

Item 1: A copy of the proposed revision to the existing regulation is attached.

Item 2:

(i) Summary:

The regulation sets forth standards that are intended to protect the health, safety, welfare and individual rights of participants of adult day care centers. The regulation consists of eight parts: General Provisions; Administration; Personnel; Supervision; Buildings and Grounds; Admission, Retention and Discharge; Programs and Services; and Emergency Preparedness.

(ii) Basis:

Section 63.1-194.2 of the Code of Virginia gives the State Board of Social Services authority to promulgate and enforce regulations to protect the health, safety, welfare and individual rights of participants of adult day care centers and to promote their highest level of functioning.

(iii) Purpose:

The purpose of amending this regulation is to bring it into compliance with Code mandates that have been enacted since the regulation was last revised in 1987, including requirements for criminal record checks for employees, training requirements for medication aides, and changes to building and fire codes. While these changes have been implemented procedurally, they have not been incorporated into the regulation.

The purpose of the amended regulation is also to strengthen the requirements regarding the care of current adult day care center participants and to prepare for changes anticipated in the future. In the past ten years there has been an increase in the number of programs and participants, an increase in the health care needs of participants, and a decrease in the functional level and independence of those served.

(iv) Substance:

The regulation increases requirements for education and training of staff who provide care to participants and it provides for increased oversight of the care needs of participants. There is an increased emphasis on working closely with family members or care givers to assure that the participant's care needs are met at all times.

(v) Issues:

Implementing the proposed changes to the regulation should increase the quality of care given to adult day care center participants and maintain or improve their highest levels of functioning. Families and care givers should have increased confidence in the care being given their center participant.

Item 3. State authority.

Section 63.1-194.2 of the Code of Virginia mandates the State Board of Social Services to promulgate and enforce regulations to protect the health, safety, welfare and individual rights of participants in adult day care centers and to promote their highest level of functioning. (Copy of Code section attached.)

Item 4: Statement from Attorney General.

Item 5: Summary of public comment.

No public comments were received.

Item 6: Changes that the proposed regulation will implement.

PART I. GENERAL PROVISIONS (previously titled Introduction)

- Revises definitions of some words because of Code changes
- Adds some definitions that were needed because of changes to the text of the regulation

PART II. ADMINISTRATION (same title in existing regulation)

- Adds requirements for licensee regarding such things as financial responsibility, protection of participants, and record keeping
- Increases the requirement for liability insurance coverage from \$500,000 to \$1,000,000

PART III. PERSONNEL (same title in existing regulation)

- Adds reference to requirement for criminal record checks for all employees
- Adds a requirement for staff to be considerate and respectful of aged and disabled persons; for staff to be clean and well-groomed; for staff to be able to communicate in English; for staff to be able to understand and apply the standards as they relate to job responsibilities, and for staff who work directly with participants and who are counted in the staff-to-participant ratio be at least 18 years of age
- Revises requirements pertaining to screening for tuberculosis to conform with current Department of Health recommendations
- Adds specific training topics or areas that must be covered before staff work directly with participants
- Adds a requirement for staff to receive 24 hours of training in specific areas following their initial orientation training and to be overseen by a supervisor or trained staff person until this training is complete
- Leaves the requirement for eight hours of contact training per year for each staff person but adds that these hours must be in addition to the required first aid, CPR and orientation training
- Adds a requirement for the director to be in the center 51% of the center's weekly hours of operation
- Adds a requirement for the director to be at least 21 years of age (previously 18) and to have at least a bachelor's degree and two year's experience working with older adults or persons with disabilities; proposes that current licensure in Virginia as a nursing home administrator or current licensure in Virginia as an R.N. or L.P.N. can substitute for the bachelor's degree
- Adds a requirement for the director to have 24 hours of continuing education annually
- Expands the requirements for volunteers to include the need for qualifications appropriate to the services they render; requires them to be under the direct supervision of a staff person when participants are present; specifies the requirements for volunteers to be counted in the staff-to-participant ratio

PART IV. SUPERVISION (same title in existing regulation)

- Retains the requirement for one staff person for every 6 participants and includes the requirement for the ratio to be maintained for field trips as well as in the center

PART V. BUILDINGS AND GROUNDS (title in existing regulation is Physical Environment)

This section was rearranged for clarity and consistency.

- Rewords requirements regarding approvals from other agencies to conform to procedures already in use
- Requires outdoor areas of centers to be equipped with appropriate seasonal outdoor furniture
- Requires heat to be supplied from a central heating plant or approved electrical heating system
- Increases required minimum indoor temperature from 68° to 70° F unless otherwise mandated by state or federal authorities
- Requires the facility to develop and implement a plan to protect participants from heat related illness if air-conditioning is not available

- Increases the required indoor square footage per participant from 40 sq. ft. to 50 sq. ft. for centers licensed after the effective date of the regulation
- Requires one toilet that is suitable to accommodate a participant who needs human assistance or specialized equipment for every ten participants in care in centers licensed after the effective date of the regulation
- Requires that in restrooms with multiple stalls, there must be at least one toilet suitable to accommodate a participant who needs human assistance or specialized equipment
- Requires water temperature at taps used by participants to be maintained between 105° and 120° F
- Requires there to be at least one telephone that will operate during power outages

PART VI. ADMISSION, RETENTION AND DISCHARGE (previously was part of section titled Programs and Services)

- Requires admission policies to include admission criteria that will be discussed with each person entering the program
- Requires that only those persons meeting the admission criteria be admitted to the center
- Expands the information to be included in the admission assessment
- Requires assessment to be updated at least every six months
- Expands the information to be included in the plan of care for each participant
- Adds a requirement for information about advance directives and requires a current photograph or written description in the participant's record
- Adds a requirement for information regarding allergies and food intolerances
- Requires more specific test information for TB screening at admission
- Requires a report of physical examination for participants annually (annual TB screening not required)
- Clarifies information regarding center-initiated discharges; provides for the center to have a process for participants to appeal discharges

PART VII. PROGRAMS AND SERVICES (same title in existing regulation)

Some standards that were previously in this section were moved to Part VI. (above)

- Adds introductory statement about the aim of planning the programs and services
- Adds a list of participants' rights
- Requires each participant's physical and mental health, behavior and attitude to be continually monitored and discussed with the staff, participant and care givers
- Requires specific on-going health care monitoring in many areas including blood pressure, weight, circulation, respiration, skin integrity, nutrition
- Requires the facility to arrange for professional rehabilitative services for participant if needed
- Adds requirements for preventing the spread of disease
- Adds requirements regarding medication management based upon Code requirements
- Adds requirements for caring for participants who need assistance with activities of daily living (eating/feeding, ambulation/transfer, toileting, bathing and dressing)
- Expands requirements for planning and implementing activities
- Clarifies and simplifies the requirements for the provision of meals and snacks
- Clarifies and simplifies the requirements for transporting participants
- Adds a section regarding field trips

PART VIII. EMERGENCY PREPAREDNESS (title was Emergencies in existing regulation)

- Requires "current certification" in first aid and CPR rather than "annual renewal"
- Adds two or three new items to the list of things to be included in the first aid kit
- Requires plans for the specific emergencies of: medical and mental health emergencies; wandering and missing participants; building evacuation; severe weather and loss of utilities; and transportation emergencies

- Requires a written record to be maintained of all emergencies
- Requires staff to notify the Department of Social Services in the event of certain emergencies

Item 7.

The proposed regulation is essential to protect the health, safety and welfare of participants of adult day care centers because there has been an increase in the health care needs of participants and a decrease in the functional level and independence of these participants. This regulation will require a greater degree of care and oversight than has been required in the existing regulation.

Item 8.

There are no less burdensome or less intrusive alternatives for achieving the purpose of this regulation; the Code of Virginia mandates that regulations be promulgated and enforced to carry out the provisions of the article and to protect the health, safety, welfare and rights of participants in care.

Item 9.

Every effort has been made to make this regulation clear, concise and easily understandable by everyone affected.

Item 10.

The agency will begin a review of this regulation three years from its effective date unless legislative changes or other circumstances require an earlier revision.

Item 11.

Anticipated regulatory impact:

- (a) Projected cost to state—none
- (b) Projected cost to localities—none
- (c) Most centers that are currently licensed already fully comply with these requirements; therefore, there should be little or no fiscal impact on them. The regulation should have a positive effect on participants and their families.
- (d) There are currently 53 licensed adult day care centers in the state. The majority of these have non-profit sponsorship and are not required by law to be licensed.