, shall be covered with shades or protective fixtures or specially equipped to reduce glare and ensure protection.~~

~~G. If used, fluorescent lights shall be replaced if they flicker or make noise.~~

~~H. All sources of light including windows, light fixtures, bulbs, etc., shall be kept clean.~~

**22VAC40-60-470. Heating, ventilation, and cooling. (Repealed.)**

~~A. Heat shall be supplied from a central heating plant or by an approved electrical heating system.~~

~~B. Areas used by participants shall be well ventilated to the outside and dry.~~

~~C. The temperature of the rooms used by participants shall be maintained at a level safe and suitable for elderly, disabled, and impaired adults:~~

~~1. The minimum inside temperature shall be 70°F. This standard applies unless otherwise mandated by federal or state authorities.~~

~~2. Fans or air conditioners, or both, shall be available and used when the inside temperature exceeds 84°F.~~

~~3. Fans and air conditioners shall be placed to avoid direct drafts on participants and to prevent safety hazards.~~

~~4. When air conditioners are not provided, the facility shall develop and implement a plan to protect participants from heat-related illnesses.~~

~~5. At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat that shows the temperature in the room.~~

**22VAC40-60-490. General areas. (Repealed.)**

~~A. Any center licensed after July 1, 2000, shall provide at least 50 square feet of indoor floor space for each participant, in addition to hallways, office space, bathrooms, storage space, or other rooms or areas that are not normally used for program activities.~~

~~B. There shall be sufficient and suitable space for planned program activities that may be interchangeable or adaptable for a variety of activities including meals.~~

~~1. There shall be at least one room with sufficient space for the participants to gather together for large group activities.~~

~~2. There shall be rooms or areas appropriate for small group activities and individual activities.~~

~~C. Furnishings.~~

~~1. The furniture shall be sturdy, safe, and appropriate for elderly and impaired adults.~~

~~2. All centers shall have:~~

~~a. At least one chair for each participant and each staff person, excluding any people who remain in wheelchairs throughout the day;~~

~~b. Table space adequate for all participants to take part in activities at the same time;~~  
and

~~c. Recliners, lounge chairs, rockers, or other seating to allow participants to relax and rest.~~

**22VAC40-60-500. Privacy space. (Repealed.)**

~~Space shall be available to allow privacy for participants during interviews, visits, telephone conversations, counseling, therapy, and other similar activities.~~

**22VAC40-60-510. Restroom facilities. (Repealed.)**

~~A. In any center licensed after July 1, 2000, there shall be a minimum of one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment available for every 10 participants in attendance.~~

~~B. If more than 10 participants are in attendance:~~

~~1. Restrooms equipped with more than one toilet shall have each toilet enclosed.~~

~~2. Restrooms that are equipped with only one toilet can be used by either men or women.~~

~~3. Restrooms that are equipped with multiple stalls must be designated for men or for women.~~

~~C. In any center licensed after July 1, 2000, each restroom having multiple stalls shall have at least one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment.~~

~~D. Sturdy grab bars or safety frames shall be installed beside all toilets used by participants.~~

~~E. There shall be a minimum of one sink for every two toilets and the sinks shall be located close enough to toilets to encourage washing of hands after each toileting procedure.~~

~~F. There shall be an ample supply of hot and cold running water from an approved source available to the participants at all times.~~

~~G. Hot water at taps available to participants shall be maintained within a range of 105° to 120°F.~~

~~H. There shall be an adequate supply of toilet tissue, soap, disposable hand towels and disposable gloves in each restroom at all times.~~

~~I. If bathing facilities are provided there shall be:~~

~~1. Handrails by bathtubs,~~

~~2. Handrails in stall showers, and~~

~~3. Stools by stall showers.~~

**22VAC40-60-520. Dining area. (Repealed.)**

~~A. Dining areas shall have a sufficient number of sturdy tables and chairs to serve all residents, either all at one time or in shifts.~~

~~B. If the center is licensed for nonambulatory participants, the dining area shall be large enough to provide sufficient table space and floor space to accommodate participants in wheelchairs.~~

**22VAC40-60-550. Rest area. (Repealed.)**

~~A. A separate room or area shall be available for participants who become ill, need to rest, or need to have privacy. The separate room or area shall be equipped with one bed, comfortable cot or recliner for every 12 participants.~~

~~B. Additional beds, comfortable cots or recliners shall be available to accommodate scheduled rest periods. In centers that are open for evening or night care, beds shall be available for participants who need them.~~

~~C. A minimum of one pillow covered with a pillow case, two sheets and one blanket, spread or covering per bed or cot shall be provided.~~

~~D. Additional covering or blankets and pillows shall be available as necessary for recliners.~~

**22VAC40-60-554. Storage. (Repealed.)**

~~A. Sufficient space shall be provided to store coats, sweaters, umbrellas, toilet articles, and similar personal possessions of participants and staff.~~

~~B. Sufficient space shall be available for equipment, materials, and supplies used in the program.~~

**22VAC40-60-556. Telephones. (Repealed.)**

~~A. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency, including one that will operate during power outages.~~

~~B. Participants shall have reasonable access to a nonpay telephone on the premises.~~

~~C. Privacy shall be provided for participants to use the telephone.~~

Part VI

Admission, Retention and Discharge

**22VAC40-60-560. Admission policies. (Repealed.)**

~~A. The adult day care center shall have written admission policies consistent with the program statement required in 22VAC40-60-120.~~

~~B. The admission policies shall include admission criteria that shall be discussed with each person entering the program, his family members, or personal representative, as appropriate. A copy of the admission policies shall be available upon request for each of these people.~~

~~C. Only those persons who meet the admission criteria shall be admitted to the center.~~

~~D. All participants shall be 18 years of age or older.~~

**22VAC40-60-564. Assessment procedures. (Repealed.)**

~~A. The center staff shall be responsible for conducting or securing a written assessment of an applicant prior to admission.~~

~~B. The assessment shall be based upon the information presented by the applicant, family members, friends, personal representative, the report of the required physical examination and from other care providers.~~

~~C. The assessment shall be used to identify the person's abilities and needs to determine if and how the program can serve the participant.~~

~~D. The assessment shall include at minimum a description of the participant's:~~

~~1. Medical and functional condition, including:~~

~~a. Ambulatory ability;~~

~~b. Ability to perform activities of daily living, such as eating and toileting; and~~

~~c. Health status.~~

~~2. Mental status, including any intellectual impairment and known psychiatric or emotional problems;~~

~~3. Social situation, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant; and~~

~~4. Economic conditions.~~

~~E. The initial assessment shall be reviewed and updated on a scheduled basis, but at least every six months. This reassessment shall be in writing.~~

~~F. A reassessment shall also be made and documented in writing when there are changes to indicate that a participant's needs may no longer be met by the current plan of care.~~

**22VAC40-60-570. Plan of care for each participant. (Repealed.)**

~~A. Prior to admission, a preliminary multi-disciplinary plan of care, based upon the assessment, shall be developed in writing for each participant. The participant and responsible family members shall have opportunity for input. The plan shall be updated and completed within 30 days of admission.~~

~~B. The plan shall be designed to maintain or improve the participant's highest level of functional ability. The plan shall include:~~

- ~~1. A description of the participant's needs;~~
- ~~2. Realistic goals to meet those needs;~~
- ~~3. The activities and services to meet those goals and who will provide them; and~~
- ~~4. If appropriate, the time by which the goals should be achieved.~~

~~C. The written plan of care and personal information shall be reviewed and updated as significant changes occur and at least every six months. The revised plan of care shall be in writing.~~

~~D. The revised plan shall conform to the requirements of the initial plan as specified in subsection B of this section.~~

**22VAC40-60-580. Agreement. (Repealed.)**

~~A. There shall be a written agreement between the participant and the center. The agreement shall be signed by the participant or personal representative and the center representative.~~



~~B. The agreement shall specify the services to be provided by the center, conditions for dismissal or discharge, and financial arrangements. For some participants, the agreement need not specify financial arrangements provided the financial arrangements are made, signed for, and handled by a personal representative.~~

~~C. A copy of the agreement shall be given to the participant or to the personal representative, as appropriate, and a copy shall be kept at the center.~~

~~D. The agreement shall be reviewed and updated whenever there is any change in the services or the financial arrangements.~~

**22VAC40-60-590. Participant record. (Repealed.)**

~~A. An individual record containing all information, reports, and documents required by this chapter, and other information relevant to the plan of care, shall be kept for each participant.~~

~~B. The following personal information shall be kept current for each participant:~~

- ~~1. Full name of participant, address, and telephone number;~~
- ~~2. Names, addresses, and telephone numbers of at least two family members, friends, or other designated people to be contacted in the event of illness or an emergency;~~
- ~~3. Names, addresses, and telephone numbers of the participant's local primary care provider, personal physician, any other health or social service provider and the name of the preferred hospital in the event of an emergency;~~
- ~~4. Information regarding advance directives, if applicable; and~~
- ~~5. A current photograph or written description of the participant.~~

**~~22VAC40-60-600. Physical examinations/medical information at admission.~~**

~~A. Screening for tuberculosis and a physical examination by or under the direction of a licensed physician shall be obtained either within 30 days prior to acceptance for admission or within 30 days prior to admission.~~

~~B. The report of the required physical examination shall include:~~

~~1. The date of the physical examination.~~

~~2. All diagnoses and significant medical problems.~~

~~3. Any special requirements and all recommendations for care including:~~

~~a. A list of all medications including dosages, route, and frequency of administration;~~

~~b. Any special diet or any food intolerances;~~

~~c. Any allergies such as, but not limited to, medication allergies, food allergies, animal allergies;~~

~~d. Any therapy, treatments or procedures the individual is undergoing or should receive, and by whom; and~~

~~e. Any restrictions or limitations on physical activities or program participation.~~

~~4. A statement that the individual is or is not capable of administering his own medications without assistance.~~

~~5. A statement that the individual is or is not physically and mentally capable of self-preservation by being able to respond in an emergency, either to an area of safe refuge or from the building, without the assistance of another person, even if he may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command.~~

~~6. A statement that the individual does not have tuberculosis in a communicable form, including the type of test for tuberculosis and the results. This information shall include~~

~~the results of a Mantoux tuberculin skin test, chest x-ray, or bacteriological examination as deemed appropriate by a physician to rule out tuberculosis in a communicable form. Documentation is required, which includes the information contained on the form recommended by the Virginia Department of Health.~~

~~7. The signature of a licensed physician, the physician's designee, or an official of a local health department.~~

**22VAC40-60-610. Medical reports after admission. (Repealed.)**

~~A. Subsequent medical evaluations.~~

~~1. Each participant shall annually submit a report of physical examination by a physician including the information required in subdivisions B 1 through 5 and B 7 of 22VAC40-60-600 (annual screening for tuberculosis is not required for participants).~~

~~2. At the request of the licensee or director of the facility or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the day care center can no longer provide appropriate or safe care because of changes in the participant's physical or mental health. The written report of the physical examination shall be:~~

~~a. Dated.~~

~~b. Signed by a physician, the physician's designee, or an official of a local health department.~~

~~c. Used in evaluating the participant's continued suitability for adult day care.~~

~~3. All medical reports shall be kept at the center where the participant is served.~~

~~B. Subsequent evaluations for tuberculosis.~~

- ~~1. Any individual who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.~~
- ~~2. Any individual who develops respiratory symptoms of three or more weeks' duration shall be evaluated immediately for the presence of infectious tuberculosis.~~
- ~~3. If an individual develops an active case of tuberculosis, the center shall report this information to the local health department.~~

**22VAC40-60-660. Discharge when needs not met. (Repealed.)**

~~When the participant's needs can no longer be met by the program of care, plans shall be made for the participant's discharge.~~

**22VAC40-60-680. Center initiated discharge. (Repealed.)**

~~A. When the center initiates the discharge, a written discharge notice shall identify the reasons for discharge and outline the services needed by the participant upon discharge. The discharge notice shall be discussed with the participant and family members or personal representative whenever possible. Although primary responsibility for the location and delivery of these services falls upon the participant and family members or personal representative, adult day care staff shall assist, when possible.~~

~~B. The center shall notify the participant and family members or personal representative at least 14 calendar days prior to the actual discharge date.~~

~~C. When a participant's condition presents an immediate and serious risk to the health, safety or welfare of the participant or others and immediate discharge is necessary, the 14-day notification of planned discharge does not apply.~~

~~D. The center shall have a process by which participants, family members or personal representatives can appeal a center-initiated discharge.~~

**22VAC40-60-690. Noncenter initiated discharge. (Repealed.)**

~~When the participant, a family member or personal representative initiates the discharge, adult day care staff shall offer to assist the participant with the transition from adult day care to other appropriate programs or services, such as counseling or arranging a visit to the other program or preparing a transfer report for the new program.~~

Part VII

Programs and Services

**22VAC40-60-691. Goals of programs and services. (Repealed.)**

~~Programs and services shall be designed to:~~

- ~~1. Keep participants active, within the limitations permitted by physicians' orders.~~
- ~~2. Encourage participants to maintain maximal independence in the activities of daily living.~~
- ~~3. Assist participants to adjust to their disabilities and to redirect their interests if they are no longer able to maintain involvement in past activities.~~

**22VAC40-60-692. Rights of participants. (Repealed.)**

~~A. The participant shall be treated as an adult with consideration, respect and dignity, including privacy in treatment and in care for personal needs.~~

~~B. The participant shall be encouraged and supported to maintain the highest level of personal and functional independence that conditions and circumstances permit.~~

~~C. The participant shall be encouraged to participate in planning for his care, in program planning, and in deciding to participate in a given activity, to the extent possible.~~

~~D. The participant shall be involved in a program of services designed to promote a positive attitude about his usefulness and capabilities, and designed to encourage learning, growth, and awareness of constructive ways to develop talents and interests.~~

~~E. The participant shall be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided.~~

~~F. The privacy and confidentiality of each participant shall be fully respected.~~

~~G. The participant shall not be abused, exploited, punished, coerced or threatened in any way.~~

~~H. The participant shall be protected from solicitation, harassment and unwanted visitors.~~

~~I. Services provided shall meet acceptable standards of care. There shall be a good faith effort to provide care according to the plan of care. Satisfaction with care shall be routinely checked and concerns addressed.~~

~~J. The participant shall have the right to voice grievances about care or treatment without discrimination or reprisal.~~

**22VAC40-60-694. Health care supervision. (Repealed.)**

~~Each participant's physical and mental health, behavior and attitude shall be continually monitored and significant changes discussed with the staff, the participant, family members, physician or clinic, or personal representative, as appropriate. A written notification in the participant's record shall document the change and the persons to whom it was reported.~~

**22VAC40-60-695. Health care services. (Repealed.)**

~~A. A program of health care monitoring shall be in place to assess the participant's health status and to maintain functional abilities. Health care monitoring shall be on-going and shall include, but not be limited to:~~

1. Blood pressure;
2. Weight;
3. Hydration;
4. Circulation;
5. Respiration;
6. Positioning;
7. Skin integrity;
8. Nutritional status;
9. Elimination; and
10. Sensory capabilities.

~~B. When center staff identify the need for additional health care services or referral to other providers, this need shall be discussed with the participant, family members, or personal representative, as appropriate. The discussion shall be documented in the participant's record and included in the update of the plan of care.~~

~~C. In the event the center provides skilled health care services to meet the needs of the participant, the provider of health care shall be licensed, certified or registered as required by law.~~

~~D. Facilities shall arrange for specialized rehabilitative services by qualified personnel as needed by the participant. Rehabilitative services include physical therapy, occupational therapy and speech language pathology services. Rehabilitative services may be indicated when the participant has lost or has shown a change in his ability to respond or to perform a given task and requires professional rehabilitative services in an effort to regain lost function. Rehabilitative~~

~~services may also be indicated to evaluate the appropriateness and individual response to use of assistive technology.~~

~~E. All rehabilitative services rendered by a rehabilitative professional shall be performed only upon written medical referral by a physician or other health care professional.~~

**22VAC40-60-697. Preventing the spread of disease. (Repealed.)**

~~A. If a participant arrives at the center with the signs and symptoms listed in subsection B of this section, the participant shall not be allowed to attend until the symptoms no longer exist.~~

~~B. The participant shall be excluded if he has:~~

- ~~1. A temperature over 100°F;~~
- ~~2. Recurrent vomiting or diarrhea;~~
- ~~3. An upper respiratory infection; or~~
- ~~4. Any other communicable disease.~~

~~C. If a participant develops signs or symptoms listed in subsection B of this section during the day, the following shall apply:~~

- ~~1. He shall be separated from all other participants in care;~~
- ~~2. The appropriate family member or personal representative shall be notified immediately in order to make arrangements for the participant to leave the center as soon as possible;~~
- ~~3. The ill participant shall be checked every 15 minutes, or more often if circumstances indicate, until he leaves the center; and~~
- ~~4. The details of the illness and action taken shall be documented in the participant's record.~~



~~D. When a participant at the center has been exposed to a communicable disease, the family or personal representative shall be informed unless forbidden by law.~~

~~E. If a participant requires emergency care or leaves the center with a communicable disease, a written statement of health status from the participant's health care provider may be required before the participant can return to the center.~~

~~F. The center shall have a plan to implement the procedures of standard precautions.~~

~~G. Staff and participants shall wash their hands before eating, after toileting or assisting with toileting, and after contact with any body fluids.~~

**22VAC40-60-698. Medication management. (Repealed.)**

~~A. The center shall have a written policy for medication management. The center's medication policies shall address methods of administering medication and shall include:~~

- ~~1. Any general restrictions of the center;~~
- ~~2. Duration of the authorization for the medication;~~
- ~~3. Methods to prevent the use of outdated medication;~~
- ~~4. Methods to maintain an adequate supply of medication; and~~
- ~~5. A plan for proper disposal of medication.~~

~~B. Prescription and nonprescription medications, including physician's samples, shall be given to a participant according to the center's written medication policies and only with written or verbal authorization from the physician or prescriber, or the physician's authorized agent. For the purposes of this section, an "authorized agent" means an employee of the physician who is under his immediate and personal supervision. Verbal orders shall be reviewed and signed by the physician or prescriber within 10 working days.~~

~~C. The center shall maintain a list of all medications, including those taken at home and at the center, for each participant. The center shall attempt to verify and update the list of center-administered medications with the prescribing health care professional at least twice a year. Unsuccessful attempts to verify shall be documented.~~

~~D. The following standards shall apply when medications are administered to participants at the adult day care center:~~

~~1. All medication shall be in the original container with the prescription label or direction label attached and legible. Sample medications shall be in the original packaging and labeled with the name and strength of the medication.~~

~~2. All medication shall be labeled with the participant's name, the name of the medication, the strength and dosage amount, the route of administration, and the frequency of administration.~~

~~3. The medication shall be kept in a locked compartment or area, not accessible to participants. The locked compartment or area shall be free from direct sunlight and high temperatures, free from dampness, and shall remain darkened when closed.~~

~~4. The area in which the medication is prepared shall have sufficient light so that the labels can be read accurately and the correct dosage can be clearly determined.~~

~~5. Medication shall be refrigerated, if required. When medication is stored in a refrigerator used for food, the medications shall be stored together in a locked container in a clearly defined area. If a refrigerator is used for medication only, it is permissible to store dietary supplements and foods and liquids used for medication administration.~~

~~6. Unless it is contrary to the day care center's policy, a participant may take his own medication provided that:~~

- ~~a. A physician has deemed the participant capable of administering medication to himself;~~
- ~~b. The physician has given written authorization for the participant to self-administer medication to himself; and~~
- ~~c. Medications are stored in a locked area or compartment and provided to the participant by staff upon request.~~

~~7. When the center staff administers medications to participants, the following standards shall apply:~~

- ~~a. Each staff person who administers medication shall be authorized by § 54.1-3408 of the Virginia Drug Control Act. All staff responsible for medication administration shall successfully complete the most current medication training program developed by the department and approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications. All staff who have successfully completed the medication management training program shall also successfully complete the most current refresher course developed by the department and approved by the Board of Nursing. The refresher course shall be completed every three years.~~
- ~~b. All medications shall be removed from the pharmacy container and be administered by the same person within one hour of the prescribed time. Once medications have been removed from the pharmacy container, the medication must be given within one-half hour and shall be kept in a locked area until given.~~
- ~~c. Documentation shall be maintained of all medications, including prescription, nonprescription, and sample medication, administered to the participants while at the~~

~~day care center. This documentation shall become part of the participant's permanent record and shall include:~~

- ~~(1) Name of participant;~~
- ~~(2) Date medication prescribed;~~
- ~~(3) Drug product name;~~
- ~~(4) Dosage and strength of medication;~~
- ~~(5) Route of administration;~~
- ~~(6) Frequency of administration;~~
- ~~(7) Date and time given and initials of staff administering the medication;~~
- ~~(8) Date the medication is discontinued or changed;~~
- ~~(9) Any medication errors or omissions;~~
- ~~(10) Notation of any adverse effects or unusual reactions that occur; and~~
- ~~(11) The name, signature, and initials of all staff administering medications.~~

~~E. The use of PRN (as needed) medications is prohibited unless one or more of the following conditions exist:~~

- ~~1. A participant is capable of determining when medication is needed;~~
- ~~2. A licensed health care professional administers the medication;~~
- ~~3. The participant's physician has provided detailed written instructions, including symptoms that might indicate the need for the medication, exact dosage, the exact time frames the medication is to be given in a 24-hour period, and directions for what to do if symptoms persist; or~~

~~4. The center staff has telephoned the participant's physician prior to administering the medication and explained the symptoms and received a documented verbal order that includes the information in subdivision 3 of this subsection.~~

**22VAC40-60-699. Assistance with activities of daily living. (Repealed.)**

~~If the center serves participants who need assistance with activities of daily living (ADLs), the following standards shall apply:~~

~~1. Assistance with eating/feeding.~~

~~a. Dining areas shall be supervised by staff whenever meals or snacks are served. There shall be at least one staff member who is trained in the procedures of "abdominal thrusts" in each area when participants are eating.~~

~~b. Additional staff shall be present in the dining areas to assist participants who cannot eat independently. These staff members shall be trained in eating assistance techniques.~~

~~c. Self-feeding skills of participants shall be continuously observed and evaluated so that meals and snacks are not missed because of a participant's inability to feed himself.~~

~~d. Appropriate adapted utensils, including adapted plates/bowls and cups with straws and handles, shall be provided for those participants who need them. Information about effective eating adaptations shall be shared with appropriate family care givers of those participants. Assistance shall be provided to those participants who need it with such activities as opening containers and cutting food.~~

~~e. Low-stimulus dining areas shall be provided for participants with head injuries or other conditions that impair concentration.~~

~~f. Changes in food and liquid intake shall be documented and changes made in the care plan to ensure adequate intake. Families shall be notified of such changes.~~

~~2. Assistance with ambulation/transfer.~~

~~a. The ability of the participant to safely transfer and ambulate shall be continually monitored, changes documented, and the plan of care changed to maximize the participant's safety.~~

~~b. There shall be adequate staff to provide individualized assistance to get to activities, meals and the restroom if the center serves participants with transfer/ambulation deficits.~~

~~c. The center shall have at least one wheelchair available for emergency use, even if all participants are ambulatory or have their own wheelchairs.~~

~~d. All staff shall be trained in providing assistance with ambulation and transfer, safe use of ambulation/transfer equipment, and procedures for monitoring and reporting malfunctioning equipment.~~

~~e. Staff shall identify unmet needs equipment and repairs, document their recommendations and refer families to appropriate resources, even when participants or families are responsible for purchasing and maintaining equipment.~~

~~f. Participants who use wheelchairs shall be offered other seating options throughout the day, if appropriate.~~

~~g. There shall be a plan for ambulating those participants who cannot walk independently to maintain maximum mobility.~~

~~3. Assistance with toileting.~~

- ~~a. Participants shall be assessed to determine their individual toileting needs. These needs shall be reflected in the plan of care and shared with family care givers. Staff shall follow toileting procedures for each participant, such as transferring techniques.~~
- ~~b. Equipment to aid in toileting such as gait belts, elevated toilet seats, and grab bars shall be available and within easy reach of participants and staff.~~
- ~~c. Participants who are at risk of falling, or who have other safety risks, shall not be left alone while toileting.~~
- ~~d. All supplies, such as incontinence products, extra clothing, and latex gloves, shall be available and prepared prior to toileting a participant so that the participant is not left unattended while necessary items are being retrieved.~~
- ~~e. Staff and participants shall wash their hands after each toileting procedure.~~
- ~~f. Privacy, confidentiality and dignity shall be maintained for participants during toileting, including closing doors and not discussing needs in front of others.~~
- ~~g. Staff shall arrange for coverage of program responsibilities when they must leave the group to assist with toileting a participant.~~

#### ~~4. Assistance with bathing.~~

- ~~a. The center shall ensure the privacy and dignity of a participant who is assisted with bathing/showering.~~
- ~~b. A shower chair, bench or other seating, safety equipment such as grab bars, and nonslip surfaces shall be provided.~~
- ~~c. Adequate supplies to complete the bathing process shall be provided such as, but not limited to, towels, soap, wash cloths and shampoo, unless the participant brings these items from home.~~

~~d. The participant shall never be left unattended in the shower or bath. If the bathing area is not in sight or sound of other occupied parts of the building, there shall be an emergency call system to summon additional assistance.~~

~~5. Assistance with dressing.~~

~~a. Extra clothing shall be available for participants who need to change during the day. Each participant can keep a change of clothing at the center or the center can keep a supply to use as needed.~~

~~b. Participants' clothing, equipment and supplies kept at the center shall be properly labeled and stored to prevent loss.~~

~~c. If the center serves participants who cannot dress themselves, there shall be staff available to assist with coats, hats, and gloves as participants arrive and depart. Assistance with dressing shall be available for those who need it for rest periods and toileting.~~

~~d. Special attention shall be given to footwear of participants who are at risk of falling. Staff shall encourage family members to provide appropriate shoes and shall document those recommendations.~~

**22VAC40-60-700. Planning the activities. (Repealed.)**

~~A. Activities shall be planned to support the plans of care for the participants and shall be consistent with the program statement and the admission policies.~~

~~B. Activities shall be planned under the supervision of the director who shall encourage involvement of participants and staff in the planning.~~



~~C. The activities shall take into consideration individual differences in age, health status, sensory deficits, life style, ethnicity, religious affiliation, values, experiences, needs, interests, abilities, and skills by providing opportunities for a variety of types and levels of involvement.~~

~~D. All activities shall:~~

- ~~1. Support the physical, social, mental, and emotional abilities and skills of participants;~~
- ~~2. Promote or maintain the participant's highest level of independence or functioning;~~  
~~and~~
- ~~3. Be within the economic capabilities of the participants and their families.~~

~~E. Physical activities shall be encouraged to the extent recommended by each participant's physician.~~

~~F. Schedule of activities:~~

- ~~1. There shall be planned activities and programs whenever the center is in operation.~~
- ~~2. A written schedule of activities shall be developed at least monthly.~~
- ~~3. The schedule shall include:~~
  - ~~a. Group activities for all participants or small groups of participants; and~~
  - ~~b. The name, type, date and hour of the activity.~~
- ~~4. If one activity is substituted for another, the change shall be noted on the schedule.~~
- ~~5. The current month's schedule shall be posted in a readily accessible location in the center or otherwise be made available to participants and their families.~~
- ~~6. The schedule of activities for the past six months shall be kept at the center.~~
- ~~7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care and shall be kept in the participant's record.~~

~~G. Adequate supplies and equipment appropriate for the program activities shall be available in the center.~~

**22VAC40-60-705. Implementing the activities. (Repealed.)**

~~A. During a programmed activity, there shall be an adequate number of staff to lead the activity, to assist the participants with the activity, to supervise the general area, and to re-direct any individuals who require different activities.~~

~~B. During the activity, each participant shall be encouraged to join in at his level, to include observing.~~

~~C. All equipment and supplies used shall be accounted for at the end of the activity so that a safe environment can be maintained.~~

~~D. The staff leading the activity shall have a general understanding of the following:~~

- ~~1. Attention spans and functional levels of the participants in the group;~~
- ~~2. Methods to adapt the activity to meet the needs and abilities of the participants;~~
- ~~3. Various methods of engaging and motivating individuals to participate; and~~
- ~~4. The importance of providing appropriate instruction, education, and guidance throughout the activity.~~

**22VAC40-60-770. General nutrition and food service. (Repealed.)**

~~Meals and snacks shall be provided by the center. The center shall either prepare the food or have it catered.~~

~~NOTE: The center is expected to encourage, but not require, participants to eat the meals and snacks provided by the center. If a participant brings food from home, the center is not required to confiscate the food or to prevent the participant from eating the food. The fact that~~

~~the participant brought food does not relieve the center of its responsibility to provide meals and snacks.~~

**22VAC40-60-780. Serving of meals and snacks. (Repealed.)**

~~A. Centers shall serve appropriate meals and snacks, depending on the hours of operation; i.e., a center open during the hours of 7 a.m. to 1 p.m. must serve a morning snack and a mid-day meal; a center open during the hours of 8 a.m. to 5 p.m. must serve a morning snack, a mid-day meal, and an afternoon snack; a center open during the hours of 2 p.m. to 6 p.m. must serve an afternoon snack; a center open after 6 p.m. must serve an evening meal. Centers open after 9 p.m. shall serve an evening snack.~~

~~B. Participants shall be served all meals and snacks scheduled for the period during which they are present.~~

~~C. There shall be at least two hours between snacks and meals.~~

**22VAC40-60-800. Nutritional requirements. (Repealed.)**

~~A. Unless otherwise ordered in writing by the participant's physician, the daily menu, including snacks, for each participant shall follow the most recent nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).~~

~~B. Other foods may be added and additional servings may be served to enhance the meals or meet individual needs.~~

~~C. The center shall provide a variety of fruits and vegetables for meals and snacks to include at least one good source of Vitamin C daily and a good source of Vitamin A at least three times a week.~~

~~D. If a participant needs to follow a special or modified diet recommended by a physician, the day care center shall ensure that the diet is provided in accordance with the physician's orders while the participant is in the day care center.~~

**22VAC40-60-850. Food service. (Repealed.)**

~~If catering or contract food service is used, the service shall be approved by the local health department. The center shall be responsible for monitoring continued compliance.~~

**22VAC40-60-860. Menus. (Repealed.)**

~~A. A menu listing all meals and snacks to be served by the center during the current one-week period shall be dated and posted in a location conspicuous to participants and responsible persons.~~

~~EXCEPTION: When meals or snacks are catered or provided by contract food service and the caterer refuses to provide menus in advance, the menus shall be retained by the center as records and made available to participants, personal representatives, and family members as requested.~~

~~B. Menus shall indicate substitutions.~~

~~C. Menus shall be kept at the center for three months.~~

**22VAC40-60-880. Transportation services. (Repealed.)**

~~A. If the adult day care center does not provide transportation directly or by contract for participants, the standards in this section do not apply.~~

~~B. Centers that provide participant transportation directly or by contract shall ensure that the following requirements are met:~~

~~1. The vehicle shall be accessible and appropriate for the participants being transported. Participants who use wheelchairs shall be transported in a vehicle that is equipped with a ramp or hydraulic lift to allow entry and exit.~~

~~2. The vehicle's seats shall be attached to the floor and wheelchairs shall be secured when the vehicle is in motion.~~

~~3. Arrangement of wheelchairs and other equipment in the vehicle shall not impede access to exits.~~

~~4. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes.~~

~~5. If the vehicle does not have air conditioning, it shall have windows that can be opened.~~

~~6. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to ensure the safety of participants.~~

~~7. If volunteers supply personal vehicles, the center shall be responsible for ensuring that the requirements of this subsection are met.~~

~~C. Centers that provide participant transportation directly or by contract shall ensure that during transportation the following requirements are met:~~

~~1. Virginia statutes about safety belts are followed.~~

~~2. Every person remains seated while the vehicle is in motion.~~

~~3. Doors are properly closed and locked while the vehicle is in motion.~~

~~4. Consideration is given to the supervision and safety needs of participants.~~

~~5. The following information is in vehicles used for transportation:~~

~~a. The center's name, address and phone number;~~

~~b. A list of the names of the participants being transported; and~~

~~c. A list of the names, addresses and telephone numbers of participants' emergency contact persons.~~

**22VAC40-60-885. Field trips. (Repealed.)**

~~A. Each center that takes participants on field trips shall develop and implement a written policy regarding field trips. The policy shall address the following:~~

~~1. A communication plan between center staff and staff who are accompanying participants on a field trip;~~

~~2. Maintenance of staff to participant ratio at the center and on the field trip as required by 22VAC40-60-380;~~

~~3. Provision of adequate food and water for participants of field trips; and~~

~~4. Cold storage of food taken on field trips.~~

~~B. Before leaving on a field trip, a list of participants taking the trip, and a schedule of the trip's events and locations shall be left at the center and shall be accessible to staff.~~

~~C. A wheelchair that is available for emergency use shall be taken on field trips.~~

~~D. The requirements of 22VAC40-60-880 B and C apply when participants are transported on field trips.~~

~~E. At least one staff person on each vehicle on the field trip shall have current certification in first aid and CPR as required by 22VAC40-60-960.~~

~~F. A first aid kit and the names and emergency contacts of participants shall be taken on all field trips.~~

Part VIII

Emergency Preparedness

**~~22VAC40-60-960. First aid certification and cardiopulmonary resuscitation (CPR).~~**

~~There shall be at least one staff member trained in first aid and cardiopulmonary resuscitation on the premises during the center's hours of operation and also one person on field trips and whenever participants are in care. This person shall be available to participants and shall:~~

- ~~1. Have current certification in first aid and cardiopulmonary resuscitation by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services; or~~
- ~~2. Be an R.N. or L.P.N. with a current license from the Board of Nursing.~~

**~~22VAC40-60-980. First aid and emergency supplies. (Repealed.)~~**

~~A. Each building of the center and all vehicles shall contain a first aid kit which shall include but not be limited to:~~

- ~~1. Scissors;~~
- ~~2. Tweezers;~~
- ~~3. Gauze pads;~~
- ~~4. Adhesive tape;~~
- ~~5. Band-aids, assorted sizes;~~
- ~~6. Triangular bandages;~~
- ~~7. Flexible gauze;~~
- ~~8. An antiseptic cleansing solution;~~

- ~~9. An anti-bacterial ointment;~~
- ~~10. Bee sting swabs or preparation;~~
- ~~11. Ice pack or ice bag;~~
- ~~12. Thermometer;~~
- ~~13. Small flash light;~~
- ~~14. Single use gloves, such as surgical or examining gloves;~~
- ~~15. Syrup of ipecac;~~
- ~~16. Activated charcoal preparation; and~~
- ~~17. The first aid instructional manual.~~

~~B. The first aid kit shall be stored so that it is easily accessible to staff but not accessible to participants.~~

~~C. The first aid kit shall be checked annually for expiration dates and items shall be replaced as necessary.~~

**22VAC40-60-1010. Emergency heating units. (Repealed.)**

~~A. Gas stoves, coal stoves, wood stoves, oil stoves, portable electric heaters, kerosene heaters, and portable heating units of a similar nature shall not be used in areas used by participants, except in an emergency such as a power outage in cold weather.~~

~~B. When any of the above heating sources are used, care shall be taken to protect participants from injuries.~~

~~C. Any heating units used in an emergency shall have been previously inspected and approved by the appropriate fire safety official.~~



**22VAC40-60-1020. Plan for emergencies. (Repealed.)**

~~A. A written plan shall be developed for each of the following situations: (i) medical and mental health emergencies, (ii) wandering and missing participants, (iii) building evacuations, (iv) severe weather and loss of utilities, and (v) transportation emergencies. Professionals in the appropriate fields shall be consulted in preparing these plans.~~

~~B. Plan for medical and mental health emergencies.~~

~~1. There shall be instructions for handling medical emergencies such as (i) calling the rescue squad, ambulance service, or participant's physician, and (ii) providing first aid and CPR, if appropriate.~~

~~2. A specific plan shall be developed for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order.~~

~~3. Pertinent medical information and history shall be made available to the rescue squad or sent with the participant if hospitalized, or both. This should include any advance directive information.~~

~~4. The participant's family or personal representative and physician shall be notified as soon as possible.~~

~~C. Plan for wandering and missing participants.~~

~~1. If the center serves participants who wander, a door bell or alarm shall be installed or attached to alert staff to wandering participants.~~

~~2. A plan shall be developed that outlines the procedures to be followed in the event of a missing participant. The procedure shall include, but not be limited to:~~

~~a. Notification of internal staff;~~

~~b. Areas to be searched;~~

~~e. Notification of emergency personnel;~~

~~d. Notification of family or personal representative; and~~

~~e. Expectations upon locating the participant, such as medical attention and documentation requirements.~~

~~D. Plan for building evacuation.~~

~~1. There shall be a written plan for emergency evacuations. The plan shall include procedures to be followed in the event of a fire or other emergency.~~

~~2. A drawing, showing exits, telephones, fire extinguishers and fire alarm boxes, if any, shall be posted.~~

~~3. A copy of the emergency plan shall be posted in a conspicuous place on each floor of each building.~~

~~4. Evacuation drills shall be held in accordance with the requirements of the Virginia Statewide Fire Prevention Code.~~

~~5. A record of the required evacuation drills shall be kept at the center for one year. The record shall include:~~

~~a. The date of the drill;~~

~~b. The time required to evacuate;~~

~~c. The total number of staff and participants involved;~~

~~d. Problems encountered, if any; and~~

~~e. The names of any participants who were present in the center and who did not take part in the drill, and the reasons.~~

~~E. Plan for severe weather and loss of utilities.~~

~~1. A written plan shall be developed that shall include general procedures to be followed during loss of utilities or during severe weather, including plans for relocating participants if necessary.~~

~~2. Emergency equipment shall be available for use in the event of loss of utilities such as, but not limited to, a working flashlight, extra batteries, a portable radio, and a telephone.~~

~~3. A plan shall be in place to provide an emergency meal and a supply of water to all participants in the event that meals are not able to be prepared.~~

~~F. Plan for transportation emergencies.~~

~~1. For centers that are responsible for transporting participants, a plan shall be developed that outlines the procedures to be followed in the event of a vehicle emergency. This plan shall be readily accessible in the vehicle and shall include:~~

~~a. A method to communicate with the center;~~

~~b. A list of participants' names;~~

~~c. Telephone numbers for vehicle repair; and~~

~~d. Options for alternate transportation.~~

~~2. For centers that contract transportation, the center shall ensure that emergency procedures are in place.~~

~~3. A plan shall be developed that outlines the procedures to be followed in the event that a participant's scheduled transportation does not arrive or the participant is stranded at the center.~~

~~G. A generic number such as 911 shall be posted in a conspicuous place near each telephone. If a generic number is not available, the following numbers shall be posted near each phone:~~

- ~~1. A physician or hospital;~~
- ~~2. An ambulance or rescue squad service;~~
- ~~3. The local fire department; and~~
- ~~4. The local police department.~~

~~H. A written record shall be made and kept on file of all emergencies. This record shall include:~~

- ~~1. Date;~~
- ~~2. Type of emergency;~~
- ~~3. Names of any participants requiring medical treatment;~~
- ~~4. Description of the outcome of the emergency; and~~
- ~~5. Date and time other persons or agencies were contacted, utilized, and notified.~~

~~I. The Department of Social Services, Division of Licensing Programs, shall be notified within 24 hours following the incident any time the police or fire department must be called because of an emergency such as fire, natural disaster, or criminal activity.~~

FORMS (22VAC40-60)

Initial Application for a State License to Operate an Adult Day Care Center, 032-05-0316-05-eng (rev. 8/07).

Renewal Application for a State License to Operate an Adult Day Care Center, 032-05-0317-04-eng (rev. 8/07).

Report of Tuberculosis Screening, 032-05-0420-00-eng (rev. 02/12).

Report of TB Screening, 032-05-0077-01-eng (rev. 02/12).

## CHAPTER 61

### STANDARDS AND REGULATIONS FOR LICENSED ADULT DAY CARE CENTERS

#### Part I

#### General Provisions

#### **22VAC40-61-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. A person's degree of independence in performing these activities is a part of determining required care needs and necessary services.

"Administer medication" means to open a container of medicine or to remove the ordered dosage and to give it to the participant for whom it is ordered in such manner as is ordered or is appropriate.

"Adult" means any person 18 years of age or older.

"Adult day care center" or "center" means " any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and

providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults." (§ 63.2-100 of the Code of Virginia)

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 of the Code of Virginia, or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983 of the Code of Virginia.

"Ambulatory" means the condition of a participant who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as described in 13VAC5-63, the Virginia Uniform Statewide Building Code, without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such participant may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate.

"Business entity" means an individual or sole proprietor, association, partnership, limited liability company, business trust, corporation, public agency, or religious organization.

"Chapter" or "this chapter" means these regulations, that is, Standards and Regulations for Licensed Adult Day Care Centers, 22VAC40-61, unless noted otherwise.

"Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the participant's medical symptoms or symptoms from mental illness or intellectual disability and that prohibits an individual from reaching his highest level of functioning.

"Communicable disease" means an illness that spreads from one person to another or from an animal to a person.

"Department" means the Virginia Department of Social Services.

"Dietary supplement" means a product intended for ingestion that supplements the diet, is labeled as a dietary supplement, is not represented as a sole item of a meal or diet, and contains a dietary ingredient, e.g., vitamins, minerals, amino acid, herbs or other botanicals, dietary substances (such as enzymes), and concentrates, metabolites, constituents, extracts, or combinations of the preceding types of ingredients. Dietary supplements may be found in many forms, such as tablets, capsules, liquids, or bars.

"Direct care staff" means supervisors, assistants, aides, or other staff of a center who assist participants in the performance of personal care or ADLs.

"Director" means the qualified person who has been delegated responsibility for the programmatic and administrative functions of the adult day care center.

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Good character and reputation" means findings have been established that the individual (i) maintains business or professional and community relationships that are characterized by honesty, fairness, truthfulness, and dependability; and (ii) has a history or pattern of behavior that demonstrates the individual is suitable and able to administer a program for the care, supervision, and protection of adults.

"Legal representative" means a person legally responsible for representing or standing in the place of the participant for the conduct of his affairs. This may include a guardian, conservator, attorney-in-fact under durable power of attorney, trustee, or other person expressly named by a court of competent jurisdiction or the participant as his agent in a legal document that specifies the scope of the representative's authority to act. A legal representative may only

represent or stand in the place of a participant for the function or functions for which he has legal authority to act. A participant is presumed competent and is responsible for making all health care, personal care, financial, and other personal decisions that affect his life unless a representative with legal authority has been appointed by a court of competent jurisdiction or has been appointed by the participant in a properly executed and signed document. A participant may have different legal representatives for different functions. For any given standard, the term "legal representative" applies solely to the legal representative with the authority to act in regard to the function or functions relevant to that particular standard.

"Licensed health care professional" means any health care professional currently licensed by the Commonwealth of Virginia to practice within the scope of his profession, such as a nurse practitioner, registered nurse, licensed practical nurse (nurses may be licensed or hold multistate licensure pursuant to § 54.1-3000 of the Code of Virginia), clinical social worker, dentist, occupational therapist, pharmacist, physical therapist, physician, physician assistant, psychologist, and speech-language pathologist. Responsibilities of physicians referenced in this chapter may be implemented by nurse practitioners or physician assistants in accordance with their protocols or practice agreements with their supervising physicians and in accordance with the law.

"Licensee" means the business entity to whom a license is issued and who is legally responsible for compliance with the laws and regulations related to the center. A license may not be issued in the name of more than one business entity.

"Mandated reporter" means a person specified in § 63.2-1606 of the Code of Virginia who is required to report matters giving reason to suspect abuse, neglect, or exploitation of an adult.

"Mental impairment" means a disability characterized by the display of an intellectual defect, as manifested by diminished cognitive, interpersonal, social, and vocational effectiveness.



"Nonambulatory" means the condition of a participant who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

"Participant" means an adult who takes part in the program of care and receives services from the center.

"Physical restraint" means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the participant's body that the participant cannot remove easily, which restricts freedom of movement or access to his body.

"Physician" means an individual licensed to practice medicine or osteopathic medicine in any of the 50 states or the District of Columbia.

"Qualified" means having appropriate training and experience commensurate with assigned responsibilities, or if referring to a professional, possessing an appropriate degree or having documented equivalent education, training, or experience.

"Significant change" means a change in a participant's condition that is expected to last longer than 30 days. It does not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Staff" or "staff person" means personnel working at a center who are compensated or have a financial interest in the center, regardless of role, service, age, function, or duration of employment at the center. "Staff" or "staff person" also includes those individuals hired through a contract with the center to provide services for the center.

"Standard precautions" means a set of basic infection prevention practices intended to prevent transmission of infectious diseases from one person to another. These practices are applied to every person at every contact to assure that transmission of disease does not occur.

"Volunteer" means a person who works at the center who is not compensated. This does not include a person who, either as an individual or as part of an organization, is only present at or facilitates group activities on an occasional basis or for special events.

**22VAC40-61-20. Requirements of law and applicability.**

A. Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia includes requirements of law relating to licensure, including licensure of adult day care centers.

B. This chapter applies to adult day care centers as defined in § 63.2-100 of the Code of Virginia and in 22VAC40-61-10.

C. All programs, processes, plans, policies or procedures required by this chapter must be in writing and must be implemented.

**22VAC40-61-30. Program of care.**

There shall be a program of care that:

1. Meets the participant's physical, intellectual, emotional, psychological and spiritual needs;
2. Promotes the participant's highest level of functioning;
3. Provides protection, guidance, and supervision;
4. Promotes a sense of security, self-worth, and independence;
5. Promotes the participant's involvement in activities and services; and
6. Reduces risk in the caregiving environment.

**22VAC40-61-40. Quality assurance.**

The center shall conduct an internal evaluation, at least annually, of its operation and services. A written report of the evaluation shall be kept on file and shall include:

1. Involvement of the licensee, program director, staff, participants, family members, legal representative, center's advisory body, if any, and other relevant agencies or organizations.
2. Review of the extent to which the program assisted participants and their family or legal representative.
3. Measurement of the achievement of the program of care as described in 22VAC40-61-30.
4. Outcome measures as designed by the center which may include client satisfaction and caregiver surveys.
5. Assessment of the relationship of the program to the rest of the community service network.
6. Recommendations for improvement, corrective action of problem areas, and future program directions.

**22VAC40-61-50. Participant rights and responsibilities.**

A. All participants shall be guaranteed the following:

1. The right to be treated as an adult, with consideration, respect and dignity, including privacy in treatment and care of personal needs.
2. The right to participate in a program of services and activities designed to interest and engage the participant and encourage independence, learning, growth, awareness, and joy in life.
3. The right to self-determination within the center setting, including the opportunity to:
  - a. Participate in developing or changing one's plan of care;
  - b. Decide whether or not to participate in any given activity;

- c. Be involved to the extent possible in program planning and operation;
  - d. Refuse treatment and be informed of the consequences of such refusal; and
  - e. End participation at the center at any time.
4. The right to a thorough initial assessment, development of an individualized participant plan of care, and a determination of the required care needs and necessary services.
  5. The right to be cared for in an atmosphere of sincere interest and concern in which needed support and services are provided.
  6. The right to a safe, secure, and clean environment.
  7. The right to receive nourishment and assistance with meals as necessary to maximize functional abilities and quality and enjoyment of life.
  8. The right to confidentiality and the guarantee that no personal or medical information or photographs will be released to persons not authorized under law to receive it without the participant's written consent.
  9. The right to voice or file grievances about care or treatment, and to make recommendations for changes in the policies and services of the center, without coercion, discrimination, threats, or reprisal for having voiced or filed such grievances or recommendations.
  10. The right to be fully informed, as documented by the participant's written acknowledgement, of all participant's rights and responsibilities and of all rules and regulations regarding participant conduct and responsibilities.
  11. The right to be free from harm or fear of harm, including physical or chemical restraint, isolation, excessive medication, and abuse or neglect.

12. The right to be fully informed, at the time of acceptance into the program, of services and activities available and related charges.

13. The right to communicate with others and be understood by them to the extent of the participant's capability.

B. The rights of participants shall be printed in at least 14-point type and posted conspicuously in a public place in the center.

C. The center shall make its policies and procedures available and accessible to participants, relatives, agencies, and the general public.

D. Each center shall post the name and telephone number of the appropriate regional licensing administrator of the department; the Adult Protective Services toll-free telephone number; the toll-free telephone number of the Virginia Long-Term Care Ombudsman Program and any local ombudsman program servicing the area; and the toll-free telephone number of the disAbility Law Center of Virginia.

E. The rights and responsibilities of participants shall be reviewed annually with each participant, or, if a participant is unable to fully understand and exercise his rights and responsibilities, the annual review shall include his family member or his legal representative. Evidence of this review shall include the date of the review and the signature of the participant, family member or legal representative, and shall be included in the participant's file.

F. A participant shall be assumed capable of understanding and exercising these rights and responsibilities unless a physician determines otherwise and documentation is contained in the participant's record.

Part II

Administration

**22VAC40-61-60. Requirements for licensee.**

A. The licensee shall ensure compliance with all regulations for licensed adult day care centers and terms of the license issued by the department; with relevant federal, state or local laws; with other relevant regulations; and with the center's own policies and procedures.

B. The licensee shall:

1. Be of good character and reputation;

2. Protect the physical and mental well-being of the participants;

3. Keep such records and make such reports as required by this chapter for licensed adult day care centers. Such records and reports may be inspected by the department's representative at any reasonable time in order to determine compliance with this chapter;

4. Meet the qualifications of the director if he assumes those duties;

5. Act in accordance with General Procedures and Information for Licensure (22VAC40-80);

6. Ensure that the current license is posted in the center in a place conspicuous to the participants and the public; and

7. Be responsible for the overall planning of the program and services to be provided by the center, including but not limited to the following:

a. Develop and keep current a statement of the purpose and scope of the services to be provided by the center, a description of adults who may be accepted into the

program as well as those whom the program cannot serve, and policies and procedures under which the center will operate.

b. Appoint and identify in writing a qualified director to be responsible for the day-to-day operation and management of the center. When the business entity is an individual who serves as the director, this shall also be noted in writing.

c. Provide an adequate number of qualified staff capable of carrying out the operation of the program and to develop a staffing plan which includes a staffing schedule.

d. Develop policies and procedures for the selection and supervision of volunteers.

e. Develop a written organizational chart indicating chain of command.

f. Make certain that when it is time to discard records, they are disposed of in a manner that ensures confidentiality.

**22VAC40-61-70. Liability insurance.**

The center shall maintain public liability insurance for bodily injury with a minimum limit of at least \$1,000,000 for each occurrence or \$1,000,000 aggregate. Evidence of insurance coverage shall be made available to the department's representative upon request.

**22VAC40-61-80. Electronic records and signatures.**

A. Use of electronic records or signatures shall comply with the provisions of the Uniform Electronic Transactions Act (§ 59.1-479 et seq. of the Code of Virginia).

B. In addition to the requirements of the Uniform Electronic Transactions Act, the use of electronic signatures shall be deemed to constitute a signature and have the same effect as a written signature on a document as long as the licensee:

1. Develops and maintains specific policies and procedures for the use of electronic signatures;

2. Ensures that each electronic signature identifies the individual signing the document by name and title;

3. Ensures that the document cannot be altered after the signature has been affixed;

4. Ensures that access to the code or key sequence is limited;

5. Ensures that all users have signed statements that they alone have access to and use the key or computer password for their signature and will not share their key or password with others; and

6. Ensures that strong and substantial evidence exists that would make it difficult for the signer or the receiving party to claim the electronic representation is not valid.

C. A back-up and security system shall be utilized for all electronic documents.

**22VAC40-61-90. Incident reports.**

A. Each center shall report to the regional licensing office within 24 hours of the occurrence of any major incident that has negatively affected or that threatens the life, health, safety, or welfare of any participant.

B. The report required in subsection A of this section shall include (i) the name of the center, (ii) the name of the participant or participants involved in the incident, (iii) the name of the person making the report, (iv) the date of the incident, (v) a description of the incident, and (vi) the actions taken in response to the incident.

C. The center shall submit a written report of each incident specified in subsection A of this section to the regional licensing office within seven days from the date of the incident. The



report shall be signed and dated by the director or his designee, and include the following information:

1. Name and address of the center;

2. Name of the participant or participants involved in the incident;

3. Date and time of the incident;

4. Description of the incident, the circumstances under which it happened, and when applicable, extent of injury or damage;

5. Location of the incident;

6. Actions taken in response to the incident;

7. The outcome of the incident;

8. Actions to prevent recurrence of the incident, if applicable;

9. Name of staff person in charge at the time of the incident;

10. Names, telephone numbers, and addresses of witnesses to the incident, if any; and

11. Name, title, and signature of the person making the report, if other than the director or his designee.

D. The center shall submit to the regional licensing office amendments to the written report when circumstances require, such as when substantial additional actions are taken, when significant new information becomes available, or there is resolution of the incident after the submission of the report.

E. A copy of the written report of each incident shall be maintained by the center for at least two years.

F. All reports, such as but not limited to, adult protective services, medical, or police, shall be maintained in the participant's record.

Part III

Personnel

**22VAC40-61-100. General qualifications.**

All staff members shall:

1. Be of good character and reputation;
2. Be competent, qualified and capable of carrying out assigned responsibilities;
3. Be considerate, understanding and respectful of the rights, dignity, and sensitivities of persons who are aged, infirm and disabled;
4. Be clean and well groomed;
5. Be able to speak, read, understand and write in English as necessary to carry out their job responsibilities;
6. Be able to understand and apply these standards as they relate to their respective responsibilities; and
7. Meet the requirements specified in the Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers (22VAC40-90).

**22VAC40-61-110. Staff orientation and initial training.**

A. Prior to working directly with participants, all staff shall receive training in:

1. Participants rights and responsibilities;
2. Their individual responsibilities in the event of fire, including the location and operation of any fire extinguishers, fire alarm boxes and approved exits;

3. Their individual responsibilities in the event of illness or injuries, including the location and use of the first aid kit and emergency supplies;

4. Their individual responsibilities in the event of emergencies, such as a lost or missing participant, severe weather, and loss of utilities;

5. Infection control;

6. Requirements and procedures for detecting and reporting suspected abuse, neglect, or exploitation of participants and for the mandated reporters, the consequences for failing to make a required report (§ 63.2-1606 of the Code of Virginia); and

7. Confidential treatment of personal information about participants and their families.

B. Staff who work with participants shall receive training in the following areas or topics no later than three weeks after their starting date of employment; part-time staff shall receive the training no later than six weeks after their starting date of employment. The areas or topics to be covered in the staff training shall include:

1. The purpose and goals of the adult day care center;

2. The policies and procedures of the center as they relate to the staff member's responsibilities;

3. Required compliance with regulations for adult day care centers as it relates to their duties and responsibilities;

4. The physical, emotional and cognitive needs of the center's population;

5. The current participants' strengths and preferences, their individualized plans of care and their service needs and supports;

6. The schedule of activities;

7. Behavioral interventions, behavior acceptance and accommodation, and behavior management techniques;

8. Interdisciplinary team approach;

9. Implementation of advance directives and Do Not Resuscitate (DNR) Orders;

10. Risk management; and

11. The needs of participants' family members or care givers.

C. A supervisor or designated trained staff shall be on the premises and closely oversee the individual's work with participants until training required in subsection B of this section is complete.

**22VAC40-61-120. Reports of abuse, neglect and exploitation.**

A. All staff who are mandated reporters under § 63.2-1606 of the Code of Virginia shall report suspected abuse, neglect, or exploitation of participants in accordance with that section.

B. The center shall notify the participant's contact person or legal representative when a report is made as referenced in subsection A of this section, without identifying any confidential information.

**22VAC40-61-130. Director.**

A. The director, or a designated assistant director who meets the qualifications of the director, shall be responsible for the center's program, day-to-day operations of the center and be present at least 51% of the center's weekly hours of operation. The responsibilities of the director shall include, but not be limited to, the following areas:

1. The content of the program offered to the participants in care.

2. Programmatic functions, including orientation, training, and scheduling of all staff.

3. Management of the supervision provided to all staff.

4. Assignment of a sufficient number of qualified staff to meet the participants' needs for:

- a. Adequate nutrition;
- b. Health supervision and maintenance;
- c. Personal care;
- d. Socialization, recreation, activities and stimulation; and
- e. Supervision, safety and protection.

5. The duties and responsibilities required by this chapter.

B. The director shall meet the following qualifications:

- 1. Be at least 21 years of age.
- 2. Have completed, at a minimum, a bachelor's degree from an accredited college or university and two years of experience working with older adults or persons with disabilities. This may be paid full-time employment or its equivalent in part-time employment, volunteer work, or internship. The following qualifications are also acceptable for the director:

a. Current licensure as a nursing home administrator or assisted living facility administrator from the Board of Long-Term Care Administrators; or

b. Current licensure in Virginia as a registered nurse. The requirement for two years of experience working with older adults or persons with disabilities also must be met.

EXCEPTION: Any person continuously employed in an adult day care center licensed prior to July 1, 2000, as either a director or assistant director shall have completed at least 48 semester hours or 72 quarter hours of post-secondary education from an accredited college or institution and shall have completed at least two years experience working with older adults or persons with disabilities. This may

be paid full-time employment or its equivalent in part-time employment or in volunteer work.

3. The director shall demonstrate knowledge, skills and abilities in the administration and management of the adult day care program including: (i) knowledge and understanding of the population being served by the center, (ii) supervisory and interpersonal skills, (iii) ability to plan and implement the program, and (iv) knowledge of financial management sufficient to ensure program development and continuity.

C. The director shall complete 24 hours of continuing education training annually to maintain and develop skills. At least two of the required hours of training shall focus on infection control and prevention. When adults with mental impairments participate at the center, at least four of the required hours shall focus on topics related to participants' mental impairments. This training shall be in addition to first aid, CPR, orientation, or initial or refresher medication aide training. Documentation of attendance shall be retained at the center and shall include type of training, name of the entity that provided the training, and date and number of hours of training.

**22VAC40-61-140. Direct care staff qualifications.**

A. All staff persons who work directly with participants and who are counted in the staff-to-participant ratio shall be at least 18 years of age unless certified in Virginia as a nurse aide.

B. Direct care staff shall meet one of the requirements in this subsection. If the staff does not meet the requirement at the time of employment, he shall successfully meet one of the requirements in this subsection within two months of employment. Licensed health care professionals practicing within the scope of their profession are not required to complete the training in this subsection.

1. Certification as a nurse aide issued by the Virginia Board of Nursing.

2. Successful completion of a Virginia Board of Nursing-approved nurse aide education program.

3. Successful completion of a personal care aide training program that meets the requirements of the Elderly or Disabled with Consumer Direction Waiver program for adult day health care as required by the Virginia Department of Medical Assistance Services.

4. Successful completion of an educational program for geriatric assistant or home health aide or for nurse aide that is not covered under subdivision 2 of this subsection. The program shall be provided by a hospital, nursing facility, or educational institution and may include out-of-state training. The program must be approved by the department. To obtain department approval:

a. The center shall provide to the department's representative an outline of course content, dates and hours of instruction received, the name of the entity that provided the training, and other pertinent information.

b. The department will make a determination based on the information in subdivision 4 a of this subsection and provide written confirmation to the center when the educational program meets department requirements.

5. Successful completion of the department-approved 40 hour Assisted Living Facility Direct Care Staff Training curriculum.

6. Successful completion of at least 40 hours of training as taught by a licensed health care professional or, if online training is accessed, accredited by a national association.

Topics for this training shall include, but not be limited to the following:

a. Participant rights;

b. Physical, biological and psychological aspects of aging;

c. Health care needs such as: hypertension, arthritis, diabetes, heart disease, osteoporosis, stroke, incontinence, skin care, etc.;

d. Functional needs, limitations, and disabilities including sensory, physical, and developmental disabilities; mental illness; substance abuse; and aggressive behavior;

e. Dementia and other cognitive impairment;

f. Assistance with activities of daily living;

g. Body mechanics, ambulation and transfer;

h. Infection control;

i. Meals and nutrition;

j. Activities; and

k. Safety and accident prevention.

C. The center shall obtain a copy of the certificate issued or other documentation indicating that the person has met one of the requirements of subsection B of this section, which shall be part of the staff member's record in accordance with 22VAC40-61-180.

D. All direct care staff who do not meet one of the requirements in subsection B of this section on the date that these regulations become effective, shall do so within one year after the effective date of this chapter.

**22VAC40-61-150. Staff training.**

A. Staff who provide direct care to participants shall attend at least 12 hours of training annually.



B. The training shall be relevant to the population in care and shall be provided by a qualified individual through in-service training programs or institutes, workshops, classes, or conferences.

C. At least two of the required hours of training shall focus on infection control and prevention. When adults with mental impairments participate at the center, at least four of the required hours shall focus on topics related to participants' mental impairments.

D. Documentation of the type of training received, the entity that provided the training, number of hours of training, and dates of the training shall be kept by the center in a manner that allows for identification by individual staff person and is considered part of the staff member's record.

E. The required hours of training shall be in addition to first aid, CPR, orientation, or initial or refresher medication aide training.

**22VAC40-61-160. First aid and CPR certification.**

A. First aid.

1. Each direct care staff member who does not have current certification in first aid as specified in subdivision 2 of this subsection shall receive certification in first aid within 60 days of employment from the American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute, community college, hospital, volunteer rescue squad, or fire department. The certification must either be in adult first aid or include adult first aid.

2. Each direct care staff member shall maintain current certification in first aid from an organization listed in subdivision 1 of this subsection. To be considered current, first aid certification from community colleges, hospitals, volunteer rescue squads, or fire

departments shall have been issued within the past three years. The certification must either be in adult first aid or include adult first aid.

3. A direct care staff member who is a registered nurse or licensed practical nurse does not have to meet the requirements of subdivisions 1 and 2 of this subsection. With current certification, an emergency medical technician, first responder or paramedic does not have to meet the requirements of subdivision 1 and 2 of this subsection.

4. There shall be at least one staff person on the premises at all times who has current certification in first aid that meets the specifications of this section, unless the center has an on-duty registered nurse or licensed practical nurse.

B. Cardiopulmonary resuscitation (CPR).

1. Each direct care staff member who does not have current certification in CPR as specified in subdivision 2 of this subsection shall receive certification in CPR within 60 days of employment from the American Red Cross, American Heart Association, National Safety Council, American Safety and Health Institute, community college, hospital, volunteer rescue squad, or fire department. The certification must either be in adult CPR or include adult CPR.

2. Each direct care staff member shall maintain current certification in CPR from an organization listed in subdivision 1 of this subsection. To be considered current, CPR certification from community colleges, hospitals, volunteer rescue squads, or fire departments shall have been issued within the past two years. The certification must either be in adult CPR or include adult CPR.

3. There shall be at least one staff person on the premises at all times who has current certification in CPR that meets the specifications of this section.

C. A staff person with current certification in first aid and CPR shall be present for the duration of center-sponsored activities off the center premises.

**22VAC40-61-170. Volunteers.**

A. Individuals that volunteer at the center shall:

1. Have qualifications appropriate to the services they render; and
2. Be subject to laws and regulations governing confidential treatment of personal information.

B. No volunteer shall be permitted to serve in an adult day care center without the permission of, or unless under the supervision of, a person who has received a criminal record clearance pursuant to § 63.2-1720 of the Code of Virginia.

C. Duties and responsibilities of all volunteers shall be clearly defined in writing.

D. At least one staff member shall be assigned responsibility for overall selection, supervision and orientation of volunteers.

E. All volunteers shall be under the supervision of a designated staff person when participants are present.

F. Prior to beginning volunteer service, all volunteers shall attend an orientation including information on their duties and responsibilities, participant rights, confidentiality, emergency procedures, infection control, the name of their supervisor, and reporting requirements. All volunteers shall sign and date a statement that they have received and understood this information.

G. Volunteers may be counted in the staff-to-participant ratio if both of the following criteria are met:

1. These volunteers meet the qualifications and training requirements for staff; and

2. For each volunteer, there shall be at least one staff also counted in the staff-to-participant ratio.

**22VAC40-61-180. Staff records and health requirements.**

A. A record shall be established for each staff member and shall be kept in a locked cabinet or area, or secured electronically, and retained at the center for currently employed staff and for two years after termination of employment, unless otherwise required by other state or federal regulations.

B. All staff records shall be kept confidential.

C. Records shall be updated and kept current as changes occur.

D. Personal and social data to be maintained on staff are as follows:

1. Name;

2. Birth date;

3. Current address and telephone number;

4. Position title and date employed;

5. Last previous employment;

6. An original criminal record report and a sworn disclosure statement;

7. Previous experience or training or both;

8. Documentation of qualifications for employment related to the staff person's position, including any specified relevant information;

9. Verification of current professional license, certification, registration, or completion of a required approved training course;

10. Name and telephone number of a person to contact in an emergency;

11. Documentation of attendance of formal training received after employment, including title of course, location, date, number of contact hours, and name of the entity that provided the training; and

12. Date of termination of employment.

E. The following required health information shall be maintained at the center and be included in the staff record for each staff member and each volunteer who comes in contact with participants.

1. Initial tuberculosis examination and report.

a. Each staff person shall obtain an evaluation by a qualified licensed practitioner that completes an assessment for tuberculosis in a communicable form no earlier than 30 days before or no later than seven days after employment or contact with participants.

b. The tuberculosis (TB) evaluation shall be consistent with the TB risk assessment as published by the Virginia Department of Health, with additional testing, singly or in combination, as deemed necessary.

c. Documentation of this evaluation shall include all pertinent information contained on the "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health. This documentation shall be maintained at the facility.

d. An evaluation shall not be required for an individual who (i) has separated from employment with a facility or center licensed or certified by the Commonwealth of Virginia, (ii) has had a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening to the new employer.

2. Subsequent evaluations for tuberculosis.

a. All staff shall be screened annually in accordance with subsection 1 of this section, with the exception that annual chest x-rays are not required in the absence of symptoms for those with prior positive test results for TB infection (tuberculin skin test or interferon gamma release assay blood test).

b. Any staff person who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis. Any staff suspected of having infectious tuberculosis shall not be allowed to return to work or have any contact with the participants and staff of the center until a physician has determined that the staff person is free of infectious tuberculosis.

c. Any staff person who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.

3. The center shall report any active case of tuberculosis developed by a staff member to the local health department.

#### Part IV

#### Supervision

#### **22VAC40-61-190. General supervision.**

A. During the center's hours of operation, one staff person on the premises shall be in charge of the administration of the center. This person shall be either the director or a staff member appointed by the licensee or designated by the director. This person may not be a volunteer.

B. At least two staff persons shall be on duty at the center and on field trips at all times when one or more participants are present. The use of volunteers as staff shall be in accordance with 22VAC40-61-170 G.

C. The center shall maintain a daily participant attendance log, documenting the name of the participant and his arrival and departure time.

**22VAC40-61-200. Staff-to-participant ratio.**

A. There shall be at least one staff person on duty providing direct care and supervision for every six participants in care, or portion thereof, whether at the center or on field trips.

B. The staff-to-participant ratio is to be calculated for the center rather than for a room or activity.

C. The number of any additional staff persons required shall depend upon:

1. The program and services the center provides;

2. The assessed functional levels and current needs of the participants; and

3. The size and physical layout of the building.

Part V

Admission, Retention, and Discharge

**22VAC40-61-210. Admission policies.**

A. The center shall have admission policies to include admission criteria, that shall be discussed with each person entering the program, his family members, legal representative, or the public, as appropriate. A copy of the admission policies shall be available upon request.

B. Only those persons who meet the admission criteria shall be admitted to the center.

C. All participants shall be 18 years of age or older.

**22VAC40-61-220. Assessment procedures.**

A. A written assessment of a participant shall be secured or conducted prior to admission by the director, a staff person that meets the qualifications of the director, or a licensed health care professional employed by the center.

B. The assessment shall be based upon the information presented by the participant, family members, friends, legal representative, the report of the required physical examination and from other care providers.

C. The assessment shall identify the person's abilities and needs to determine if and how the program can serve the participant.

D. The assessment shall include at minimum a description of the participant's:

1. Medical and functional condition, including:

a. Ambulatory ability;

b. Ability to perform activities of daily living; and

c. Health status to include diagnoses and medications.

2. Mental status, including any intellectual, cognitive, and behavioral impairment and known psychiatric or emotional problems;

3. Social environment, including living arrangements and the availability of family, friends, and other people and organizations in the community to provide services to the participant;

4. Economic conditions;

5. Nutrition needs;

6. Communication limitations;



7. Hobbies and interests; and

8. Personal preferences that would enhance the participant's experience at the center.

E. The assessment shall be reviewed and updated at least every six months.

F. A reassessment shall also be made when there are changes to indicate that a participant's needs may no longer be met by the current plan of care or the center's program of care.

G. The initial assessment, and any reassessments, shall be in writing and completed, signed and dated by the staff person identified in subsection A of this section. The assessment or reassessment shall also indicate any other individuals who contributed to the development of the plan, with a notation of the date of the contribution.

**22VAC40-61-230. Participant plan of care.**

A. Prior to or on the date of admission, a preliminary multi-disciplinary plan of care, based upon the assessment, shall be developed for each participant. The plan shall be reviewed and updated, if necessary, within 30 days of admission.

B. The plan shall be developed by the director, a staff person that meets the qualifications of the director, or a licensed health care professional employed by the center.

C. The plan shall be developed in conjunction with the participant and, as appropriate, with the participant's family members, legal representative, direct care staff members, case manager, or health care provider.

D. The plan shall be developed to maximize the participant's level of functional ability and to support the principles of individuality, personal dignity, and freedom of choice. Whenever possible, participants shall be given a choice of options regarding the type and delivery of services. The plan shall include:

1. A description of the identified needs and the date identified;

2. The expected outcome or goal to be achieved in meeting those needs;

3. The activities and services that will be provided to meet those outcomes or goals, who will provide them, and when they will be provided;

4. If appropriate, the time by which the outcome or goals should be achieved; and

5. Date outcome or goal achieved.

E. The plan of care shall be reviewed and updated as significant changes occur and at least every six months.

F. The preliminary plan of care, and any updated plans, shall be in writing and completed, signed and dated by the staff person identified in subsection B of this section. The participant, family member or legal representative shall also sign the plan of care. The plan shall indicate any other individuals who contributed to the development of the plan, with a notation of the date of contribution.

**22VAC40-61-240. Participant agreement with the center.**

A. At or prior to the time of admission, there shall be a written agreement between the participant and the center. The agreement shall be signed and dated by the participant or legal representative and the center representative.

B. The agreement shall specify the following:

1. Services and care to be provided to the participant by the center. Any additional fees for specific services and care shall be identified.

2. Financial arrangement to include:

a. The amount to be paid; frequency of payments; and rules relating to nonpayment.

b. The amount and purpose of an advance payment or deposit payment and the refund policy for such payment.

c. The policy with respect to increases in charges and the length of time for advance notice of intent to increase charges.

d. The refund policy to apply when transfer of ownership, closing of center, or participant discharge occurs.

e. The fee or notification requirement, if any, associated with participant discharge.

f. The provision of a monthly statement or itemized receipt of the participant's account.

3. Conditions for discharge.

C. A copy of the signed agreement shall be given to the participant or to the legal representative, as appropriate, and a copy shall be kept in the participant's record at the center.

D. The agreement shall be reviewed and updated whenever there is any change in the services or the financial arrangements. The updated agreement shall be signed and dated by the participant or his legal representative and the center representative.

**22VAC40-61-250. Participant record.**

A. The center shall establish policies and procedures for documentation and recordkeeping to ensure that the information in participant records is accurate, clear and well organized. The record shall contain all information, reports, and documents required by this chapter, and other information relevant to the plan of care.

B. The following personal information shall be kept current for each participant:

1. Full name of participant, address, and telephone number;

2. Date of admission;

3. Birth date;

4. Marital status;

5. Names, addresses, and telephone numbers of at least two family members, friends, or other designated people to be contacted in the event of illness or an emergency;

6. Names, addresses, and telephone numbers of the participant's local primary care provider, personal physician, any other health or social service provider and the name of the preferred hospital in the event of an emergency;

7. Name, address, and telephone number of any legal representative and documentation regarding the scope of their representation;

8. Known allergies, if any;

9. Information regarding an advance directive or Do Not Resuscitate (DNR) Order, if applicable;

10. Mental health, substance abuse or behavioral concerns; and

11. A current photograph or narrative physical description of the participant, which shall be updated annually.

C. Participant records shall be retained at the center and kept in a locked area.

D. The center shall assure that all records are kept confidential and that information shall be made available only when needed for care of the participant and in accordance with applicable federal and state laws. All records shall be made available for inspection by the department's representative.

E. If the participant or legal representative consents in writing, records shall be shared with other centers or agencies for a specific purpose such as care coordination, referral for other services or upon discharge.

F. Participants shall be allowed access to their own records. A legal representative of a participant shall be provided access to the participant's record or part of the record only as allowed within the scope of his legal authority.

G. The complete participant record shall be retained for at least two years after the participant leaves the center.

**22VAC40-61-260. Physical examinations and report.**

A. Within the 30 days preceding admission, a participant shall have a physical examination by a licensed physician.

B. The report of the required physical examination shall be on file at the center and shall include:

1. The person's name, address and telephone number.
2. The date of the physical examination.
3. Height, weight, and blood pressure.
4. Significant medical history.
5. General physical condition, including a systems review as is medically indicated.
6. All diagnoses and significant medical problems.
7. Any known allergies and description of the person's reactions.
8. Any recommendations for care including:
  - a. A list of all medications including dosages, route, and frequency of administration;
  - b. Any special diet or any food intolerances;
  - c. Any therapy, treatments or procedures the individual is undergoing or should receive, and by whom; and

d. Any restrictions or limitations on physical activities or program participation.

9. The participant shall obtain an evaluation by a qualified licensed practitioner that completes an assessment for tuberculosis in a communicable form no earlier than 30 days before admission. The evaluation for tuberculosis (TB) shall be consistent with the TB risk assessment as published by the Virginia Department of Health, with additional testing, singly or in combination, as deemed necessary. Documentation of the TB evaluation is required, which includes the information contained on the form "Report of Tuberculosis Screening" recommended by the Virginia Department of Health. The form shall be signed by the qualified licensed practitioner that performs the evaluation.

10. A statement that specifies whether the individual is considered to be ambulatory or nonambulatory.

11. A statement that specifies whether the individual is or is not capable of self-administering medication.

12. The signature of the examining physician or his designee.

C. Subsequent medical evaluations.

1. Each participant shall annually submit a report of physical examination by a physician including the information required in subdivisions B 1 through 8 and B 10 through 12 of this subsection.

2. At the request of the licensee or director of the center or the Department of Social Services, a report of examination by a physician shall be obtained when there are indications that the center can no longer provide appropriate or safe care because of changes in the participant's physical or mental health. The written report of the physical examination shall be:

a. Dated;

b. Signed by a physician or the physician's designee; and

c. Used in evaluating the participant's continued suitability for adult day care.

D. Subsequent evaluations for tuberculosis.

1. Any participant who comes in contact with a known case of infectious tuberculosis shall be screened as deemed appropriate in consultation with the local health department.

2. Any participant who develops respiratory symptoms of three or more weeks' duration shall be evaluated immediately for the presence of infectious tuberculosis. Any such participant shall not be allowed to return to the program until a physician has determined that the individual is free of infectious tuberculosis.

3. If a participant develops an active case of tuberculosis, the center shall report this information to the local health department.

**22VAC40-61-270. Discharge of participants.**

A. When actions, circumstances, conditions, or care needs occur that will result in the discharge of a participant, discharge planning shall begin immediately.

B. A written discharge notice shall identify the reasons for discharge and outline the services needed by the participant upon discharge. The discharge notice shall be provided to, and discussed with, the participant and family members or legal representative.

C. The center shall notify the participant and family members or legal representative at least 30 calendar days prior to the actual discharge date.

D. The center shall develop a policy regarding the number of days' notice that is required when a participant wishes to leave the center. Any required notice of intent to leave shall not exceed 30 calendar days.

E. When a participant's condition presents an immediate and serious risk to the health, safety or welfare of the participant or others and immediate discharge is necessary, the 30-day notification of planned discharge does not apply.

F. The center shall assist the participant, his family members or legal representative, if any, in the discharge or transfer process. The center shall prepare a transfer report for the new program, if requested.

G. The center shall have a process by which participants, family members or legal representatives can appeal a center-initiated discharge.

## Part VI

### Programs and Services

#### **22VAC40-61-280. Health care supervision.**

A. The center shall develop a policy and procedure for monitoring the health status of participants consistent with the particular characteristics and needs of the population served by the center.

B. The center shall provide supervision of participant schedules, care, and activities including attention to specialized needs, such as prevention of falls and wandering.

C. Each participant shall be continually observed and monitored for changes in health status including physical, social, emotional and mental functioning. Changes shall be discussed with the participant, family, legal representative, physician or others, as appropriate. Documentation of the change and any notifications shall be made in the participant's record.

D. Measures of health status include, but are not limited to:

1. Vital signs;

2. Weight;



3. Meal and fluid intake;

4. Elimination;

5. Skin integrity;

6. Behavior;

7. Cognition;

8. Functional ability; and

9. Special needs.

E. When the center identifies a need for a change in health care services, this shall be discussed with the participant, family, legal representative, physician, or others as appropriate, and documented in the participant's record. The plan of care shall be updated, if necessary.

F. If the participant requires skilled or rehabilitative services, the center shall assist the participant and family in securing such services, if necessary.

G. If skilled health care and rehabilitative services are provided at the center, the center shall ensure that such providers are licensed, certified or registered as required by law. These services shall be provided in accordance with the physician or other health care professional's order.

**22VAC40-61-290. Infection control program.**

A. The center shall develop and maintain an infection prevention and occupational health program compliant with Occupational Safety and Health Administration (OSHA) regulations designed to provide a safe, sanitary and comfortable environment for participants, staff and the public.

B. The center shall develop infection prevention policies and procedures appropriate for the services provided by the center and including the physical plant and grounds. These shall be

based upon evidence-based guidelines such as those published by the Centers for Disease Control and Prevention or the Virginia Department of Health, updated as recommendations change, and shall include:

1. Standard precautions to include:

a. Hand hygiene;

b. Use of personal protective equipment such as gloves and masks;

c. Safe injection and blood glucose monitoring practices;

d. Safe handling of potentially contaminated equipment or surfaces in the center environment; and

e. Respiratory hygiene and cough etiquette.

2. Specific methods and time frames to monitor infection prevention practices by staff and volunteers.

3. Parameters for ensuring that staff, volunteers, and participants with communicable disease or infections are prohibited from direct contact with others if contact may transmit disease, in accordance with applicable local, state and federal regulations.

4. Handling, storing, processing and transporting linens, supplies and equipment consistent with current infection prevention methods.

5. Handling, storing, and transporting medical waste in accordance with applicable regulations.

6. Maintaining an effective pest control program.

C. The center shall ensure that at least one staff person with training in infection prevention specific to this setting is employed by or regularly available (e.g., by contract) to manage the center's infection prevention program.

D. All staff and volunteers shall be trained on requirements of the center's infection prevention program according to their job duties during the orientation period and at least annually. Competencies shall be documented following each training and may include a written test, skills demonstration or other method as appropriate.

E. The center shall ensure that sufficient and appropriate supplies to maintain standard precautions are available at all times, such as gloves, hand hygiene and cleaning products and any other supplies needed specific to center services.

F. The director shall be responsible for ensuring that any outbreak of disease as defined by the Virginia Department of Health is immediately reported to the local health department and to the regional licensing office.

**22VAC40-61-300. Medication management.**

A. The center shall have, keep current, and implement a plan for medication management. The center's medication management plan shall address procedures for administering medication and shall include:

1. Standard operating procedures and any general restrictions specific to the center;

2. Methods to ensure an understanding of the responsibilities associated with medication management including, but not limited to the following:

a. Determining that staff who are responsible for administering medications meet the qualification requirements of 22VAC40-61-300 E 7 a and b;

b. Ensuring that staff who are responsible for administering medications are trained on requirements of the center's medication management plan; and

c. Ensuring that staff who are responsible for administering medications are adequately supervised, including periodic direct observation of medication

administration. Supervision shall be provided by: (i) an individual employed by the center who is licensed by the Commonwealth of Virginia to administer medications or (ii) The director who has successfully completed a training program as required in subsection E 7 a and b of this section.

3. Methods to ensure that authorizations for the administration of medications are current;

4. Methods to secure and maintain supplies of each participant's prescription medications and any over-the-counter drugs and supplements in a timely manner to avoid missed dosages;

5. Methods for verifying that medication orders have been accurately transcribed to medication administration records (MARs), including within 24 hours of receipt of a new order or a change in an order;

6. Methods for monitoring medication administration and the effective use of the MARs for documentation;

7. Methods to ensure that participants do not receive medications or dietary supplements to which they have known allergies;

8. Methods to ensure accurate accounting for all controlled substances whenever received by center staff, returned to participant, or whenever assigned medication administration staff changes;

9. Procedures for proper disposal of medication; and

10. Procedures for preventing, detecting, and investigating suspected or reported drug diversion.

B. The center shall have readily accessible as reference materials for medication aides, at least one pharmacy reference book, drug guide, or medication handbook for nurses that is no more than two years old.

C. Prescription and nonprescription medications, including sample medications, shall be given to a participant according to the center's medication policies and only with written or verbal authorization from the physician or prescriber, or the physician's authorized agent. For the purposes of this section, an "authorized agent" means an employee of the physician who is under his immediate and personal supervision. Verbal orders shall be reviewed and signed by the physician or prescriber within 10 working days.

D. The center shall maintain a list of all medications, including those taken at home and at the center, for each participant. The center shall attempt to verify and update the list of center-administered medications with the prescribing health care professional at least twice a year. Unsuccessful attempts to verify shall be documented.

E. The following standards shall apply when medications are administered to participants at the adult day care center:

1. All medication shall be in the original container with the prescription label or direction label attached and legible. Sample medications shall remain in the original packaging, labeled by a physician or other prescriber or pharmacist with the participant's name, the name of the medication, the strength, dosage, and route and frequency of administration, until administered.

2. All medication shall be labeled with the participant's name, the name of the medication, the strength and dosage amount, the route of administration, and the frequency of administration.

3. The medication shall be kept in a locked compartment or area, not accessible to participants. The locked compartment or area shall be free from direct sunlight and high temperatures, free from dampness, and shall remain darkened when closed.

4. The area in which the medication is prepared shall have sufficient light so that the labels can be read accurately and the correct dosage can be clearly determined.

5. Medication shall be refrigerated, if required. When medication is stored in a refrigerator used for food, the medications shall be stored together in a locked container in a clearly defined area. If a refrigerator is used for medication only, it is permissible to store dietary supplements and foods and liquids used for medication administration.

6. Unless it is contrary to the center's policy, a participant may take his own medication provided that:

a. A physician has deemed the participant capable of administering medication to himself;

b. The physician has given written authorization for the participant to self-administer his medication; and

c. Medications are kept in a safe manner inaccessible to other participants.

7. When the center staff administers medications to participants, the following standards shall apply:

a. Each staff person who administers medication shall be authorized by § 54.1-3408 of the Virginia Drug Control Act. All staff responsible for medication administration shall:

(1) Be licensed by the Commonwealth of Virginia to administer medications;

(2) Be a registered medication aide;

(3) Successfully complete a training program approved by the Board of Nursing and accepted in adult day care centers; or

(4) Successfully complete a training program approved by the Board of Nursing for the registration of medication aides that consists of 68 hours of student instruction and training.

b. All staff that administer medications, except those licensed by the Commonwealth, shall complete, on an annual basis, four hours of medication management refresher training on topics specific to the administration of medications in the adult day care center setting.

c. Medications shall remain in the original or pharmacy issued container until administered to the participant by the qualified medication staff. All medications shall be removed from the pharmacy container and be administered by the same qualified person within one hour of the individual's scheduled dosing time.

d. Documentation shall be maintained on the MAR of all medications, including prescription, nonprescription, and sample medication, administered to a participant while at the center. This documentation shall become part of the participant's permanent record and shall include:

(1) Name of participant;

(2) All known allergies;

(3) Diagnosis, condition, or specific indications for which the medication is prescribed;

(4) Date medication prescribed;

(5) Drug product name;

(6) Dosage and strength of medication;

(7) Route of administration;

(8) Frequency of administration;

(9) Date and time given and initials of staff administering the medication;

(10) Date the medication is discontinued or changed;

(11) Any medication errors or omissions;

(12) Notation of any adverse effects or unusual reactions that occur; and

(13) The name, signature, and initials of all staff administering medications. A master list may be used in lieu of this documentation on individual MARs.

F. In the event of an adverse drug reaction or a medication error, the following applies:

1. Action shall be taken as directed by a physician, pharmacist, or a poison control center;

2. The participant's physician and family member or other legal representative shall be notified as soon as possible; and

3. Medication administration staff shall document actions taken in the participant's record.

G. The use of PRN (as needed) medications is prohibited unless one or more of the following conditions exist:

1. The participant is capable of determining when medication is needed;

2. A licensed health care professional administers the medication;

3. The participant's physician has provided detailed written instructions, including symptoms that might indicate the need for the medication, exact dosage, the exact time



frames the medication is to be given in a 24-hour period, and directions for what to do if symptoms persist; or

4. The center staff has telephoned the participant's physician prior to administering the medication and explained the symptoms and received a documented verbal order that includes the information in subdivision 3 of this subsection.

H. Any physician ordered treatment provided by staff shall be documented and shall be within the staff's scope of practice.

**22VAC40-61-310. Restraints.**

The use of chemical or physical restraints is prohibited.

**22VAC40-61-320. Assistance with activities of daily living.**

A. Dignity, privacy, and confidentiality shall be maintained for participants whenever assistance with activities of daily living (ADLs) is provided.

B. When providing assistance with ADLs, staff shall ensure all necessary supplies and equipment are available and organized to aid in assistance and to maximize the participant's safety.

C. Assistance with eating and feeding.

1. Dining areas shall be supervised by staff whenever meals or snacks are served.

2. Additional staff shall be present in the dining areas to assist participants who cannot eat independently.

3. Self-feeding skills of participants shall be continuously observed and evaluated so that meals and snacks are not missed because of a participant's inability to feed himself.

4. Appropriate adapted utensils, including adapted plates/bowls and cups with straws and handles, shall be provided for those participants who need them. Information about

effective eating adaptations shall be shared with the participant's family. Assistance such as, but not limited to, opening containers and cutting food shall be provided to those participants who need it.

5. Low-stimulus dining areas shall be provided for participants with cognitive deficits or other conditions that impair concentration.

6. Changes in food and liquid intake shall be documented in the participant's record and changes made to the care plan to ensure adequate intake. The participant's family shall be notified of such changes.

D. Assistance with ambulation and transfer.

1. The ability of the participant to safely transfer and ambulate shall be continually monitored. Any changes shall be documented in the participant's record and noted on the plan of care.

2. There shall be adequate staff to provide individualized assistance to participants to ambulate to activities, meals and the restroom, if such assistance is needed.

3. The center shall have at least one wheelchair available for emergency use, even if all participants are ambulatory or have their own wheelchairs.

4. Staff shall identify unmet ambulation and transfer needs, including equipment needs and repairs, and shall discuss such needs with the participant, family, legal representative, or physician, as appropriate.

5. Participants who use wheelchairs shall be offered other seating options throughout the day, if appropriate.

E. Assistance with toileting.

1. Staff shall develop and follow appropriate toileting procedures for each participant that requires assistance according to that individual's abilities and plan of care.

2. Participants who are at risk of falling, or who have other safety risks, shall not be left alone while toileting.

3. Staff shall arrange for coverage of program responsibilities when they must leave the group to assist with toileting a participant.

F. Assistance with bathing.

1. A shower chair, bench or other seating, safety equipment such as grab bars, and nonslip surfaces shall be provided.

2. The participant shall not be left unattended in the shower or bath. If the bathing area is not in sight or sound of other occupied parts of the building, there shall be an emergency call system to summon additional assistance.

G. Assistance with dressing.

1. Assistance shall be provided according to that individual's abilities and plan of care.

2. Extra clothing shall be available for participants who need to change during the day. Each participant may keep a change of clothing at the center or the center may keep a supply to use as needed.

3. Participants' clothing, equipment and supplies kept at the center shall be properly labeled and stored to prevent loss.

4. Special attention shall be given to footwear of participants who are at risk of falling. Staff shall encourage family members to provide appropriate shoes and shall document those recommendations in the participant's record.

**22VAC40-61-330. Activities.**

A. Activities shall be planned to support the plans of care for the participants and shall be consistent with the program statement and the admission policies.

B. Activities shall:

1. Support the physical, social, mental, and emotional skills and abilities of participants in order to promote or maintain their highest level of independence or functioning;
2. Accommodate individual differences by providing a variety of types of activities and levels of involvement; and
3. Offer participants a varied mix of activities including, but not limited to, the following categories: physical; social; cognitive, intellectual, or creative; productive; sensory; reflective or contemplative; outdoor; and nature or the natural world. Community resources as well as center resources may be used to provide activities. Any given activity may fall under more than one category.

C. Participation in activities.

1. Participants shall be encouraged but not forced to participate in activity programs offered by the center and the community.
2. During an activity, each participant shall be encouraged but not coerced to join in the activity at his level of functioning, which may include only his observation of the activity.
3. If appropriate to meet the needs of the participant with a short attention span, multiple short activities shall be provided.
4. Any restrictions on participation imposed by a physician shall be followed and documented in the participant's record and the plan of care.

D. There shall be a designated staff person who is routinely present in the center and who shall be responsible for managing or coordinating the structured activities program. This staff person shall maintain personal interaction with the participants and familiarity with their needs and interests, and shall meet at least one of the following qualifications:

1. Be a qualified therapeutic recreation specialist or an activities professional;
2. Be eligible for certification as a therapeutic recreation specialist or an activities professional by a recognized accrediting body;
3. Be a qualified occupational therapist or an occupational therapy assistant; or
4. Have one year full-time work experience within the last five years in an activities program in an adult care setting.

E. Participants, staff and family members shall be encouraged to be involved in the planning of the activities.

F. Schedule of activities.

1. There shall be planned activities and programs throughout the day whenever the center is in operation.
2. A written schedule of activities shall be developed on a monthly basis.
3. The schedule shall include:
  - a. Group activities for all participants or small groups of participants; and
  - b. The name, type, date and hour of the activity.
4. If one activity is substituted for another, the change shall be noted on the schedule.
5. The current month's schedule shall be posted in a readily accessible location in the center and also may be made available to participants and their families.

6. The schedule of activities for the preceding two years shall be kept at the center.

7. If a participant requires an individual schedule of activities, that schedule shall be a part of the plan of care.

G. During an activity, when needed to ensure that each of the following is adequately accomplished, there shall be staff persons or volunteers to:

1. Lead the activity;

2. Assist the participants with the activity;

3. Supervise the general area;

4. Redirect any individuals who require different activities; and

5. Protect the health, safety, and welfare of the participants involved in the activity.

H. The staff person or volunteer leading the activity shall have a general understanding of the following:

1. Attention spans and functional levels of each of the participants;

2. Methods to adapt the activity to meet the needs and abilities of the participants;

3. Various methods of engaging and motivating individuals to participate; and

4. The importance of providing appropriate instruction, education, and guidance throughout the activity.

I. Adequate supplies and equipment appropriate for the program activities shall be available in the center.

J. All equipment and supplies used shall be accounted for at the end of the activity so that a safe environment can be maintained.

K. In addition to the required scheduled activities, there shall be unscheduled staff and participant interaction throughout the day that fosters an environment that promotes socialization opportunities for participants.

**22VAC40-61-340. Food service.**

A. Meals and snacks shall be provided by the center. The center shall either prepare the food, have it catered, or utilize a contract food service.

B. When any portion of an adult day care center is subject to inspection by the Virginia Department of Health, the center shall be in compliance with those regulations, as evidenced by an initial and subsequent annual report from the Virginia Department of Health. The report shall be retained at the center for a period of at least two years.

C. If catering or contract food service is used, the service shall be approved by the local health department. The center shall be responsible for monitoring continued compliance by obtaining a copy of the Virginia Department of Health approval.

D. The center shall encourage, but not require, participants to eat the meals and snacks provided by the center. If a participant brings food from home, the food shall be labeled with the participant's name, dated, and stored appropriately until meal or snack time. The fact that the participant brought food does not relieve the center of its responsibility to provide meals and snacks.

E. A minimum of 45 minutes shall be allowed for each participant to complete a meal. If a participant needs additional time to finish his meal due to special needs, such additional time shall be provided.

**22VAC40-61-350. Serving of meals and snacks.**

A. Centers shall serve meals and snacks at appropriate times, depending on the hours of operation. For example, a center open during the hours of 7 a.m. to 1 p.m. must serve a

morning snack and a mid-day meal; a center open during the hours of 8 a.m. to 5 p.m. must serve a morning snack, a mid-day meal, and an afternoon snack; a center open during the hours of 2 p.m. to 6 p.m. must serve an afternoon snack; a center open after 6 p.m. must serve an evening meal. Centers open after 9 p.m. shall serve an evening snack. Snacks shall also be available throughout the day.

B. There shall be at least two hours between scheduled snacks and meals.

C. Adequate kitchen facilities and equipment shall be provided for preparation and serving of meals and snacks or for the catering of meals.

D. Sufficient working refrigeration shall be available to store perishable food and medicine.

**22VAC40-61-360. Menu and nutrition requirements.**

A. Food preferences of participants shall be considered when menus are planned.

B. Menus for meals and snacks for the current week shall be dated and posted in an area conspicuous to participants.

1. Any menu substitutions or additions shall be recorded on the posted menu.

2. Menus shall be kept at the center for two years.

C. Minimum daily menu.

1. Unless otherwise ordered in writing by the participant's physician, the daily menu, including snacks, for each participant shall meet the current guidelines of the United States Department of Agriculture's (USDA) food guidance system or the dietary allowances of the Food and Nutritional Board of the National Academy of Sciences, taking into consideration the age, sex and activity of the participant.

2. Other foods may be added to enhance the meals or meet individual participant needs.

3. Second servings and snacks shall be available at no additional charge.



4. Drinking water shall be available at all times.

D. When a diet is prescribed for a participant by his physician or other prescriber, it shall be prepared and served according to the physician's or other prescriber's orders.

E. A current copy of a diet manual containing acceptable practices and standards for nutrition shall be available to staff responsible for food preparation and meal planning.

**22VAC40-61-370. Observance of religious dietary practices.**

A. The participant's religious dietary practices shall be respected and followed.

B. Religious dietary practices of the director, staff or licensee shall not be imposed upon participants unless mutually agreed upon in the admission agreement.

**22VAC40-61-380. Transportation services.**

A. Centers that provide participant transportation directly or by contract shall ensure that the following requirements are met:

1. The vehicle shall be accessible and appropriate for the participants being transported.

Vehicles shall be equipped with a ramp or hydraulic lift to allow entry and exit if there are participants who remain in their wheelchair during transport.

2. The vehicle's seats shall be attached to the floor and wheelchairs shall be secured when the vehicle is in motion.

3. Arrangement of wheelchairs and other equipment in the vehicle shall not impede access to exits.

4. The vehicle shall be insured for at least the minimum limits established by law and regulation.

5. All vehicles shall have working heat and air conditioning systems.

6. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to ensure the safety of participants.

B. Centers that provide participant transportation directly or by contract shall ensure that during transportation the following requirements are met:

1. The driver has a valid Virginia driver's license to operate the type of vehicle being used.

2. Virginia statutes regarding safety belts are followed.

3. Every person remains seated while the vehicle is in motion.

4. Doors are properly closed and locked while the vehicle is in motion.

5. Supervision and safety needs of participants are maintained at all times.

6. The following information is maintained in vehicles used for transportation:

a. The center's name, address and phone number;

b. A list of the names of the participants being transported;

c. A list of the names, addresses and telephone numbers of participants' emergency contact persons; and

d. A first aid kit containing the supplies as listed in 22VAC40-61-550.

7. The driver, another staff person or a volunteer in the vehicle, is current in first aid and CPR training.

8. There shall be a means of communicating between the driver and the center.

C. If staff or volunteers supply personal vehicles, the center shall be responsible for ensuring that the requirements of subsections A and B of this section are met.

**22VAC40-61-390. Field trips.**

A. Any center that takes participants on field trips shall develop a policy that addresses the following:

1. A communication plan between staff at the center and staff who are accompanying participants on a field trip;

2. Maintenance of staff-to-participant ratio at both the center and on the field trip as required by 22VAC40-61-200;

3. Provision of adequate food and water for participants during field trips;

4. Safe storage of food to prevent food-borne illnesses; and

5. Medication administration that shall meet the requirements of 22VAC40-61-300.

B. Before leaving on a field trip, a list of participants taking the trip, and a schedule of the trip's events and locations shall be left at the center and shall be accessible to staff.

C. A wheelchair that is available for emergency use shall be taken on field trips.

D. The requirements of 22VAC40-61-380 apply when participants are transported on field trips.

Part VII

Buildings and Grounds

**22VAC40-61-400. Physical environment.**

A center must provide an environment that ensures the safety and well-being of the participants but is not so restrictive as to inhibit physical, intellectual, emotional, or social stimulation.

**22VAC40-61-410. Maintenance of buildings and grounds.**

A. The interior and exterior of all buildings shall be maintained in good repair, kept clean and free of rubbish, and free from safety hazards.

B. All buildings shall be well-ventilated and free from foul, stale, and musty odors.

C. Adequate provisions for the collection and legal disposal of garbage, ashes, and waste material shall be made.

D. Buildings shall be kept free of infestations of insects and vermin. The grounds shall be kept free of their breeding places.

E. Cleaning products, pesticides, and all poisonous or harmful materials shall be stored separately from food and shall be kept in a locked place when not in use.

F. All furnishings, fixtures, and equipment, including, but not limited to, furniture, window coverings, sinks, toilets, bathtubs, and showers, shall be kept clean and in good repair and condition.

G. Grounds shall be properly maintained to include mowing of grass and removal of snow and ice.

H. A safe area for participant discharge and pick-up shall be available.

I. Adequate outdoor lighting shall be provided to ensure safe ambulation and the safety of participants during arrival and departure.

J. All interior and exterior stairways and ramps shall have a nonslip surface or carpet that shall be secured to the stairways or ramps.

K. Sturdy handrails shall be provided on all stairways, ramps, elevators, and at all changes in floor level.

L. All interior and exterior stairways, changes in floor level, and ramps shall be indicated by a warning strip or contrast in color .

**22VAC40-61-420. Lighting.**

A. All areas of the center shall be adequately lighted for the safety and comfort of the participants.

B. Artificial lighting shall be powered by electricity.

C. Glare shall be kept at a minimum in rooms used by participants. When necessary to reduce glare, coverings shall be used for windows and lights.

D. If used, fluorescent lights shall be replaced if they flicker or make noise.

F. Flashlights or battery lanterns in working order shall be available at all times for emergency lighting.

G. Open flame lighting is prohibited.

**22VAC40-61-430. Heating and cooling.**

A. Heat shall be supplied from a central heating plant or an electrical heating system in accordance with the Virginia Uniform Statewide Building Code (13VAC5-63).

B. Provided their installation or operation has been approved by the state or local building or fire authorities, space heaters, such as but not limited to, gas stoves, wood burning stoves, coal burning stoves, and oil heaters, or portable heating units either vented or unvented, may be used only to provide or supplement heat in the event of a power failure or similar emergency. These appliances shall be used in accordance with the manufacturer's instructions. When any of these heating sources are used, care shall be taken to protect participants from injuries.

C. The temperature of the center shall be maintained at a level safe and suitable for the participants in accordance with the following:

1. The inside temperature shall be between 70°F and 84°F. This standard applies unless otherwise mandated by federal or state authorities.

2. Fans and air conditioners shall be placed to avoid direct drafts on participants and to prevent safety hazards. Any electric fans shall be screened and placed for the protection of the participants.

3. The center shall develop a plan to protect participants from heat-related and cold-related illnesses in the event of a loss of heat or cooling due to emergency situations or malfunctioning or broken equipment.

4. At least one movable thermometer shall be available in each building for measuring temperatures in individual rooms that do not have a fixed thermostat that shows the temperature in the room.

**22VAC40-61-440. General areas.**

A. Any center licensed after July 1, 2000, shall provide at least 50 square feet of indoor floor space for each participant, in addition to hallways, office space, bathrooms, storage space, or other rooms or areas that are not normally used for program activities; otherwise the square footage shall be 40 square feet.

B. There shall be sufficient and suitable space for planned program activities that may be interchangeable or adaptable for a variety of activities, including meals.

1. There shall be at least one room with sufficient space for the participants to gather together for large group activities.

2. There shall be rooms or areas appropriate for small group activities and individual activities.

3. An area shall be available and accessible so that participants shall have opportunities for supervised outdoor activities. The area shall be equipped with appropriate seasonal outdoor furniture.

C. Furnishings.

1. The furniture shall be sturdy, safe, and appropriate for participants in care.

2. All centers shall have:

a. At least one chair for each participant and each staff person, excluding any people who remain in wheelchairs throughout the day;

b. Table space adequate for all participants to take part in activities at the same time;  
and

c. Recliners, lounge chairs, rockers, or other seating to allow participants to relax and rest.

**22VAC40-61-450. Privacy space.**

Space shall be available to allow privacy for participants during interviews, visits, telephone conversations, counseling, therapy, and other similar activities.

**22VAC40-61-460. Restroom facilities.**

A. There shall be a minimum of one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment available for every 10 participants, or portion thereof. For restrooms that have multiple stalls, only the toilets that accommodate a person who needs human assistance or specialized equipment shall be counted in the total required number of toilets.

B. Restrooms that are equipped with only one toilet may be used by either men or women.

C. Restrooms equipped with more than one toilet shall have each toilet enclosed.

D. Restrooms that are equipped with multiple stalls must be designated for men or for women.

E. Sturdy grab bars or safety frames shall be installed beside all toilets used by participants.

F. There shall be a minimum of one sink for every two toilets and the sinks shall be located close enough to toilets to encourage washing of hands after each toileting procedure.

G. There shall be an ample supply of hot and cold running water from an approved source available to the participants at all times.

H. Hot water at taps available to participants shall be maintained within a temperature range of 105° to 120°F.

I. There shall be an adequate supply of toilet tissue, liquid soap, disposable hand towels or air dryers and disposable gloves in each restroom at all times.

J. If bathing facilities are provided there shall be:

1. Handrails by bathtubs;

2. Handrails in stall showers; and

3. A bench for use in the shower and a bench for use in dressing, if necessary.

**22VAC40-61-470. Dining area.**

A. Dining areas shall have a sufficient number of sturdy tables and chairs to serve all participants, either all at one time or in shifts.

B. If the center is licensed for nonambulatory participants, the dining area shall be large enough to provide sufficient table space and floor space to accommodate participants in wheelchairs or other assistive equipment.



**22VAC40-61-480. Rest area.**

A. A separate room or area shall be available for participants who become ill, need to rest, or need to have privacy. The separate room or area shall be equipped with one bed, comfortable cot or recliner for every 12 participants.

B. Additional beds, comfortable cots or recliners shall be available based on participant needs, to accommodate rest periods. In centers that are open for evening or night care, beds shall be available for participants who need them.

C. A minimum of one pillow covered with a pillow case, two sheets and one blanket, spread or covering per bed or cot shall be provided.

D. All sheets and pillow cases shall be laundered after each use.

E. Additional covering or blankets and pillows shall be available as necessary for recliners.

**22VAC40-61-490. Storage.**

A. Sufficient space shall be provided to store coats, sweaters, umbrellas, toilet articles, and other personal possessions of participants and staff.

B. Sufficient space shall be available for equipment, materials, and supplies used at the center.

**22VAC40-61-500. Telephones.**

A. Each building shall have at least one operable, nonpay telephone easily accessible to staff. There shall be additional telephones or extensions as may be needed to summon help in an emergency, including one that will operate during power outages.

B. Participants shall have reasonable access to a nonpay telephone on the premises.

**22VAC40-61-510. Fire safety: compliance with state regulations and local fire ordinances.**

A. The center shall comply with the Virginia Statewide Fire Prevention Code (13VAC5-51) as determined by at least an annual inspection by the appropriate fire official. Reports of the inspections shall be retained at the center for at least two years.

B. An adult day care center shall comply with any local fire ordinance.

**Part VIII**

**Emergency Preparedness**

**22VAC40-61-520. Emergency preparedness and response plan.**

A. The center shall develop an emergency preparedness and response plan that shall address:

1. Documentation of initial and annual contact with the local emergency coordinator to determine (i) local disaster risks, (ii) community wide plans to address different disasters and emergency situations, and (iii) assistance, if any, that the local emergency management office will provide to the center in an emergency.

2. Analysis of the center's potential hazards, including severe weather, biohazard events, fire, loss of utilities, flooding, work place violence or terrorism, severe injuries, or other emergencies that would disrupt normal operation of the center.

3. Emergency management policies and procedures for the provision of:

a. Administrative direction and management of response activities;

b. Coordination of logistics during the emergency;

c. Communications;

d. Life safety of participants, staff, volunteers, and visitors;

- e. Property protection;
- f. Continued services to participants;
- g. Community resource accessibility; and
- h. Recovery and restoration.

4. Emergency response procedures for assessing the situation; protecting participants, staff, volunteers, visitors, equipment, medications, and vital records; and restoring services. Emergency response procedures shall address:

- a. Alerting emergency personnel and center staff;
- b. Warning and notification of participants, including sounding of alarms when appropriate;
- c. Providing emergency access to secure areas and opening locked doors;
- d. Conducting evacuations and sheltering in place, as appropriate, and accounting for all participants;
- e. Locating and shutting off utilities when necessary;
- f. Maintaining and operating emergency equipment effectively and safely;
- g. Communicating with staff and community emergency responders during the emergency;
- h. Conducting relocations to emergency shelters or alternative sites when necessary and accounting for all participants; and
- i. Strategies for reunification of participants with their family or legal representative.

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, and as applicable,

memoranda of understanding with relocation sites and list of major resources such as suppliers of emergency equipment.

B. Staff and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

C. The center shall develop and implement an orientation and semi-annual review on the emergency preparedness and response plan for all staff, participants, and volunteers with emphasis placed on an individual's respective responsibilities, except that for participants, the orientation and review may be limited to only subdivision 1 and 2 of this subsection. The review shall be documented by signing and dating. The orientation and review shall cover responsibilities for:

1. Alerting emergency personnel and sounding alarms;

2. Implementing evacuation, shelter in place, and relocation procedures;

3. Using, maintaining, and operating emergency equipment;

4. Accessing emergency medical information, equipment, and medications for participants;

5. Locating and shutting off utilities; and

6. Utilizing community support services.

D. The center shall review the emergency preparedness plan annually or more often as needed, document the review by signing and dating the plan, and make necessary revisions. Such revisions shall be communicated to staff, participants, and volunteers and incorporated into the orientation and semi-annual review.

E. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety, and welfare of participants, the center shall take appropriate action to protect the participants and to remedy the conditions as soon as possible.

F. After the disaster or emergency is stabilized, the center shall:

1. Notify family members and legal representatives; and

2. Report the disaster or emergency to the regional licensing office as specified in 22VAC40-61-90.

**22VAC40-61-530. Fire and emergency evacuation plan.**

A. The center shall have a plan for fire and emergency evacuation that is to be followed in the event of a fire or other emergency. The plan shall be approved by the appropriate fire official.

B. A fire and emergency evacuation drawing showing primary and secondary escape routes, areas of refuge, assembly areas, telephones, fire alarm boxes, and fire extinguishers shall be posted in a conspicuous place.

C. The telephone numbers for the fire department, rescue squad or ambulance, police, and Poison Control Center shall be posted by each telephone shown on the fire and emergency evacuation plan.

D. Staff and volunteers shall be fully informed of the approved fire and emergency evacuation plan, including their duties, and the location and operation of fire extinguishers, fire alarm boxes, and any other available emergency equipment.

**22VAC40-61-540. Fire and emergency evacuation drills.**

A. Fire and emergency evacuation drill frequency and participation shall be in accordance with the current edition of the Virginia Statewide Fire Prevention Code (13VAC5-51).

B. Additional fire and emergency evacuation drills shall be held when there is any reason to question whether the requirements of the approved fire and emergency evacuation plan can be met.

C. Each required fire and emergency evacuation drill shall be unannounced.

D. Immediately following each required fire and emergency evacuation drill, there shall be an evaluation of the drill by the staff in order to determine the effectiveness of the drill. The licensee or director shall immediately correct any problems identified in the evaluation and document the corrective action taken.

E. A record of the required fire and emergency evacuation drills shall be kept in the center for two years. Such record shall include:

1. Identity of the person conducting the drill;
2. The date and time of the drill;
3. The method used for notification of the drill;
4. The number of staff participating;
5. The number of participants participating;
6. Any special conditions simulated;
7. The time it took to complete the drill;
8. Weather conditions; and
9. Problems encountered, if any.

**22VAC40-61-550. Emergency equipment and supplies.**

A. Each building of the center and all vehicles being used to transport participants shall contain a first aid kit which shall include, but not be limited to:

1. Scissors;
2. Tweezers;
3. Gauze pads;
4. Adhesive tape;
5. Bandages, assorted sizes;
6. Triangular bandages;
7. Flexible gauze;
8. Antiseptic cleansing solution;
9. Anti-bacterial ointment;
10. Bee sting swabs or preparation;
11. Ice pack or ice bag;
12. Thermometer;
13. Small operable flashlight;
14. Single use gloves, such as surgical or examining gloves; and
15. The first aid instructional manual.

B. The first aid kit shall be located in a designated place that is easily accessible to staff but not accessible to participants.

C. The first aid kit shall be checked at least annually and contents shall be replaced before expiration dates and as necessary.

D. Emergency equipment shall be available for use in the event of loss of utilities such as, but not limited to, a working flashlight, extra batteries, a portable radio, and a telephone or other communication device.

E. A plan shall be in place to provide an emergency meal and a supply of water to all participants in the event that meals are not able to be prepared or participants are required to shelter in place for a period of time.

**22VAC40-61-560. Plan for participant emergencies.**

A. The center shall have a plan for participant emergencies that includes:

1. Procedures for handling medical emergencies, including identifying the staff person responsible for (i) calling the rescue squad, ambulance service, participant's physician, or Poison Control Center; and (ii) providing first aid and CPR when indicated.

2. Procedures for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order.

3. Procedures for making pertinent medical information and history available to the rescue squad and hospital, including but not limited to, a copy of the current MAR, advance directives, and DNR Orders.

4. Procedures to be followed in the event that a participant is missing, including but not limited to (i) involvement of center staff, appropriate law-enforcement agency, and others as needed; (ii) areas to be searched; (iii) expectations upon locating the participant such as medical attention; and (iv) documentation of the event.

5. Procedures to be followed in the event of a vehicle emergency to include notifying the center or emergency personnel, telephone numbers for vehicle repair, and options for alternate transportation. Procedures to be followed in the event that a participant's scheduled transportation does not arrive or the participant is stranded at the center shall also be developed. The center shall ensure that these procedures are in place for transportation provided by both the center and contracted services, if appropriate.

6. Procedures for notifying the participant's family, and legal representative.



7. Procedures for notifying the regional licensing office as specified in 22VAC40-61-90.

B. If the center serves participants who wander, a door bell or alarm shall be installed or attached to alert staff to wandering participants.

C. Staff shall be trained on all requirements of subsection A of this section during orientation and during a semi-annual review.

D. The plan for participant emergencies shall be readily available to all staff, family members and legal representatives.