

**Department of Social Services  
State Board of Social Services**

**22VAC40-60, Standards and Regulations for Licensed Adult Day Care Centers**

The Department of Social Services reviewed the Economic Impact Analysis prepared by the Department of Planning and Budget. The agency does not completely concur with the analysis and provides the following comments:

- 1) **Training for direct care staff & medication administration training.** The use of the term “additional” in relation to direct care staff training and medication aide annual training can be misinterpreted. The direct care staff training is a new training requirement and the medication aide training is an enhancement of a current training requirement.
- 2) **Participant rights and responsibilities.** Currently, ADCC providers are not required to inform participants that they have rights and responsibilities as a care recipient. This requirement will allow participants and families to know that they are guaranteed certain, specific protections while they are in care. The cost for printing the rights and responsibilities is minimal, as it should only require on piece of paper front and back. From a practice perspective, the protection afforded the participant and their family outweighs the cost of the printing.
- 3) **Discharge of participants.** The increase of the discharge notification period from 14 days to 30 days will not adversely impact the centers by forcing them to care for individuals that “they feel unable or unwilling to provide that care.” 22VAC40-61-270 (E) allows the provider the ability to forgo the 30 day requirement if the participant’s condition presents an immediate and serious risk to the health, safety or welfare of the participant or others. In non-emergency situations, this increase in time allows for better planning and service accessibility for the participant/family. Additionally, it protects the participant from being “dumped” from care without an appropriate plan in place. If alternate care is secured and all parties are in agreement, the discharge can take place prior to the 30<sup>th</sup> day.
- 4) **Restraints.** This standard prohibits any use of chemical or physical restraint, and thereby requires the provider to address the care needs of each participant and to determine if anything within the center environment poses a restriction to the freedom of movement to an individual. It is not requiring that major changes be made to the center furniture; rather, the provider needs to address the care needs of participants and determine if something presents a physical restraint to an individual participant. For example, if an individual is able to sit in a recliner and get up from the recliner on their own, then the recliner does not present as a physical restraint. However, if the individual cannot get up from the recliner on their own, then the recliner becomes a physical restraint for that individual. The provider would not need to remove all their recliners and replace them with other furniture, they would simply need to insure that this individual is seated someplace other than the recliner. Prohibiting chemical and physical restraints is a protection for the participant and is part of their participant’s rights.

5) **Direct care staff qualifications.** This standard is attempting to close a care provision gap that is paramount to the protection and safety of the participants in care. Adult day care exists as an alternative to nursing home placement, with a majority of participants meeting nursing home placement criteria. The nursing home requirement for direct care staff is a CNA level trained individual. Currently, in an adult day care center, an individual with no training in providing assistance with care needs to elderly or disabled individuals can be employed as a direct care staff. This means that individuals in some ADCCs who meet nursing home level of care are being cared for by staff that are not required to have any training. By not requiring all ADCCs to meet the same training requirement, we are, in effect, allowing some centers to operate at a lower standard than others, regardless if it is a DSS requirement or a DMAS requirement.

6) **Staff training.** The increase in training hours allows for the fulfillment (in part) of the required topics of training (2-infection control; 4-cognitive impairment). Without this minimal increase, staff may be limited to only completing the same required 6 hours of training every year, with little opportunity to access other training that could vary significantly in topics related to care provision. This would limit staff in expanding their care knowledge base.

7) **Activities.** One of the main purposes of attending adult day care is to provide activity stimulation throughout the day. The standard does not limit who can fulfill this requirement, but instead, serves to increase the appropriateness and conduct of activities for the center. It also allows for a dedicated staff person to plan, design and implement activities and gives credibility to that individual's knowledge base.

8) **Menu and nutrition requirements.** In regards to allowing seconds-the standard is not requiring providers to create meals (either by cooking or catered/contracted meal service) that would serve two portions to every individual. However, if there is extra food and an individual requests seconds, the provider should allow the second portion. The same goes for snacks-the standard is not requiring an open snack bar, to be accessed whenever and however a participant chooses. Staff are responsible for monitoring dietary intake and practices of the participants. If a participant is consistently accessing snacks and then not eating their lunch or gaining significant weight, this would be addressed on the care plan and with that participant.

9) **Observance of religious dietary practices.** This standard is stating that a provider cannot violate a participant's religious dietary practices by forcing them to consume food that they otherwise would not eat. This standard is not intended to address anything past that (such as how meals are prepared, the manner in which animals are killed, or the parts of the animals being consumed). If this is an issue between the center and the participant, it will need to be addressed and an agreement made between the two parties. This standard is about choice. For example, if an individual does not eat pork, and that is on the menu, the center cannot force the individual to eat the pork. The center can choose to provide an alternate meal, the participant can choose to bring their lunch, the participant can choose not to attend that day, the participant can choose not to attend the center altogether, or the center can choose not to accept the participant. If necessary, technical assistance can be provided to adult day care centers to assist in meeting the intent of the standard.