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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22 VAC40-60
Regulation title(s)	Standards and Regulations for Licensed Adult Day Care Centers
Action title	Licensed Adult Day Care centers Regulation Comprehensive Revision
Date this document prepared	December 13, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The regulatory action will repeal the existing regulation for licensed adult day care centers, 22VAC40-60, and promulgate a new regulation, 22VAC40-61, to replace it. The comprehensive new regulation is intended to: (1) provide greater protection for participants in care; (2) improve the organization of the chapter; (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. Major components of the new regulation include: general provisions; administration; personnel; supervision; building and grounds; admission, retention and discharge; programs and services; and emergency preparedness. The final regulation was revised based on regulatory advisory panel input, recommendations and feedback.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

None

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Social Services took final action on 22VAC40-60, Standards & Regulations for Licensed Adult Day Care Centers, on December 13, 2017.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The State Board of Social Services has the authority to promulgate the regulation under § 63.2-217 which states that State Board shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2. Section 63.2-1733 addresses the State Board’s overall authority to adopt regulations for adult day care centers to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The State Board of Social Services requested at the previous periodic review that a comprehensive revision be completed for these regulations within the next review period as the last comprehensive revision became effective in 2000. Additionally, the revision is essential to protect the health, safety and welfare of adult day care center participants. The revision allows for changes based on better practices, the latest research and improved technology, as well as meeting the increased needs of a population of elderly, infirm, or disabled persons that has become more vulnerable over the years. Current technology and medical practice have allowed individuals to stay in their own homes, or to live with family members, longer, and as a result, there is an increased need for this level of care and socialization.



Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

New substantive provisions in the regulation include:

- Adds to the participant rights and responsibilities to enhance protection for participants.
- Allows for the use of and appropriate management of electronic records
- Requires incident reporting for any major incidents that may impact the health, safety and welfare of the participants.
- Requires staff to report suspected abuse, neglect or exploitation.
- Establishes training criteria for staff that provide direct care to participants.
- Increases the number of hours of training for staff to 12 hours per year.
- Adds a requirement for all staff to be certified in first aid and CPR.
- Removes the tuberculosis testing requirement and establishes the tuberculosis screening requirements established by the Virginia Department of Health.
- Adds requirements for the completion of the participant assessment.
- Adds requirements for the completion of the participant plan of care and items to be included on the plan of care.
- Adds to the information required to be included in the participant agreement and participant's record.
- Removes the tuberculosis testing requirement and establishes the tuberculosis screening requirements established by the Virginia Department of Health.
- Condenses three discharge-related standards into one and clarifies the role of the center, participant and family in the discharge process.
- Provides for appropriate health monitoring requirements for participants.
- Provides for evidence-based infection control practices to be established within the center.
- Provides for supervisory oversight for medication aides and establishes current medication management practices.
- Establishes that chemical and physical restraints are not allowed in adult day care centers.
- Removes extraneous language and clarifies assistance to be provided for activities of daily living
- Provides for a list of activity categories to be provided for participants and adds that a staff person must be designated to develop activities.
- Adds a provision requiring 45 minutes to consume a meal and extra time to be allowed if a participant requires it. Provides for meal planning and menu development requirements.
- Adds a provision that religious dietary practices will be respected.
- Adds that supervision and safety needs of participants are maintained at all times and that all vehicles will have operable heating and air conditioning systems.
- Adds that staff on a trip will have a means of communicating with staff at the center and that medications will be administered according to regulatory requirements.
- Provides that the center environment must ensure safety of the participant but not inhibit physical, intellectual, emotional, or social stimulation.
- Establishes temperature requirements to be maintained inside the center and adds provisions for emergency heating.
- Clarifies the requirement of maintaining one restroom for every 10 participants that can accommodate human assistance or specialized equipment for toileting.
- Adds requirements for developing and implementing an emergency preparedness and response plan.
- Adds a provision for developing a written plan for fire and emergency evacuation and having such plan approved by the local fire official. Provides for additional information to be collected on fire and emergency evacuation drills
- Removes syrup of ipecac and activated charcoal from the first aid supplies

- Provides for initial and semi-annual review of the plan for participant emergencies.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The primary advantage of the proposed regulatory action is the increased protection it provides to participants in adult day care centers. The action is needed to protect the health, safety, and welfare of an increasingly vulnerable population of aged, infirm or disabled adults. The regulation addresses the care, services and environment provided by adult day care centers. Additionally, the last comprehensive revision of the adult day care center regulations became effective in 2000.

The new regulation also provides clear criteria for licensees to follow to maintain their licensure and for licensing staff to use in determining compliance with standards and in the implementation of any necessary enforcement action.

In the proposed regulatory action, a fair and reasonable balance has been attempted to ensure adequate protection of participants while considering the cost to centers. Although some requirements have been increased, others have been eliminated or reduced.

Several areas of the proposed regulations have been of particular interest to adult day care center providers, provider associations, advocacy groups, licensing staff, and the general public. These areas have been addressed and include: (1) eliminating some requirements relating to personnel practices that are internal business practices of a center; (2) adding a requirement for an internal review process; (3) expanding participant's rights and responsibilities; (4) allowance for electronic record keeping; (5) development of an incident reporting system; (6) addition of training requirements for direct care staff; (7) defining parameters for completion of participant assessments and plans of care; (8) removing requirements for tuberculosis testing and replacing them with requirements for tuberculosis screening; (9) enhancement of the infection control program; (10) adding a provision for a designated staff person to develop activities; and (11) enhanced emergency preparedness requirements.

The regulation takes into consideration differences in care need requirements of those served, i.e., those ambulatory, non-ambulatory, assistance with activities of daily living, as well as the cost constraints of smaller centers. The regulation addresses the needs of the cognitively impaired population, physically disabled participant, and elderly persons.

Because the adult day care industry is so diverse in respect to size, population in care, types of services offered, form of sponsorship, etc., the standards must be broad enough to allow for these differences, while at the same time be specific enough so that providers know what is expected of them.

The new regulation was revised based on multiple regulatory advisory panel input, recommendations and feedback and recommendations from two adult day care center provider organizations.

The regulatory action poses no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

This regulatory action does not contain requirements that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality is particularly affected by the proposed regulation.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action will have a positive impact on families in that they will be more confident that their loved family members are participating in a social and safe adult day care center and are receiving the care and services they need and deserve. Moreover, there could be a positive economic impact on families by averting participant's preventable accidents, illnesses, and deterioration of functioning. There could be a decrease of disposable family income, depending upon who is paying for a family member to participate in an adult day care center.

Changes made since the proposed stage

*Please list all changes that made to the text since the proposed regulation was published in the Virginia Register of Regulations and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	Definition of mental impairment.	Refined the definition to better encompass those with cognitive disorders.	Change made to be more inclusive of all mental impairments.

40	Requirement to complete a quality assurance assessment.	The standard has been removed from the regulation. Sections numbers in the remainder of the final regulation were adjusted accordingly.	After considering the comments, VDSS decided against imposing a requirement to have a quality assurance plan on all facilities.
90 F	Requirement regarding what reports are required to be placed in the participant's record.	Added language to address that the reports pertain specifically to a participant.	Clarified the requirement.
120 B	Requirement to notify the participant's contact person or legal representative when a report is made regarding abuse, neglect, or exploitation.	Added that the notification will not be made if to do so would jeopardize the participant. Also added that the participant will be notified.	Added language to ensure the protection of the participant.
140 A	Requirement for direct care staff.	Removed the word "directly" for staff working with participants.	Change was made to provide clarification in defining a direct care staff person.
140 D	Establishes a time frame for those employed on the regulation effective date to comply with the standard.	Restructured the sentence to include the language: "employed by the center".	Change was made to provide clarification in which staff are impacted by the subsection.
150	Establishes requirements for staff training.	Restructured the standard to identify the training specifically required for staff.	Clarified the specific training hours/topics required for staff.
160	Establishes requirements for first aid and CPR training.	Reduced the requirement for CPR training from every direct care staff person to 2 direct care staff persons on duty at all times. Also, restructured the standard to be more concise. Added that direct care staff who do not meet the requirement will have 90 days to do so.	Requiring all direct care staff to be CPR certified could prove burdensome for providers. Having two staff at all times with CPR will still allow for appropriate care to be provided in an emergency.
180	Establishes requirements for TB testing for both staff and volunteers.	Refined the requirement to only require TB testing of volunteers who are counted in the staff to participant ratio, and not all volunteers utilized at the center.	Lessens the burden on the provider of requiring TB testing of all volunteers that come into the center.
220	Identifies assessment procedures.	Allows for the written assessment to be conducted on the date of admission and not just prior to admission.	Allows for more time for the provider to complete the initial assessment.
260	Requirements for physical examinations and reports.	Added date of birth as an identifier in the report of physical examination.	Date of birth is a standard identifier for physician offices.
290 A	Standard establishes requirements for developing and implementing an infection prevention and occupational health	Removed the requirement for the program to be compliant with the Occupational Safety and Health Administration (OSHA) regulations.	Providers are already required to maintain OSHA regulations-it does not need to be repeated in this regulation.

	program.		
290 C	Requirements for the center to have a staff person knowledgeable in infection control.	Added an allowance for experience, as well as training, in infection control. Also allowed for that experience to be in a congregate care setting instead of limiting it to an adult day care setting.	Expanded the experience requirement for the staff person knowledgeable in infection control.
300 E (7) (a) (3)	Requirements for medication aide training programs.	Added that this training is for use in adult day care centers.	Clarified the training type.
300 F (2)	Requirements in the event of an adverse drug reaction or medication error.	Added that, if appropriate, the participant will be notified of the reaction or error.	Allows for the participant to have more involvement in their care needs.
320	Requirements for assistance with activities of daily living.	Added ambulation to the title as this is a necessary assistance category but is not considered an activity of daily living. Adjusted language throughout the standard to clarify requirements and enhance participant participation in their care.	Allows for clarification in the standard and involvement of the participant in their care.
330	Requirements for development of activities in adult day care centers.	Added an additional option that the staff person responsible for the activities program could have at least an associate's degree in a discipline focusing on the provision of activities for adults.	Creates an additional option for meeting the standard.
360	Requirements for meals and snacks including food preferences, minimum daily menu and special diets.	Removed the requirement to have second servings of meals and snacks available at no additional cost to the participant.	Lessons the financial burden on the provider.
370	Requirements for observation of religious dietary practices.	Removed the requirement that participant's dietary restrictions have to be followed. Additionally, made a technical change from "admission" agreement to "participant" agreement as the wrong word was used in the proposed.	A center will be required to respect a participant's dietary restrictions, but not forced to follow them.
380	Requirements for transportation services.	Removed the requirement for a Virginia specific driver's license.	This will allow for those that maintain a driver's license in a border state to Virginia to still fulfill the transportation requirements.
460 J (3)	Requirements for restroom facilities.	Changed the requirement for a bench in the shower to "seating".	Expanded the requirement-seating could be a bench, chair, stool, etc.
500	Requirements for telephone usage for participants.	Added that staff shall assist participants with telephone usage upon request.	Expands assistance for participants when necessary.

520 D	Requirements for reviewing the center’s emergency preparedness and response plan.	Technical word change to include the complete title of the plan.	Clarifies the complete title of the plan.
520 F (1)	Requirements for notifications following a disaster or emergency.	Added that the participant will be notified following an event.	Includes the participant in receiving information regarding the event.
550	Requirements for first aid kit materials.	Added a requirement for a disposable single-use breathing barrier for the use in rescue breathing or CPR.	Adds protection for staff and participants during rescue breathing.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
Dana Parsons, Leading Age Virginia, Provider Organization (PO), Direct (D)	22 VAC 40-61-10 Modify the definition of direct care staff - "Direct care staff" means supervisors, assistants, aides, or other staff of a center who assist participants in the direct performance	A change was made in 22 VAC 40-61-140 to more closely align the definition and the standard requirement.
Carla Groff, Director, Centra Bedford Adult Day Center, Provider (PR), D	Throughout the proposed regulations, the "legal representative" or "family" was mentioned. Many participants who are unable to sign documents do not have legally appointed representatives. Others may not have family members by the traditional definition of family. I believe that while the term "legal representative" is appropriate, the term "authorized representative" should be included as an appropriate description of participant’s alternative decision makers. I would suggest adding "authorized representative" to the definitions section.	The use of the term "authorized representative" as requested here, does not provide any legal protections to the participant.
Dana Parsons,	General Comment: Throughout the	

<p>Leading Age Virginia, Direct, PO, D</p>	<p>proposed regulations, the term “legal representative” or “family member” is mentioned. Many participants who are unable to sign documents do not have legally appointed representatives. Others may not have family members by the traditional definition of family. Recommendation: In the applicable sections of the regulation, add “authorized representative” as an option in the event a legal representative or family member is not available. Please also consider including a definition for “authorized representative.”</p>	
<p>Public(PUB), D-126 Family (F), D-6</p>	<p>I support the State Board of Social Services' proposed regulations for licensed Adult Day Centers. Adult day services are a vital part of quality community-based services in communities across our Commonwealth.</p> <p>Additionally, I encourage the department to standardize language related to adults with mental impairments or cognition issues. The use of similar, but not identical language can lead to confusion on the part of regulators, licensees and participants in the ADC program. The Association supports the language 'adults with cognitive impairments' and the inclusion of a definition that names 'dementia and Alzheimer's disease' as examples of cognitive impairments.</p>	<p>Definition of “mental impairment” was changed to be more inclusive of cognitive disorders.</p>
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-40 *</p> <p>This proposed regulation addresses best practices from a business perspective. ADHC’s are inspected for compliance with DSS regulations, fire regulations, health department regulations and DMAS regulations (as applicable). These regulatory agencies require corrective action plans in the event of non-compliance. This proposed regulation will be redundant, and expensive and time-consuming to</p>	<p>The standard has been removed from the regulation.</p>

<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>implement.</p> <p>Recommendation: This regulation should be omitted.</p> <p>Please do not consider this regulation. As a provider, many things go into account of quality care and providers typically evaluating and re-evaluating the program consistently as good business practice. To regulate that a center performs a QA review is mandating more time spend in an administrative capacity rather than in a quality of care capacity. In centers where the director is wearing multiple hats, this regulation adds to the workload that is already stretched.</p>	
<p>Michael DiGeronimo, P, D</p>	<p>Delete the quality assurance requirements. This language addresses best practices from a business perspective. Adult day centers are inspected for compliance with extensive regulatory requirements from agencies including, Department of Social Services regulations, State Fire Marshal, Health Department, and the Department of Medical Assistance Services (as applicable). These regulatory agencies require corrective action plans in the event of non-compliance. Therefore, these proposed requirements will be redundant, and expensive and time-consuming to implement.</p>	
<p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>Delete the quality assurance requirements. This language addresses best practices from a business perspective. Adult day centers are inspected for compliance with extensive regulatory requirements from agencies including, Department of Social Services regulations, State Fire Marshal, Health Department, and the Department of Medical Assistance Services (as applicable).</p>	

<p>Jane Bauknecht, PR, Town Hall (TH)</p> <p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p>	<p>These regulatory agencies require corrective action plans in the event of non-compliance. Therefore, these proposed requirements will be redundant, and expensive and time-consuming to implement.</p> <p>I do not feel that it should be within the scope of licensing to be a part of gauging quality assurance of any given Center. It is licensing's job to have standards for the Centers to meet. Above and beyond quality assurance is the responsibility of the governing bodies (i.e., Board of Directors) for each Center. Also, quality assurance could lead to various interpretations and may be very subjective.</p> <p><u>Assessment of the relationship of the program to the rest of the community service network.</u> <i>Clarification: Define what you mean by community service network.</i></p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, Interested Party (IP), TH</p>	<p>22 VAC 40-61-50</p> <p>We are additionally concerned that the proposed regulations at 22VAC40-61-50 (Participant rights and responsibilities) may be in conflict with existing state law. As you may know, the Health Care Decisions Act requires two doctors to make a determination of incapacity. The proposed regulations appear to state that this decision can be made by one physician. We suggest changing the language to state: "...unless the participant has been determined incapacitated pursuant to Va. Code § 54.1-2983.2 and documentation is contained in the participant's record."</p>	<p>Code of Virginia § 54.1-2983.2 applies to health care decision making issues and not to adult day care participant rights. The rights and responsibilities of adult day care centers are not health care decisions.</p>
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-50</p> <p>Regarding written consent, review, or acknowledgement of rights. If a participant is unable to sign for themselves due to decreased</p>	<p>The use of the term "authorized representative" as requested here, does not provide any legal protections to the participant.</p>

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>mental capacity, a family member or guardian will assist with paperwork and not everyone has a “legal” representative. Please consider adding “or participant representative” as a blanket statement to cover the variety of scenarios that occur in the centers.</p> <p>See General Comment regarding “legal” representative. Also, it may not be appropriate to report alleged abuse to the caregiver or representative, if they are the “accused” party.</p> <p>Recommendation: Add :“or authorized representative” to these sections.</p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, Interested Party (IP), TH</p>	<p>22 VAC 40-61-50 E</p> <p>The disAbility Law Center of Virginia appreciates the opportunity to comment on the proposed standards and regulations for licensed adult day care centers. As you know, dLCV is the state’s designated organization to promote and protect the rights of people with disabilities. We are, therefore, especially sensitive to the protection of those rights in the proposed standards and regulations.</p> <p>Throughout the proposed standards, there are many requirements to notify family or legal representatives. We are alarmed that those notification requirements do not extend to the individual. As you are aware, “aging” is not equivalent to “incapacity.” In fact, under Virginia law, capacity is presumed. Therefore, the standards should not presume that the individual is not capable of receiving notifications. We strongly urge that all the references to requirements to contact or share information, should indicate first the individual, and then any family or friend previously designated by that individual, or any legal</p>	<p>The participant is already included in the standard.</p>

	<p>representative.</p> <p>The directions of the individual should be emphasized, for example, in 22VAC40-61-250 (B): Participant record. We recommend underscoring this right by changing Section B to reflect "...friends, or other people <i>designated by the individual when possible</i> or by his legal representative."</p>	
Michael DiGeronimo, P, D	<p>22 VAC 40-61-90 A</p> <p>Define "major event." There is a lot of room for interpretation-elopement, a preventable event, health event that could not be prevented (stroke, heart attack), death (from natural, unpreventable cause), fire, etc....</p>	This will be addressed with technical assistance.
Michael DiGeronimo, P, D	<p>22 VAC 40-61-90 F</p> <p>Shouldn't the incident be indicated in in progress notes for the health record and the incident retained for risk management? Are we required to report to regional office every time APS is contacted?</p>	Added language to address reports pertaining specifically to a participant.
Michael DiGeronimo, P, D	<p>22 VAC 40-61-100</p> <p>Omit 1, <i>Be of Good character and reputation</i>. The language is out dated and whose judgement of good character reputation does this apply?</p> <p>Omit 3, this is covered in 6. Pt's rights, person centered care and cultural competencies are listed in other parts of the regs, which they must understand and carry out.</p> <p>Omit 4 <i>Be clean and well groomed</i>. Who makes this call? What is well groomed to me, may not be to an inspector. This is a business decision.</p> <p>Explain 5- Some programs only speak language other than English. As explained at RAPS, English is required so staff can communicate with EMS, police, and licensing. As written, it could be interpreted that they don't need English if everyone speaks Chinese.</p>	The standard provides for minimal expectations of staff employed by an adult day care center.

<p>Lorraine Eckhardt, P.D</p>	<p>22 VAC 40-61-120 B</p> <p>It is quite possible that the contract person is the very individual suspected of the alleged abuse, neglect, or someone in the home. Notifying the contact person could taint the investigation or place the participant at further risk. We would recommend eliminating the above language.</p>	<p>Language was added to the standard to state that notification will take place unless to do so would jeopardize the participant.</p>
<p>Michael DiGeronimo, P, D</p>	<p>Delete. As mandated reporters, we are protected by anonymous reporting. Notifying an authorized representative could put the client at risk/more risk for harm or exploitation.</p>	
<p>Joani Latimer, Office of the State Long-Term Care Ombudsman, IP, TH</p>	<p>Thank you for your work on the enhanced ADC regulations and the opportunity for additional comments. The Office of the State Long-Term Care Ombudsman is in complete agreement with the comments on notification made by The disAbility Law Center of Virginia. In addition, after careful consideration and attention to suggestions from others, we would recommend additional detail be added to 22VAC40-61-120.</p> <p>22VAC40-61-120 Reports of abuse, neglect and exploitation</p> <p>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.</p> <p>Additional precision in needed in this section. Working from the principle that participants have the right to be involved with their care and services received, and the right to designate a representative to act on their behalf when the participant desires, the participant and designated person should be informed when a referral has been</p>	

	<p>made to APS involving the participant, in situations when the alleged perpetrator is another participant, visitor or staff of the Center, or transportation provider. However, as others have noted, if the suspected abuse, neglect or exploitation is allegedly occurring at home or by the participant's representative, notification of APS referral should not be made by the Center in order to avoid additional abuse, neglect or exploitation from occurring before APS is able to investigate.</p>	
<p>Jane Bauknecht, PR, TH</p>	<p>Thank you for your consideration.</p> <p>A Center SHOULD NOT be required to notify the participant's contact person or legal representative when a report is made. Doing so could jeopardize the safety of the person making the call, could impede the process of reporting, and could potentially cause disruptive behavior at the Center. A confidential call is the best way to encourage that calls be made when necessary.</p>	
<p>Ingrid Parkhurst, PR, TH</p>	<p>Delete. In situations where the person suspected of alleged abuse is the contact person informing that person, prior to APS intervention, could put the participant at risk of retaliation or further abuse. It is best to allow the center to use the best judgment about notification of the contact person after speaking with the local department and/or APS hotline.</p>	
<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p>	<p>Delete. In situations where the person suspected of alleged abuse is the contact person informing that person, prior to APS intervention, could put the participant at risk of retaliation or further abuse. It is best to allow the center to use the best judgment about notification of the contact person after speaking with the local department and/or APS</p>	

<p>Alzheimer's Disease and Related Disorders Commission, IP, D</p>	<p>and supports in communities across our Commonwealth. Specifically, we support more training in all Adult Day Centers for all staff. We therefore applaud the following provisions of the proposed regulation that specifically benefit those with Alzheimer's and other forms of cognitive impairment: <input type="checkbox"/> An additional 40 hours of specific training benefiting those with dementia and cognitive impairment for staff who provide direct care to participants if those staff are not otherwise licensed or certified (22VAC40-61-140).</p> <p>We are writing in support of the State Board of Social Services' proposed regulations referenced above for licensed Adult Day Centers. Adult day services are a vital and cost effective part of quality community-based services and supports in communities across our Commonwealth. Specifically, we support more training in all Adult Day Centers for all staff. We therefore applaud the following provisions of the proposed regulation that specifically benefit those with Alzheimer's and other forms of cognitive impairment: <input type="checkbox"/> An additional 40 hours of specific training benefiting those with dementia and cognitive impairment for staff who provide direct care to participants if those staff are not otherwise licensed or certified (22VAC40-61-140).</p>	
<p>Richard Smith, PR, D</p>	<p>22 VAC 40-61-140 Adding more regulations and laws will increase costs for Adult Day Care and may cause LESS Adult Day Care to be available or affordable. I understand wanting this extra certification sounds good - but could cause unintended side effects impacting our access to affordable Adult Day Care. They can be GUIDELINES, but making them regulations can have</p>	<p>Currently there is no requirement for direct care staff to be trained in the provision of personal care or assistance with activities of daily living. The standard will insure that staff are trained appropriately to provide care for the participants.</p>

	<p>harmful unintended side effects for us caretakers that rely on the precious services.</p> <p>I DON'T support the State Board of Social Services' proposed regulations for licensed Adult Day Centers. Adult day services are a vital part of quality community-based services in communities across our Commonwealth.</p> <p>Specifically, I support more training in all Adult Day Centers for all staff AS A GUIDELINE, NOT AS A REGULATION.</p> <p>I THINK MORE REGULATIONS WILL COST US ACCESS TO AFFORDABLE ADULT DAY CARE. Please don't overregulate this to the point of unaffordability and lack of access.</p> <p>All of this additional regulation of required 44 hours of training per employee is an additional cost to providers of lost labor and training costs, those costs will have to be passed on to the families that count on these providers.</p> <p>Our center has 8 employees - so that would be almost 9 weeks of lost employee labor and 9 weeks of training costs the center would have to cover. How would they cover 2 months of lost labor costs and additional training costs - by raising our fees.</p> <p>And they would either have to run one man short for those 9 weeks or hire temp staff (expensive) or hire an additional employee to help cover those weeks when they would otherwise be short staffed due to training regulations and they now have an additional employee to pay wages and benefits for. If they decide to run the center short one staff member for all those accumulated weeks they may have to turn away new clients and/or reduce the number of existing clients.</p>	
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<p>Lorraine Eckhardt, PR, D</p> <p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-140 A</p> <p>Need clarification on “Direct Care Staff”</p> <p>This section could be worded more clearly to indicate who must meet the qualifications of direct staff persons.</p> <p>Recommendation: “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, must meet the qualifications for Direct Care Staff as specified in Part B of this section.”</p> <p>Other: As a provider, I appreciate the inclusion of multiple options for meeting the training requirements.</p>	<p>A language change was made to provide clarification.</p>
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-140 B</p> <p>Typo on 4a.</p> <p>Recommendation: B 4 a. Replace “department” with “department’s”</p>	<p>The standard is correct as written.</p>
<p>Michael DiGeronimo, P, D</p>	<p>22 VAC 40-61-140 B 6</p> <p>This additional qualification is the one that screams to me. As an example as mentioned in my introduction, my program has every single staff with this qualification-even the administrative assistant-this way I can count any staff in my ratio if need be. I have the means to do this for staff. For programs that cannot, they will no longer be allowed to pull staff to help even serve lunch or assist when staffing is low due to staff call outs, etc. Activity Directors, CTRSs or non-medical staff will only be able to assist with ADLs or serve lunch, if they have this 40 hour training. At RAPS it was pointed out that this is required for DMAS and most programs participate with DMAS, so it shouldn’t effect too many</p>	<p>This allows for flexibility in complying with the standard.</p>

	<p>programs. Loudon County has 3 ADHC programs and they are a social model. While I know, they support staff and provide training opportunities, why do they need to comply due to “most are DMAS programs and only a few will be effected?” If a program is a DMAS provider, then this higher standard will be met. The minimum requirement should be set.</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-140 D</p> <p>Clarify that this section applies to staff who are already employed at the ADHC when the regulation becomes effective.</p> <p>Recommendation. “All direct care staff who were employed prior to the effective date of this regulation, who do not meet....”</p>	<p>A change was made to provide clarity for which staff the subsection pertains to.</p>
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Commonwealth Council on Aging, IP, D</p>	<p>22 VAC -61-150</p> <p>I am in support of the increase in annual staff training hours from 8 to 12.</p> <p>We are writing in support of the State Board of Social Services’ proposed regulations referenced above for licensed Adult Day Centers. Adult day services are a vital and cost effective part of quality community-based services and supports in communities across our Commonwealth. Specifically, we support more training in all Adult Day Centers for all staff. We therefore applaud the following provisions of the proposed regulation that specifically benefit those with Alzheimer’s and other forms of cognitive impairment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increased annual continuing education for staff from 8 hours to 12 hours, including 4 hours about mental impairments when the center serves individuals with those impairments (22VAC 40-61-150). <input type="checkbox"/> An additional 40 hours of specific training benefiting those with 	<p>Comments are in support of the standard.</p>

<p>Alzheimer's Disease and Related Disorders Commission, IP, D</p>	<p>dementia and cognitive impairment for staff who provide direct care to participants if those staff are not otherwise licensed or certified (22VAC40-61-140).</p> <p>We are writing in support of the State Board of Social Services' proposed regulations referenced above for licensed Adult Day Centers. Adult day services are a vital and cost effective part of quality community-based services and supports in communities across our Commonwealth.</p> <p>Specifically, we support more training in all Adult Day Centers for all staff. We therefore applaud the following provisions of the proposed regulation that specifically benefit those with Alzheimer's and other forms of cognitive impairment:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Increased annual continuing education for staff from 8 hours to 12 hours, including 4 hours about mental impairments when the center serves individuals with those impairments (22VAC 40-61-150). 	
<p>Public(PUB), D-126 Family (F), D-6</p>	<p>I support the State Board of Social Services' proposed regulations for licensed Adult Day Centers. Adult day services are a vital part of quality community-based services in communities across our Commonwealth.</p> <p>Specifically, I support more training in all Adult Day Centers for all staff. I applaud the following provisions of the proposed regulation that specifically benefit those with Alzheimer's and other forms of cognitive impairment: Increased annual continuing education for staff from 8 hours to 12 hours, including 4 hours about mental impairments when the center serves individuals with those impairments (22VAC 40-61-150)</p>	

<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-150</p> <p>Please consider reducing the proposed regulation of 12 hours annually to 10 hours annually. By adding 4 hours of staffing training, that is four more hours of staffing coverage and is a financial burden to a center. 2 additional hours is eases the financial burden of additional coverage or allows for more flexibility in the activity day.</p>	<p>DSS strives to develop affordable training opportunities for providers. It was deemed that the requirement for 12 hours of training is adequate at this time.</p>
<p>Michael DiGeronimo, P, D</p>	<p>22 VAC 40-61-150 C</p> <p>Make the 2 hours of training on infection control in its own subsection and separate the topic of infection control from the diagnosis that we serve. I suggest the hours required for “mental impairments” be in its own subsection. Also, rather than only pointing out mental impairments only, I feel any diagnosis that encumbers a significant amount of the census, should have designated time for refreshers. Perhaps 10 to 15% of the population would warrant specific training hours?</p>	<p>Made the changes recommended to the standard outline. The percentage of specific diagnosis types would be difficult to calculate on a daily basis.</p>
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-160</p> <p>Not only is the requirement for <u>all</u> direct care staff to have CPR and First Aid expensive to implement, it is also difficult for facilities in rural communities to obtain the training for all staff since training opportunities are limited. If a scheduled class is cancelled and training for a staff person expires, another class may not be offered for months and the staff would need to be suspended until they can obtain their certification. Since class opportunities rarely occur, the facility may have to close to allow staff to attend recertification classes. This inconveniences center participants as well as creates a financial hardship for facilities.</p> <p>Recommendation: Delete the requirement for all direct care staff</p>	<p>The CPR requirement has been reduced from all direct care staff to 2 direct care staff at all times.</p>

<p>Iris Wheeler, PR, D</p>	<p>to have CPR and First Aid. Require that at least 2 staff on duty maintain certification in CPR or Basic Life Support. Require that at least 2 staff have certification in First Aid (with the exception of the licensed nursing staff).</p> <p>Requiring all direct care staff at an Adult Day Care Center to have First Aid and CPR is a difficult regulation to comply with. Many Adult Day Care Centers have limited access to training and if a staff member were to miss their training date, they may have difficulty scheduling another training before their certification expires. As a result, staff would face work suspension if they were unable to update their First Aid and CPR before the expiration date.</p> <p>Recommendation: Instead of requiring all direct care staff to have First Aid and CPR certification, require that at least two direct care staff with First Aid and CPR certification be on duty at all times. This would ensure there are First Aid and CPR certified staff in the building but would prevent staff suspensions in the event of a lapse in First Aid and CPR certification.</p>	
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>Please consider that all direct care staff will be required to maintain both CPR and First Aid certification. This proposed regulation is adding a large expense to centers. While it may be a best practice to have all in the center trained in CPR/First Aid, not all centers are in the position to pay a minimum of \$80/person and to pay for extra staffing to cover while they are off of the floor or to pay the overtime if the staff goes for a training on a weekend.</p> <p>Another consideration is that training sites will cancel without notice due to lack of numbers and then the center is left with potentially being out of regulation. In rural areas, there are not a lot of</p>	

<p>Michael DiGeronimo, P, D</p> <p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>choices for trainers or training times. Please allow more flexibility with this regulation by increasing the current regulation from 1 staff member to 2 staff members</p> <p>Delete the requirement for all direct care staff to have CPR and First Aid training. Rather require two staff on duty who have CPR or basic life safety and first aid certification.</p> <p>Delete the requirement for all direct care staff to have CPR and First Aid training. Rather require two staff on duty to have CPR or basic life safety and first aid certification.</p>	
<p>Michael DiGeronimo, P, D</p> <p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>22 VAC 40-61-180 E</p> <p>Remove requirement for volunteer having TB testing. Rather, except the volunteer that is included in the staff ratio that would be required TB screening annually.</p> <p>Remove requirement for volunteer having TB testing. Rather, except the volunteer that is included in the staff ratio that would be required TB screening annually.</p> <p>Remove requirement for a volunteer having TB testing except the volunteer that is included in the staff ratio that would be required TB screening annually.</p>	<p>Change has been made to require TB testing of only those volunteers that are counted in the staff to participant ratio.</p>
<p>Michael DiGeronimo, P, D</p> <p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-220 A</p> <p>Reword A. to include “prior to or on the date of admission.”</p> <p>Requires the written assessment be secured or conducted <u>prior to</u> admission. It is often more feasible to conduct assessments on the date of admission when the individual</p>	<p>Change made to allow the assessment to be completed on the date of admission.</p>

<p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>and caregivers are present.</p> <p>Recommendation: Reword A. to include “prior to <u>or on the date of admission</u>”.</p> <p>Reword A. to include “prior to or on the date of admission.”</p>	
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-230 A</p> <p>I would like to say how much I appreciate this regulation. Having the ability to create the plan of care prior to or on the date of allows the center to see a clearer picture of the participant. Families are also usually more available on the first day to discuss concerns and opportunities.</p> <p>Thank you for proposing this regulation.</p>	<p>Comment is in support of the standard.</p>
<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons, Leading Age Virginia, PO, D</p> <p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-240</p> <p>In the applicable sections of the regulation, add “authorized representative” as an option in the event a legal representative or family member is not available; consider including a definition for “authorized representative.”</p> <p>In the applicable sections of the regulation, add “authorized representative” as an option in the event a legal representative or family member is not available. Please also consider including a definition for “authorized representative.”</p> <p>Requirement for the participant or “legal” representative may not be possible in cases where the participant cannot sign. Often participants do not have a legally appointed representative as it may be cost inhibitive for the participant and/or family caregivers.</p> <p>Recommendation: Include</p>	<p>The use of the term “authorized representative” as requested here, does not provide any legal protections to the participant.</p>

	<p>“caregivers or authorized representatives” as those who can sign the agreement.</p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, (IP), TH</p>	<p>22 VAC 40-61-250 B</p> <p>The disAbility Law Center of Virginia appreciates the opportunity to comment on the proposed standards and regulations for licensed adult day care centers. As you know, dLCV is the state’s designated organization to promote and protect the rights of people with disabilities. We are, therefore, especially sensitive to the protection of those rights in the proposed standards and regulations.</p> <p>Throughout the proposed standards, there are many requirements to notify family or legal representatives. We are alarmed that those notification requirements do not extend to the individual. As you are aware, “aging” is not equivalent to “incapacity.” In fact, under Virginia law, capacity is presumed. Therefore, the standards should not presume that the individual is not capable of receiving notifications. We strongly urge that all the references to requirements to contact or share information, should indicate first the individual, and then any family or friend previously designated by that individual, or any legal representative.</p> <p>The directions of the individual should be emphasized, for example, in 22VAC40-61-250 (B): Participant record. We recommend underscoring this right by changing Section B to reflect “...friends, or other people <i>designated by the individual when possible</i> or by his legal representative.”</p>	<p>It is understood that the participant would make this designation, unless unable to do so.</p>
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-260 B 1</p> <p>Report shall include address and phone number. When calling a physician, the identifiers are name and date of birth. Please remove that and replace with the criteria of</p>	<p>Date of birth has been added to the standard.</p>

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Michael DiGeronimo, P, D</p> <p>Ingrid Parkhurst, PR, TH</p> <p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>name and date of birth.</p> <p>Physician's offices often identify individuals with similar names by birthdate since address and telephone number may change.</p> <p>Change address and telephone number to "Date of birth".</p> <p>Change address and telephone number to "Date of birth" because this is how the person is identified.</p> <p>Change address and telephone number to "Date of birth" because this is how the person is identified.</p> <p>Change address and telephone number to "Date of birth" because this is how the person is identified.</p> <p>Change address and telephone number to "Date of birth" because this is how the person is identified.</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Michael DiGeronimo, P, D</p> <p>Ingrid Parkhurst, PR,</p>	<p>22 VAC 40-61-260 B 5</p> <p>This statement is confusing.</p> <p>Delete this requirement, or perhaps replace it with "other health care conditions that may impact the need for care and supervision in the Adult Day Health Care environment."</p> <p>Delete this requirement, and perhaps replace it with "other health care conditions that may impact the need for care and supervision in the Adult Day Health Care environment."</p> <p>Delete this requirement, and perhaps replace it with "other health</p>	<p>The standard is appropriate as written as this allows for the physician to document medical health needs. A physician may not have specific knowledge of adult day care center services.</p>

<p>TH</p> <p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>care conditions that may impact the need for care and supervision in the Adult Day Health Care environment.”</p> <p>Delete this requirement, and perhaps replace it with “other health care conditions that may impact the need for care and supervision in the Adult Day Health Care environment.”</p> <p>Delete this requirement, and perhaps replace it with “other health care conditions that may impact the need for care and supervision in the Adult Day Health Care environment.”</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Allison Szuba, Director of the Feinour Center, PR, D</p> <p>Michael DiGeronimo, P, D</p>	<p>22 VAC 40-61-260 B 10</p> <p>While it is appropriate to identify ambulatory or non-ambulatory status, it is equally important for the facility to know if the person is physically and cognitively capable of exiting the building in an emergency. Ability to exit the building is in the current regulation.</p> <p>Add the statement: The individual is physically and mentally capable of exiting a building in an emergency without the assistance of another person.</p> <p>While it is appropriate to identify ambulatory or non-ambulatory status, this question does not identify what type of help is needed, as verbal prompt, wheelchair, walker, etc. Perhaps this can be rewritten to include what type of assistance is needed.</p> <p>Add the statement: “The individual is physically and mentally capable of exiting a building in an emergency without the assistance of another person.</p>	<p>Ambulatory and nonambulatory are Code of Virginia language and are appropriate here.</p>

<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Lorraine Eckhardt, PR, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>Add the statement: "The individual is physically and mentally capable <u>or not capable</u> of exiting a building in an emergency without the assistance of another person."</p> <p>Add the question: "Is the individual physically and mentally capable of exiting a building in an emergency without the assistance of another person."</p> <p>Add the statement: "The individual is physically and mentally capable of exiting a building in an emergency without the assistance of another person."</p>	
<p>Ingrid Parkhurst, PR, TH</p> <p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Michael DiGeronimo, P, D</p>	<p>22 VAC 40-61-290 A</p> <p>Keep infection prevention compliant with OSHA.</p> <p>The statement, "compliant with Occupational Safety and Health Administration (OSHA) regulations" is concerning. A search of the OSHA website showed no regulations specific to Adult Day Health Care. Compliance with this regulation may be difficult to maintain by facilities and difficult to monitor by licensure staff.</p> <p>Omit the part of the statement about OSHA compliance.</p> <p>The center shall develop and maintain an infection prevention and occupational health program compliant with Occupational Safety and Health Administration regulations designed to provide a safe, sanitary, and comfortable environment for participants, staff, and the public.</p>	<p>Compliant with Occupational Safety and Health Administration (OSHA) regulations has been removed from the standard.</p>

<p>Allison Szuba, Director of the Feinour Center, PR, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>The statement, “compliant with Occupational Safety and Health Administration (OSHA) regulations” bears concern. OSHA website shows no regulations specific to Adult Day Health Care. Compliance with this regulation will be difficult to maintain and would open to considerable interpretation.</p> <p>Please omit this statement.</p> <p>The center shall develop and maintain an infection prevention and occupational health program compliant with Occupational Safety and Health Administration regulations designed to provide a safe, sanitary, and comfortable environment for participants, staff, and the public.</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Michael DiGeronimo, P, D</p>	<p>22 VAC 40-61-290 B</p> <p>The statement, “These are based on evidence-based guidelines such as Department of Health.” It would be difficult for facilities to review a multitude of guidelines on a regular basis and it would be more difficult for licensure inspectors to identify non-compliance issues as they apply to various government agency guidelines.</p> <p>Omit the sentence, “ These are based upon evidence-based guidelines such as....Health.”</p> <p>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 and updated as recommendations change and shall include:</p>	<p>The standard is appropriate as written as these are the resources that are primary for infection control.</p>

<p>Allison Szuba, Director of the Feinour Center, PR, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>The statement, “These are based on evidence-based guidelines such as...Department of Health.” It would be difficult for facilities to review the numerous guidelines on a regular basis and it would be more difficult for licensure inspectors to identify non-compliance issues as they apply to various government agency guidelines.</p> <p>Please consider omitting this statement.</p> <p>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 and updated as recommendations change and shall include:</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-290 C</p> <p>Training “specific to <u>this setting</u>”. I know of no infection prevention training specific to the Adult Day Health Care setting. A nurse usually has training specific to <u>health care settings</u>.</p> <p>Change the statement to read, “...with training in infection prevention specific to a <u>health care setting</u>...”</p> <p>Training “specific to this setting”. This phrase poses a problem as there is no infection prevention training specific to the Adult Day Health Setting.</p> <p>Please consider changing the statement to read, “with training in infection prevention specific to a health care setting”.</p>	<p>Expanded the regulation to include training and experience in a congregate care setting.</p>

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-300 B</p> <p>Does not include on-line reference materials which may be more up-to-date than printed versions. Recognized sites such as dailymed.nlm.nih.gov (the website for the national institute of health) may offer more current information.</p>	<p>The standard is appropriate as written. In cases of power or internet outages there would be no access to online resources. This does not preclude a center from utilizing online resources, but the reference material needs to be onsite.</p>
<p>Lorraine Eckhardt, PR, D</p>	<p>Include in statement, “,,,or access to on-line materials or guides.”</p> <p>Add: The center shall have readily accessible as reference materials for medication aides, at least one pharmacy reference book, drug guide, or medication handbook <i>or access to on-line materials or guides</i> for nurses that is no more than two years old.</p>	
<p>Michael DiGeronimo, P, D</p>	<p>The center shall have readily accessible as reference materials for medication aides, at least one pharmacy reference book, drug guide, or medication handbook <i>or access to on-line materials or guides</i> for nurses that is no more than two years old.</p>	
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>Does not include on-line reference materials which may be more up-to-date.</p> <p>Please consider adding that as additional resources can only benefit the effectiveness of the position.</p>	
<p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>The center shall have readily accessible as reference materials for medication aides, at least one pharmacy reference book, drug guide, or medication handbook <i>or access to on-line materials or guides</i> for nurses that is no more than two years old.</p>	
<p>Dana Parsons</p>	<p>22 VAC 40-61-300 E 3</p> <p>The use of EpiPen's- with current</p>	<p>A blanket statement cannot be issued on any</p>

<p>Leading Age Virginia, PO, D</p>	<p>regulations must be locked with medications. Because this is a vital drug when there is an allergic reaction, having it locked, may prevent it to be administered in a timely manner. Can the regulation be written so that medications as such, be available for access to staff without having to find the nurse/med tech, unlock the med closet, go back to pt and administer? To support this, the first aid kit, which is accessible to staff, must have anti-biotic ointment and bee sting ointment- both medications and both of which would require an order for administration by a nurse or med tech- meaning other staff could not clean, apply ointment, and bandage a scratch or skin tear. We ask that you please consider this comment. We may not have anyone with an EpiPen now, but if you do in the future, you will see that it puts you in a logistical bind and may put a participant at risk.</p>	<p>medications as each individual must be evaluated as to their ability to self-administer medications.</p>
<p>Michael DiGeronimo, P, D</p>	<p>Consider an alternate storage plan for a participant that has an EPI pen as an as needed medication for emergency administration. If it is locked and a participant needs it and the nurse/med tech is not immediately available or accessible (putting lunches in the oven, helping a pt in the bathroom), the person could be put at risk of serious health complications or death. Can the regulation be written so that medications as such, be available for access to staff without having to find the nurse/med tech, unlock the med closet, go back to pt and administer? To support this, the first aid kit, which is accessible to staff, must have anti-biotic ointment and bee sting ointment- both medications and both of which would require an order for administration by a nurse or med tech- meaning other staff could not clean, apply ointment, and bandage a scratch or skin tear.</p>	

<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-300 E 7 a 3 “...approved by the board of nursing and accepted in adult day care centers” is confusing as there is no indication as to what would constitute the training being accepted in the centers.</p>	<p>Language added to clarify the training is acceptable for use in adult day care centers.</p>
<p>Allison Szuba, Director of the Feinour Center, PR, D</p>	<p>22 VAC 40-61-300 E 7 a 4 The 32 hour class for medication administration needs to be added.</p>	<p>This is covered under 22 VAC 40-61-300 E 7 a 3.</p>
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-300 F Section F of 22VAC40-61-300, Medication management, presents another concern. Of course, if there is a medication error and the individual has an adverse reaction, the first priority is to deal with that adverse reaction. However, if there is a med error with no immediate consequences to the individual, the center staff should first and foremost speak directly with the individual to explain the error and any possible adverse reactions that may occur because of the error. We suggest, "If not contrary to immediate medical needs of the participant, the participant shall be notified of the error, the actions taken by center staff to protect the participant, and any possible adverse consequences of the error."</p>	<p>Added language that participant be notified of a medication error or adverse drug reaction if it is not contrary to immediate medical needs of the participant.</p>
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-310 We are grateful that the regulations make clear that the use of restraints is absolutely prohibited. However, to provide best direction to staff, we recommend that you include in 22VAC40-61-310: Restraints, a reference back to the required training in behavior management techniques in 22VAC40-61-110(B)(7), as follows: "Any behavior that poses a threat to the participant, other participants, or staff shall be handled according to the training received pursuant to subsection 110(B)(7) of this</p>	<p>The standard is appropriate as written. To add this language would narrow the scope of 22 VAC 40-61-110 B 7. A center could choose to add additional training with the staff training requirements.</p>

<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>shared with the participant or the participant’s representative, and center staff shall assist the participant with utilization of the adaptive equipment or supplies that are provided by the participant or participant’s representative.”</p> <p>Change the second sentence to read, “Information about the need for eating adaptations shall be shared with the participant or the participant’s representative, and center staff shall assist the participant with utilization of the adaptive equipment or supplies that are provided by the participant or participant’s representative.”</p> <p>Change the second sentence to read, “Information about the need for eating adaptations shall be shared with the participant or the participant’s representative, and center staff shall assist the participant with utilization of the adaptive equipment or supplies that are provided by the participant or participant’s representative.”</p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-320 C 4 & 6</p> <p>The disAbility Law Center of Virginia appreciates the opportunity to comment on the proposed standards and regulations for licensed adult day care centers. As you know, dLCV is the state’s designated organization to promote and protect the rights of people with disabilities. We are, therefore, especially sensitive to the protection of those rights in the proposed standards and regulations.</p> <p>Throughout the proposed standards, there are many requirements to notify family or legal representatives. We are alarmed that those notification requirements do not extend to the individual. As you are aware, “aging” is not equivalent to “incapacity.” In fact, under Virginia law, capacity is</p>	<p>Language has been added to the standard to include the participant in decisions related to his care.</p>

	<p>presumed. Therefore, the standards should not presume that the individual is not capable of receiving notifications. We strongly urge that all the references to requirements to contact or share information, should indicate first the individual, and then any family or friend previously designated by that individual, or any legal representative.</p> <p>The directions of the individual should be emphasized, for example, in 22VAC40-61-250 (B): Participant record. We recommend underscoring this right by changing Section B to reflect "...friends, or other people <i>designated by the individual when possible</i> or by his legal representative." Similar changes should be made to 22VAC40-61-320 (C) (4) and (6).</p>	
<p>Ingrid Parkhurst, PR, TH</p> <p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-330 D</p> <p>No to always having a designated staff person on duty who meets specific qualifications as stated or add qualified program assistant.</p> <p>The proposed regulations on who can meet the qualifications as an activities staff person are too restrictive from an educational as well as experiential perspective. The requirements will be difficult for facilities to meet from a budgetary standpoint as well as an availability standpoint.</p> <p>According to the Bureau of Labor Statistics, a therapeutic recreation specialist has annual wages of \$45,890, an occupational therapist has annual wages of \$80,150, and an occupational therapy assistant has annual wages of \$57,870. ADHC facilities would be unable to sustain these wages on the current all-inclusive Medicaid</p>	<p>Two additions were made to the standard: the allowance of an associate's degree in a discipline focusing on the provision of activities for adults and a six month time period for providers to come into compliance with the standard.</p>

	<p>reimbursement rate of \$57.04 per day (many centers are open 10 hours per day). The option to utilize a qualified activities professional is not only expensive, but the training is difficult to obtain. The qualified employee pool would be extremely small, if non-existent in a rural community. According to the Virginia Health Care Assoc. website, the activities professional course is only offered in a week-long once yearly with a training fee of \$695. It would require applicants to travel and make overnight accommodations. The requirement for 1 year experience in an activities program in an adult care setting would also be difficult to meet in small communities that only have 1 or 2 long term care settings.</p> <p>Recommendation:</p> <ol style="list-style-type: none"> 1. Replace wording with: “Be a qualified or certified therapeutic recreation specialist, occupational therapist, occupational therapy assistant, music therapist, similar creative arts therapist, or health care related clinician. 2. Be a qualified activities professional by a recognized accrediting body. 3. Have at least an associate’s (or bachelor’s) degree in a human service, health 	
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<p>Iris Wheeler, PR, D</p>	<p>care, education, physical education, humanities, psychology, social sciences, social work, disability studies, fine arts, or related field with one year paid experience or with supervised internship in that field.</p> <p>4. Have one year full-time work experience within the last five years in an activities program in an adult care or disability services program.</p> <p>Other department approved activity curricula.”</p> <p>The proposed regulations are incredibly restrictive concerning who can be hired as an activities staff person and would be difficult to follow. The proposed requirements would put a financial strain on Adult Day Care Centers, especially smaller, rural Centers, because the salary required for an activities person with those credentials and experience would be high. In addition, such an activities person would be difficult to find as there are not many professionals who meet all the proposed requirements. I have been an Activities Coordinator for 3 years and I would not meet the proposed regulations.</p> <p>Recommendation: Make the wording for the activities professionals more broad, such as a “qualified or certified therapeutic professional such as a recreation specialist, occupational therapist, music therapist, art therapist, health care clinician, mental health care clinician, or related field.” Require an associate’s or bachelor’s degree in a human services field and one year of full time experience in an adult care setting within the last five years. In addition, the professional</p>	
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<p>Michael DiGeronimo, P, D</p>	<p>may also be a qualified activities professional.</p> <p>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 must have at least 1 year paid experience or internship in a related field. The designated activity staff must also meet at least one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Be a qualified or certified therapeutic recreation specialist, occupational therapist, occupational therapy assistant, music therapist, similar creative arts therapist, or health care related clinician. 2. Be a qualified activities professional. 3. Have at least an associate's degree in a human service, health care, education, physical education, psychology, social sciences, social work, disability studies, fine arts, or related field with one year paid experience or supervised internship in that field. <p>Other Department approved activity curricula.</p>	
<p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>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</p>	

	<p>the participants and familiarity with their needs and interests, and must have at least one year paid experience or internship in a related field. The designated activity staff must also meet at least one of the following qualifications:</p> <ol style="list-style-type: none"> 1. Be a qualified or certified therapeutic recreation specialist, occupational therapist, occupational therapy assistant, music therapist, similar creative arts therapist, or health care related clinician. 2. Be a qualified activities professional. 3. Have at least an associate's degree in a human service, health care, education, physical education, psychology, social sciences, social work, disability studies, fine arts, or related field with one year paid experience or supervised internship in that field. 4. Other Department approved activity curricula. 	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Michael DiGeronimo, P, D</p> <p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>22 VAC 40-61-330 F 3 b</p> <p><u>Name</u> and <u>type</u> of activity may be redundant.</p> <p>Recommendation: A descriptive name of the activity, date and hour of the activity.</p> <p>Delete "Type" because there is not enough room on the calendar to include this information the activity implies the type of activity.</p> <p>Delete "Type" because there is not enough room on the calendar to include this information; furthermore, the activity implies the type of activity.</p> <p>Delete "Type" because there is not enough room on the calendar to include this information the activity implies the type of activity.</p>	<p>Name and type are two separate identifiers. Type allows providers to show inclusion of all types of activities required in 22 VAC 40-61-330 B 3.</p>

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-330 K</p> <p>Unscheduled staff and participant interaction would be difficult to document and difficult for an Inspector to verify, except through direct observation during the inspection. It would be more important for staff to foster a relationship between participants and <u>others</u>, including staff, other participants, visitors, etc. In keeping with the HCBS Final Rule, facilities will be expected to foster relationships between participants and non-disabled and non-paid individuals.</p> <p>Recommendation: . Delete the statement about staff to participant interactions and instead say, “In addition to the required scheduled activities, center staff will foster an environment that promotes socialization opportunities for participants.”</p>	<p>It is important to maintain the opportunity for unscheduled activities throughout the day.</p>
<p>Michael DiGeronimo, P, D</p>	<p>Delete the statement about staff to participant interactions and instead say, “In addition to the required scheduled activities, center staff will foster an environment that promotes socialization opportunities for participants.”</p>	
<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p>	<p>Delete the statement about staff to participant interactions. Instead say, “In addition to the required scheduled activities, center staff will foster an environment that promotes socialization opportunities for participants.”</p>	
<p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>Delete the statement about staff to participant interactions and instead say, “In addition to the required scheduled activities, center staff will foster an environment that</p>	

	promotes socialization opportunities for participants.”	
Carla Groff, Director, Centra Bedford Adult Day Center, PR, D	<p>22 VAC 40-61-360</p> <p>Comment: Due to low reimbursement rates for ADHC and the expense involved in purchasing certain food items or in providing special preparation areas for some dietary needs/preferences, meeting all dietary restrictions may prove cost prohibitive for facilities. Although I believe it is important to comply with the restrictions, such as diabetic diets, I do not believe it is reasonable to expect facilities to provide all food restrictions/preferences. Instead, these items should be provided by the participant. Part E requires a “current” diet manual. Access to on-line dietary manuals should be included.</p> <p>Recommendation: Add the statement: In the event a participant has complex or cost prohibitive dietary needs or preferences that the facility is not able to accommodate, the participant may be expected to provide food items of their choice.</p> <p>Add to part E. “or access to on-line diet manuals”.</p>	<p>The requirement for second servings has been removed from the standard.</p> <p>The standard does not preclude a center from utilizing online resources, but the diet manual needs to be onsite. In cases of power or internet outages there would be no access to online resources.</p>
Jane Bauknecht, PR, TH	<p>Second serving at no additional charge... IF seconds are available. For example, if a Center caters their meals and orders food for 20 clients on a given day, they should not be required to order 25 servings just so extra food is available. This is extremely costly and unnecessary. Current copy of a diet manual?? Is that manual being made available to us? Is it necessary when one follows the rda regulations?</p>	
Carla Groff, Director, Centra Bedford	<p>22 VAC 40-61-370</p> <p>Due to low reimbursement rates for ADHC and the expense involved in purchasing certain food items or in</p>	<p>Language was change-a center will still be required to respect a participant’s dietary restrictions, but not forced to follow them.</p>

<p>Adult Day Center, PR, D</p>	<p>providing special preparation areas for some dietary needs/preferences, meeting all dietary restrictions may prove cost prohibitive for facilities. Although I believe it is important to comply with the restrictions, such as diabetic diets, I do not believe it is reasonable to expect facilities to provide all food restrictions/preferences. Instead, these items should be provided by the participant.</p> <p>Recommendation: Add the statement: In the event a participant has complex or cost prohibitive dietary needs or preferences that the facility is not able to accommodate, the participant may be expected to provide food items of their choice.</p>	
<p>Michael DiGeronimo, P, D</p>	<p>While some larger centers may have the capability to provide multiple food choices and special dietary preferences, it may not be economically feasible for smaller centers to meet specific religious dietary needs due to the cost of food items or the availability of special preparation areas.</p> <p>Comment: Add the statement: In the event a participant has complex or cost prohibitive dietary needs or preferences that the facility is not able to accommodate, the participant may be expected to provide food items of their choice.</p>	
<p>Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH</p>	<p>Add the statement: In the event a participant has complex or cost prohibitive dietary needs or preferences that the facility is not able to accommodate, the participant may be expected to provide food items of their choice.</p>	
<p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>Add the statement: <i>In the event a participant has complex or cost prohibitive dietary needs or preferences that the facility is not</i></p>	

	<i>able to accommodate, the participant may be expected to provide food items of their choice.</i>	
	22 VAC 40-61-380 B 1	
Carla Groff, Director, Centra Bedford Adult Day Center, PR, D	Omit "Virginia" from B1.	The word "Virginia" has been omitted.
Michael DiGeronimo, P, D	There is a concern that the license is limited to a Virginia driver's license. Recommend: The driver has a valid Virginia driver's license to operate the type of vehicle being used.	
Leah Freij, Fairfax County Health Department, Herndon Adult Day Care Center, PR, TH	The driver has a valid driver's license to operate the type of vehicle being used.	
Dana Parsons Leading Age Virginia, PO, D	The driver has a valid Virginia driver's license to operate the type of vehicle being used.	
Ingrid Parkhurst, PR, TH	The driver has a valid driver's license to operate the type of vehicle being used.	
	22 VAC 40-61-380 B 7	
Michael DiGeronimo, P, D	This proposed language creates an issue for contracted services for transportation, such as yellow cab.	The requirements of 22 VAC 40-61-380 would need to be negotiated between the provider and the contractor during transportation contract development.
Dana Parsons Leading Age Virginia, PO, D	This proposed language creates an issue for contracted services for transportation, such as yellow cab.	
	22 VAC 40-61-460 E	
V. Colleen Miller, disAbility Law Center of Virginia, IP, TH	In 22VAC40-61-460: Restroom facilities, we recommend adding, "At least one sink shall be accessible to an individual using a wheelchair or other assistive technology."	This is a function of the Uniform Statewide Building Code.

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>22 VAC 40-61-460 J 3</p> <p>The word “seat” may be more appropriate than “bench”.</p> <p>Recommendation</p> <p>Reword: “A sturdy seat for use in the shower and a sturdy seat for use in dressing, if necessary.”</p> <p>A sturdy seat for use in the shower and a sturdy seat for use in dressing, if necessary.</p>	<p>Language has been changed to reflect the broader term of “seating”.</p>
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-500</p> <p>In 22VAC40-61-500: Telephones, we recommend adding, "C. Staff shall provide assistance to any participant upon request and shall provide immediate access and assistance if the participant requests contact with APS, an Ombudsman, or the disAbility Law Center of Virginia."</p>	<p>Language has been added to require staff to provide assistance to a participant if requested.</p>
<p>Michael DiGeronimo, P, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>22 VAC 40-61-520 A 2</p> <p><i>Annual</i> 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.</p> <p><i>Annual</i> 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.</p>	<p>No change as this is covered under 22 VAC 40-61-520 D.</p>
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-520 C</p> <p>Implementing a semi-annual review of the emergency plan for staff and participants would be costly and time-consuming. Most facilities are already required by the fire marshal’s office to conduct monthly drills. The drills include all staff,</p>	<p>The standard is appropriate as written. It is critical that participants be included in the emergency preparedness and response review should the need arise to implement the plan.</p>

<p>Michael DiGeronimo, P, D</p> <p>Dana Parsons Leading Age Virginia, PO, D</p>	<p>volunteers, and participants and a review of any concerns that are identified during the drills. A formal review of the plan by staff and volunteers would only need to occur at orientation, annually, and as the need for changes to the plan occur. The need for training of participants should occur at orientation and when changes to the plan occur.</p> <p>Recommendation:</p> <p>Change this to read, “ The center shall develop and implement an orientation for staff and volunteers on the emergency preparedness and response plan as related to the staff and volunteer’s responsibilities in the event of an emergency. Staff and volunteers shall review the emergency preparedness and response plan annually and when changes to the plan are implemented. The orientation and reviews shall be signed and dated by staff and volunteers. Participants shall be oriented upon admission on the emergency and preparedness plan as it relates to their response. Participants will be notified of any changes that impact their response to the emergency and preparedness plan.</p> <p>The center shall provide an orientation for staff and volunteers on the emergency preparedness and response plan as related to the staff and volunteer’s responsibilities in the event of an emergency. Staff and volunteers shall review the emergency preparedness and response plan bi-annually. The orientation and reviews shall be signed and dated by staff and volunteers.</p> <p>The center shall provide an orientation for staff and volunteers on the emergency preparedness and response plan as related to the staff and volunteer’s responsibilities</p>	
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	<p>in the event of an emergency. Staff and volunteers shall review the emergency preparedness and response plan bi-annually. The orientation and reviews shall be signed and dated by staff and volunteers.</p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-520 F 1</p> <p>The disAbility Law Center of Virginia appreciates the opportunity to comment on the proposed standards and regulations for licensed adult day care centers. As you know, dLCV is the state’s designated organization to promote and protect the rights of people with disabilities. We are, therefore, especially sensitive to the protection of those rights in the proposed standards and regulations.</p> <p>Throughout the proposed standards, there are many requirements to notify family or legal representatives. We are alarmed that those notification requirements do not extend to the individual. As you are aware, “aging” is not equivalent to “incapacity.” In fact, under Virginia law, capacity is presumed. Therefore, the standards should not presume that the individual is not capable of receiving notifications. We strongly urge that all the references to requirements to contact or share information, should indicate first the individual, and then any family or friend previously designated by that individual, or any legal representative.</p> <p>The directions of the individual should be emphasized, for example, in 22VAC40-61-250 (B): Participant record. We recommend underscoring this right by changing Section B to reflect “...friends, or other people <i>designated by the individual when possible</i> or by his legal representative.” Similar changes should be made to 22VAC40-61-520 (F) (1)</p>	<p>Participant was added to the notification requirements</p>

<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>22 VAC 40-61-560 A 2</p> <p>The examples of “catastrophic reaction” and “temporary detention order” are not appropriate. ADHC staff cannot determine the need for a TDO. The term “catastrophic reaction” implies the situation is a side effect of some trauma. We cannot determine that.</p> <p>Recommendation: Change to read: “Procedures for handling mental health emergencies such as when a participant exhibits behaviors that endangers themselves or others.”</p>	<p>The standard is appropriate as written. Catastrophic reaction is a common mental health term. Providers are not expected to conduct temporary detention orders, however, they need to be aware of the process necessary to maintain the safety of all participants and staff.</p>
<p>Jane Bauknecht, PR, TH</p>	<p>Regarding 22VAC 40-61-560, A.2, the term CATASTROPHIC REACITON could be many things. Licensing should clearly define what specifically they are looking for by stating Catastrophic Reaction.</p>	
<p>Michael DiGeronimo, P, D</p>	<p>Procedures for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order when a participant exhibits behaviors that endangers themselves or others.</p> <p>Comments: The examples of “catastrophic reaction” and “temporary detention order” are not appropriate. ADHC staff cannot determine the need for a TDO. The term “catastrophic reaction” implies the situation is a side effect of some trauma. An ADHC cannot make this determination. However, the Department may considering defining “catastrophic reaction” as monitoring a person for symptoms of any change that seems harmful to participants.</p> <p>While the term catastrophic emergency is a common tern used in the past, why use it if everyone has to look it up?</p>	

<p>Dana Parsons, Leading Age Virginia, PO, D</p>	<p>Procedures for handling mental health emergencies such as, but not limited to, catastrophic reaction or the need for a temporary detention order <i>when a participant exhibits behaviors that endangers themselves or others.</i> Comments: The examples of “catastrophic reaction” and “temporary detention order” are not appropriate. Adult day staff cannot determine the need for a TDO. The term “catastrophic reaction” implies the situation is a side effect of some trauma. An Adult day center cannot make this determination. However, the Department may considering defining “catastrophic reaction” as monitoring a person for symptoms of any change that seems harmful to participants.</p>	
<p>V. Colleen Miller, disAbility Law Center of Virginia, IP, TH</p>	<p>22 VAC 40-61-560 A 6</p> <p>The disAbility Law Center of Virginia appreciates the opportunity to comment on the proposed standards and regulations for licensed adult day care centers. As you know, dLCV is the state’s designated organization to promote and protect the rights of people with disabilities. We are, therefore, especially sensitive to the protection of those rights in the proposed standards and regulations.</p> <p>Throughout the proposed standards, there are many requirements to notify family or legal representatives. We are alarmed that those notification requirements do not extend to the individual. As you are aware, “aging” is not equivalent to “incapacity.” In fact, under Virginia law, capacity is presumed. Therefore, the standards should not presume that the individual is not capable of receiving notifications. We strongly urge that all the references to requirements to contact or share information, should indicate first the individual, and then any family or friend previously designated by that</p>	<p>The standard is appropriate as written. Being that the notification would be pertinent to the emergency of the participant, there would not be an opportunity to notify them.</p>

	<p>individual, or any legal representative.</p> <p>The directions of the individual should be emphasized, for example, in 22VAC40-61-250 (B): Participant record. We recommend underscoring this right by changing Section B to reflect "...friends, or other people <i>designated by the individual when possible</i> or by his legal representative." Similar changes should be made to 22VAC40-61-560 (A) (6).</p>	
<p>Carla Groff, Director, Centra Bedford Adult Day Center, PR, D</p>	<p>General Comments</p> <p>Summary: Thank you for the opportunity to contribute to the development of the proposed regulations for adult day centers. Annette Kelly has been very accommodating throughout the process. She has taken time to solicit the input of agencies, facilities and other interested parties. Based on her careful attention to comments, she has helped to develop meaningful and practical regulations that will enable facilities to provide safe and therapeutic environments to the individuals who attend adult day services.</p>	

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		Clarifies the terms used in the regulation for better understanding by providers, licensing staff, and the public.	Definition of "mental impairment" was changed to be more inclusive of cognitive disorders.
20		Provides information on legal base and applicability of the standards to provide	

		clarity regarding pertinence of the standards.	
30		Gives general guidelines for care for participants to providers.	
40		Requirements for the center to conduct an internal quality assurance process to include who is involved in the process, how well the program assists the participant and family, measurement of the achievement of the plan of care, outcome measures, relationship of the program to other community services and recommendations for improvement.	After considering the comments, VDSS decided against imposing a requirement to have a quality assurance plan on all facilities. The standard has been removed.
50	40	Provide for participant rights and responsibilities and require the center to establish and implement written policies and procedures to ensure the exercise of participant rights.	
60	50	Describe the duties and responsibilities of the licensee, including ensuring compliance with all regulations and federal, state and local laws.	
70	60	Outlines the amount and description of required liability insurance.	
80	70	Allow use of electronic records or signatures and set forth requirements for their use including developing and implementing policies and ensuring access is limited.	
90	80	Require incident reports within 24 hours of any major incident that negatively affected or threatened the life, health, safety or welfare of a participant; details what a center must include in an incident report; specifies that a written report must be submitted within 7 days	Added language to address that the reports pertain specifically to a participant. This change was made for clarification.

		and describes what must be included in the written report.	
100	90	State the qualifications, duties and responsibilities of staff including being respectful, able to speak and write in English, and meet the requirements for background checks.	
110	100	Describe the requirements for staff orientation and initial training including time frames and required oversight until training is complete.	
120	110	Require each staff person who is a mandated reporter to report suspected abuse, neglect or exploitation of participants in accordance with § 63.2-1606 of the Code of Virginia.	Added that the participant will be notified of any reports. Also added that the notification will not be made if to do so would jeopardize the participant. This is to protect the safety of the participant.
130	120	Specify the director qualifications including age, education and experience, responsibilities to center operations, and training requirements including infection control and prevention and participants with mental impairments.	
140	130	Describe direct care staff qualifications including requiring direct care staff to be at least 18 years of age unless certified in Virginia as a nurse aide and require direct care staff to have met necessary training requirements within the required time frame.	Removed the word “directly” from the description for staff working with participants-change made for clarification. Additionally clarified which staff are impacted by the subsection by adding “employed by the center.”
150	140	Specify training requirements for staff providing direct care in adult day care centers	Restructured the standard to identify the training/topics specifically required for staff to provide clarity.
160	150	Require first aid and CPR certification for all direct care staff within 60 days of employment which shall be maintained current.	Reduced the requirement for CPR training from every direct care staff person to 2 direct care staff persons on duty at all times. Also, restructured the standard to be more concise. Added that direct care staff who do not meet the requirement will have 90 days to do so. Requiring all direct care staff to be CPR certified could prove burdensome for providers. Having two staff at all times with

			CPR will still allow for appropriate care to be provided in an emergency.
170	160	Specify the requirements for volunteers, including qualifications, documentation by the center, coordination and orientation.	
180	170	Specify staff record and health requirements including how long the record must be maintained and the content of the staff record. Requires staff records to be maintained at the center in a locked area.	Refined the requirement to only require TB testing of volunteers who are counted in the staff to participant ratio, and not all volunteers utilized at the center. Lessens the burden on the provider of requiring TB testing of all volunteers that come into the center.
190	180	Specify requirements for staff person in charge during center hours of operation and field trips.	
200	190	Specify requirements for a 1-6 staff to participant ratio. Describes requirements for additional staffing.	
210	200	Specify requirements for admission to the center. Specify age requirement and acceptance of only those participants that meet admission requirements.	
220	210	Requirements to complete a participant assessment prior to admission to the program to assess medical and functional needs, mental status, social environment, economic conditions, nutrition, communication, hobbies and interests, and personal preferences. Also require a reassessment every six months and reassessment when needs change.	Allows for the written assessment to be conducted on the date of admission and not just prior to admission. This will give the provider additional time to complete the initial assessment.
230	220	Require that a preliminary plan of care be developed to address the needs of the participants prior to, or on the day of, admission. The plan will be reviewed and updated if necessary within 30 days. The contents of the plan are detailed within this section.	
240	230	Require a written	

		agreement with the participant or legal representative and the center at the time of admission to the center and specifies the contents of the agreement.	
250	240	Specify the participant personal and social information that the center must obtain at admission. Require the center to establish written policies and procedures for ensuring that information in the participant's record is accurate and clear and that records are well organized; specify where and how long records will be retained.	
260	250	Require physical examination and report by an independent physician within 30 days prior to admission; the contents of the report are enumerated. Requires subsequent tuberculosis evaluations.	Added date of birth as an identifier in the report of physical examination since this is a standard identifier used by physician offices.
270	260	Describe the requirements for discharge of participants including discharge planning, discharge statement and assistance that the center shall offer to the participant.	
280	270	Requires the center to develop a policy and procedure for health status monitoring for all participants.	
290	280	Provide for infection control measures to include standard precautions and occupational health safety.	Removed the requirement for the program to be compliant with the Occupational Safety and Health Administration (OSHA) regulations as providers are already required to be OSHA compliant. Additionally, added an allowance for the staff person required to be knowledgeable in infection control to be so by experience or training, and that that experience can be in a congregate care setting instead of limiting it to adult day care centers. Lessens the burden for fulfilling this requirement.
300	290	Require the center to have and keep current a written plan for medications	Clarified that the training approved by the Board of Nursing is for use in adult day care centers. Also, added that if there is a

		management and specifies what the plan must include. Specify when a physician or other prescriber order is necessary. Regulate the storage of medications prescribed for participants. Regulate the qualifications of staff who administer medications and the documentation of medication administration.	medication error or adverse medication reaction that the participant will be included in the notification process.
310	300	Prohibit the use of chemical and physical restraints	
320	310	Provides requirements for staff to assist participants with activities of daily living, if necessary, such as eating and feeding, ambulation and transfer, toileting, bathing and dressing.	Added ambulation to the title as this is a necessary assistance category but is not considered an activity of daily living. Adjusted language throughout the standard to clarify requirements and enhance participant participation in their care. Allows for clarification in the standard and involvement of the participant in their care.
330	320	Specify the activity requirements that the center must meet for participants; state that participants shall be encourage but not forced to participate. Requires a designated staff person to manage or coordinate the activities program.	Added an additional option that the staff person responsible for the activities program could have at least an associate's degree in a discipline focusing on the provision of activities for adults. This creates an additional option for compliance with the standard.
340	330	Specify requirements the center must meet pertaining to food service for participants.	
350	340	Requirements for the provision of meals and snacks while the participant is at the center, including specific serving time guidelines.	
360	350	Specify center requirements for meals and snacks including food preferences; dated and posted menus; substitutions to the menu; minimum daily menu; special diets and required nutritional guidelines that must be met.	Removed the requirement for second servings of both meals and snacks being available at no additional charge to the participant. This would have been potentially financially burdensome to the provider.
370	360	State the participants religious dietary practices must be respected and	Removed the requirement that participant's dietary restrictions have to be followed. This lessens the burden upon the provider to

		religious dietary practices of the director, staff or licensee shall not be imposed on participants unless agreed to in the admission agreement.	provide multiple meal options. Additionally, made a technical change from “admission” agreement to “participant” agreement as the wrong word was used in the proposed.
380	370	Specifies requirements for center provided or contracted transportation services. Includes safety requirements, vehicle and driver requirements.	Removed the requirement for a Virginia specific driver’s license. This will allow for those that maintain a driver’s license in a border state to Virginia to still fulfill the transportation requirements.
390	380	Specifies policy and safety requirements when participants are away from the center on a field trip.	
400	390	Specifies that the physical environment must ensure safety of the participants.	
410	400	Require the interior and exterior of all buildings to be in good repair and kept clean and free of rubbish, infestation of insects and vermin. Require furnishings, fixtures and equipment to be in good repair.	
420	410	Require all areas to be adequately lighted and glare to be kept at a minimum in rooms used by participants.	
430	420	Describe requirements for heating and cooling and require centers to develop and implement a plan to protect participants in the event of loss of cooling or heat due to emergency, malfunctioning or broken equipment.	
440	430	Requirements for 50 square feet of indoor floor space for each participant, sufficient and suitable space for planned program activities, outdoor space and safe appropriate furniture.	
450	440	Requires space to be available to allow privacy for participants during interviews, visits, telephone conversations, counseling,	

		therapy and other similar activities.	
460	450	Specify the requirements for toilet, handwashing and bathing facilities.	Changed the requirement for a bench in the shower to "seating". Broadened the requirement to allow for non-specific type of seating.
470	460	Require dining areas to have sufficient sturdy dining tables and chairs for all participants.	
480	470	Requires a separate room or space to allow for those participants who may become ill or need to rest.	
490	480	Requires sufficient space be available for personal possessions of participants and staff, as well as equipment, materials and supplies used in the program.	
500	490	Requires there be a non pay telephone available for participant if necessary.	Added that staff shall assist participants with telephone usage upon request. Benefits the participant if they need assistance.
510	500	Require an adult day care center to comply with state regulations and local fire ordinances	
520	510	Require the center to develop a written emergency preparedness and response plan addressing specified criteria and policies and procedures. Require staff and volunteer to be knowledgeable of the plan and for staff, participants and volunteer to receive orientation and semi-annual review and revision of the plan is required. Center must take appropriate action to protect participants and remedy conditions as soon as possible and notify family members and legal representatives.	Technical word change to include the complete title of the plan. Additionally, added that the participant will be notified following an event-promotes inclusion of the participant in his care.
530	520	Require the center to have a written plan for fire and emergency evacuation approved by the appropriate fire official.	
540	530	Require unannounced fire	

		and emergency evacuation drills, evaluation following the drill by staff and documentation of corrective action take. Center must maintain a record of fire and emergency evacuation drills for two years.	
550	540	Requirements for first aid kit supplies, location and replacement and emergency supplies such as flashlights and extra food and water.	Added a requirement for a disposable single-use breathing barrier for the use in rescue breathing or CPR to promote additional protection and safety for both participants and staff.
560	550	Require a written plan and what must be included in the plan for participant emergencies; training required at orientation and semi-annually.	