RULES AND REGULATIONS FOR

ADULT DAY HEALTH CARE PROVIDERS

IN ARKANSAS

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES

PREFACE

These rules and regulations establish criteria for minimum standards for the licensure of Adult Day Health Care (ADHC) providers in Arkansas. These regulations are the minimal design and operational standards for these facilities, and are subject to periodic revisions as warranted. Each Adult Day Health Care provider has a responsibility for providing optimum care and treatment for the clients it serves within the context of these regulations.

INTRODUCTION

Adult Day Health Care (ADHC) is a program which provides organized and supportive health and social services and activities to meet the needs of four or more functionally impaired adults for periods of less than twenty-four, but more than two hours, per day in a place other than the adult's own home.

Adult Day Health Care can provide an alternative to institutionalization by providing the potential nursing home client needed rehabilitative, therapeutic and supportive health and social services as well as relief for the caregiver. The target population is those older adults in need of Adult Day Health Care services to maintain their current level of functioning and to promote independence and self-esteem.

ADHC is differentiated from Adult Day Care or community centers by the strong emphasis on holistic health care. This approach is made possible by the utilization of an interdisciplinary team. The core team consists of nursing, social work, medicine, rehabilitation, therapy and activities coordination.

Goals of the ADHC program include therapy, a safe and supportive environment, respite, family assistance and training, as well as restoring or maintaining optimal functioning of impaired adults through a defined range of specific services provided. These include nutritional, restorative, personal care, social and health maintenance services on an ongoing basis.

Respite for the family caregiver is a clear benefit of ADHC. Studies suggest that caregivers are better able to care for individuals with dementia and other functional disabilities when they are freed, at daily intervals, from the stress of providing continuous daily care.

The uniqueness of ADHC stems from its individualized approach and its ability to meet the individual's needs. It must, however, always be viewed as part of a larger array of community-based services that assist the frail and impaired adult to achieve the quality of life that makes living worthwhile.

The Division of Medical Services, Office of Long Term care has developed these standards to assure that necessary safeguards have been taken to protect the health and welfare of the recipients of ADHC.

LICENSING REQUIREMENTS FOR ADULT DAY HEALTH CARE

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ADMINISTRATIVE RULES FOR PROVIDERS OF
ADULT DAY HEALTH CARE

100 DEFINITIONS

As used in these rules and regulations, the following definitions shall apply unless the context clearly states otherwise. Where these rules and regulations refer to an enactment of the General Assembly, such referenced shall include subsequent enactment or amendments by the General Assembly on the same subject matter.

ABUSE - Shall have the same meaning as prescribed by Ark. Code Ann. § 12-12-1703. "Abuse" also includes sexual abuse as defined in Ark. Code Ann. §12-12-1703(18).

ACTIVITIES OF DAILY LIVING – The tasks for self-care that are performed either independently, with supervision, with assistance, or by others. Activities of daily living include but are not limited to ambulating, transferring, grooming, bathing, dressing, eating and toileting.

ADA – The Americans with Disabilities Act.

ADULT DAY HEALTH CARE PROGRAM - Adult Day Health Care (ADHC) is a program which provides organized and continuing supportive health and social services and activities to meet the needs of four or more functionally impaired adults for periods of less than twenty-four, but more than two hours per day in a. place other than the adult's own home.

ADULT DAY HEALTH CARE PROVIDER - The person, corporation, partnership, association or organization legally responsible for the overall operation of the ADHC Program and is licensed to operate as an ADHC by the Office of Long Term Care (OLTC).

APPLICANT - The person, corporation, partnership, association or organization which has submitted an application to operate an ADHC but has not yet been approved and issued a license by the Office of Long Term Care.

CARE GIVER – Shall have the same meaning prescribed by Ark. Code §12-12-1703.

CONTACT DAYS – The number of days the client actually attended the Adult Day Health Care facility.

DEFICIENCY – A facility's failure to meet program participation requirements as defined in these and other applicable regulations and laws.

DEPARTMENT - The Department of Health and Human Services.

DIRECT CARE SERVICES – Services that directly help a client with certain routines and activities of daily living such as assistance with mobility and transfers; assistance to consume a meal, grooming, shaving, trimming or shaping fingernails and toenails, bathing, dressing, personal hygiene, bladder and bowel requirements, including incontinence or assistance with medication only to the extent permitted by the state Nurse Practice Act and interpretations thereto by the Arkansas State Board of Nursing.

DIRECT CARE STAFF – Any staff, compensated or volunteer, acting on behalf of, employed by, or contracted by the facility either directly or through an employment agency to provide services and who provides direct care services or assistance to clients, including activities of daily living and tasks related to medication administration or assistance.

DIRECT CONTACT – The ability or opportunity of employees of the facility, or individuals with whom the facility contracts either directly or through an employment agency, to physically interact with or be in the presence of clients.

DIRECTOR – The individual or entity that conducts the business of the facility and is in charge of the daily operations of the facility. The Director is the resource contact between the facility and OLTC.

DISCHARGE – When a client leaves the facility and it is not anticipated that the client will return.

EMERGENCY MEASURES – Those measures necessary to respond to a serious situation that threatens the health and safety of clients.

LONG-TERM CARE FACILITY RESIDENT – Shall have the same meaning as prescribed by Ark. Code Ann. §12-12-1703 and as amended.

EXPLOITATION – Shall have the same meaning as prescribed by Ark. Code Ann. §12-12-1703 and as amended.

FUNCTIONALLY IMPAIRED ADULT - An individual, age eighteen (18) or older, who by reason of mental or physical disability, requires care and supervision.

HEALTH CARD - A certificate issued by the Arkansas Department of Health and Human Services' Division of Health or any entity certified by the Arkansas Department of Health and Human Services' Division of Health, that states the person named on the card has been tested for tuberculosis.

HIPAA – Health Insurance Portability Accountability Act required by federal law to "protect health information" of clients. See www.dhhs.gov/ocr/hipaa for specific details.

LICENSE - A time-limited, non-transferable permit required by Ark. Code Ann. §20-10-224 and issued for a maximum period of 12 months to a licensee who complies with the Office of Long Term Care rules and regulations. This document shall list the maximum number of slots for the facility.

MALTREATMENT – Shall have the same meaning as prescribed in Ark. Code Ann. §12-12-1703.

MENTAL ABUSE – Verbal, written, or gestured communications to a client, or to a visitor or staff, about a client within the client's presence or in a public forum, that a reasonable person finds to be a material endangerment to the mental health of a client.

NEGLECT – Shall have the same meaning as prescribed by Ark. Code Ann. §12-12-1703.

NON-COMPLIANCE – Any violation of these regulations, or of applicable law or regulations.

OFFICE OF LONG TERM CARE (OLTC) – The Office in the Division of Medical Services of the Department of Health and Human Services that has the responsibility for the licensure, certification and regulation of long term care facilities, herein referred to as the Office or OLTC.

PERSON – An individual, partnership, association, corporation, or other entity.

PERSONNEL/STAFF/EMPLOYEE – Any person who, under the direction, control, or supervision of facility administration, provides services as defined in these regulations for compensation, or who provides services voluntarily, and may include the owner, professional, management and person, firms, or entities providing services pursuant to a contract or agreement.

PLAN OF CARE – The Adult Day Health Care Provider's written description of the scope of services to be provided to each individual client.

PLAN OF CORRECTION (PoC) – A plan developed by the facility and approved by OLTC that describes the actions the facility will take to correct deficiencies, specifies the date by which those deficiencies will be corrected, and sets forth the means and methods used to evaluate the efficacy of the corrections.

PRN – A medication or treatment prescribed by a medical professional to a person, allowing the medication or treatment to be given "as needed".

PROGRAM REQUIREMENTS – The requirements for participation and licensure under these and other applicable regulations and laws as an Adult Day Health Care Facility.

PROPRIETOR/LICENSEE – Any person, firm, corporation, governmental agency or other legal entity issued an Adult Day Health Care license, and is responsible for maintaining approved standards.

SURVEY – The process of inspection, interviews, or record reviews conducted by the Office of Long Term Care to determine an Adult Day Health Care facility's compliance with program requirements and with applicable regulations and laws.

200 LICENSURE

200.1 No Adult Day Health Care facility may be established, conducted, or maintained in Arkansas without first obtaining a long term care facility license as required by Ark. Code Ann. § 20-10-201, *et seq.* and these licensing standards. All licenses issued hereunder are non-transferable from one owner or proprietor to another or from one site to another. Except when waived by the Office of Long Term Care in times of emergency, no Adult Day Health Care facility may operate with more slots than is stated in the license and no Adult Day Health Care facility may accept more clients than the number of slots stated on the license.

200.2 The issuance of an Adult Day Health Care facility license shall be a grant of authority to the facility to operate an Adult Day Health Care facility. The initial license shall state the number of slots. Subsequent licenses issued to the same owner will state the number of slots for which the facility has been licensed at the time of the issuance of the subsequent license. Licenses issued as a result of a change of ownership shall state the number of slots for which the facility was licensed on the date of sale of the facility or the date of sale of ownership of the facility.

201 LICENSING INFORMATION

201.1 Licenses to operate an Adult Day Health Care facility are effective beginning July 1st and expiring on the following June 30th.

201.2 Licenses shall be issued only for the premises and persons specified in the application and shall not be transferable.

201.3 Licenses shall be posted in a conspicuous place on the licensed premises.

201.4 Separate licenses are required for Adult Day Health Care facilities maintained on separate premises, even though they are operated under the same management.

Multiple buildings on contiguous land that serve clients shall require and shall be licensed under a single license.

201.5 Every Adult Day Health Care facility owner shall designate a distinctive name for the facility which shall be included on the application for a license. The name of the facility shall not be changed without prior written notification to and approval from the Office of Long Term Care.

202 INITIAL LICENSE

202.1 Initial licensure shall apply to:

(a) Newly constructed facilities designed to operate as Adult Day Health Care facilities;

(b) Existing structures not already licensed as Adult Day Health Care facilities on the effective date of these regulations; and

(c) Facilities that change ownership.

202.2 The initial licensure application shall be accompanied by:

(a) Building plans showing a detailed floor plan of the facility. Floor plans must contain exact measurements and identify each room, hallway, window, exit, etc.

(b) A letter from the City or County Zoning Commission stating that the facility meets zoning requirements.

(c) A letter from a licensed electrician and licensed plumber, with their name and license number included, stating that the facility complies with State Codes.

(d) A letter from the County or State Division of Health Department stating approval for facilities with wells and septic tanks, if applicable.

203 COMPLIANCE

An initial license will not be issued until the Department verifies that the facility is in compliance with, and able to meet, the licensing standards and program requirements set forth in these regulations.

An initial license will be effective on the date specified by the Office of Long Term Care once the Office of Long Term Care determines the facility to be in compliance with these licensing standards and applicable laws and regulations. The license will expire on June 30th following the issuance of the license.

204 APPLICATION, EXPIRATION AND RENEWAL OF LICENSE

204.1 Applicants for licensure or renewal of Adult Day Health Care facility licensure shall obtain the necessary forms for initial or renewal licensure or re-licensure of the facility after a change of ownership (see Section 205) from the Office of Long

Term Care. The issuance of an application form is not a guarantee that the completed application will be acceptable or that the Department will issue a license.

204.2 The facility shall not admit any clients until a license to operate an Adult Day Health Care facility has been issued.

204.3 Applicants for initial licensure, renewal, or re-licensure after a change in ownership shall pay in advance a license fee of $5.00 per slot to the Department. Such fee shall be refunded to the applicant in the event a license is not issued.

204.4 Annual renewal is required for all Adult Day Health Care facility licenses. Licenses are effective beginning July 1 and shall expire on June 30th of the following year. In the event that a facility's license is not renewed by June 30th, the license will be void.

204.5 Applications for annual license renewal shall be delivered or, if mailed, postmarked to the Office of Long Term Care no later than June 1st before the June 30th expiration of the license. Any license fee received by the Department after June 1 is subject to a ten percent (10%) penalty.

204.6 The Director of the facility shall sign applications and must successfully complete a criminal background check pursuant to Ark. Code Ann. § 20-33-201, *et seq.*, and in accordance with the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities.

204.7 When a change in ownership or controlling interest in the facility is sold by person or persons named in the license to any other person or persons, the new owner shall, at least 30 days prior to completion of the sale, submit a new application and license fee, request to be inspected and meet the applicable standards and regulations, including but not limited to, life safety codes, at the time of inspection. The seller, in writing, shall report such change in ownership to the Office of Long Term Care at least thirty (30) days before the change is to be implemented. With the exception of civil money penalties imposed for violations or deficiencies that occurred prior to the sale of ownership or control, when a license is granted pursuant to a change of ownership the buyer shall be responsible for implementation or performance of any remedy listed in Section 802 imposed against the facility for violations or deficiencies that occurred prior to the sale of ownership or control. The seller shall remain liable for all civil money penalties assessed against the facility that are imposed for violations or deficiencies occurring prior to the sale of ownership or operational control. The Department shall consider and may deny a license based upon any criteria provided for at Ark. Code Ann. § 20-10-224 (f) (1), *et seq.* Failure to comply with the provisions of this section will result in the denial of licensure to the new owner.

204.8 The applicant/licensee must furnish the following information:

(a) The identity of each person having (directly or indirectly) an ownership interest of five percent (5%) or more in the facility;

(b) The complete name and address of the Adult Day Health Care facility for which licensure is requested and such additional information as the Department may require including, but not limited to, affirmative evidence of ability to comply with standards, rules and regulations as are lawfully prescribed hereunder;

(c) In case such facility is organized as a corporation, the identity of each officer and Director of the corporation, together with a certificate of good standing from the Arkansas Secretary of State;

(d) In case such facility is organized as a partnership, the identity of each partner and a copy of the partnership agreement.

204.9 Procedure for Licensure

The procedure for obtaining an Adult Day Health Care License shall be:

(a) The individual or entity seeking licensure shall request and obtain all forms for licensure from the Office of Long Term Care.

(b) The individual or applicant shall fully complete all forms for licensure and submit same to the Office of Long Term Care, along with all licensure fees. As applicable and required by law or regulation, the individual or entity seeking licensure shall submit drawings or plans for the facility to the Office of Long Term Care at the time of application.

(c) For a new facility, the Office of Long Term Care will conduct a Life-Safety code survey to determine compliance with applicable building code requirements.

(d) For a new facility, upon being informed that the facility meets all requirements for all applicable building codes the facility may admit clients.

(e) For a new facility, upon successful completion of the initial survey the facility shall be granted a license to operate as an Adult Day Health Care.

(f) The Office of Long Term Care may elect, for any renewal application, to perform a survey prior to the issuance of the license, and issuance of the license is contingent upon the facility being found in compliance with all program requirements.

(g) The Office of Long Term Care may elect, for any renewal application, to deny re-licensure if the facility has unpaid civil money penalties imposed by the Office of Long Term Care; and,

- The time for an appeal has passed with no appeal being filed or all appeals have been exhausted and the imposition of the CMPs was upheld.

(h) The Office of Long Term Care shall deny renewal of any license when a facility is unable to meet program requirements at the time of renewal.

205 CHANGE IN OWNERSHIP

205.1 Transactions constituting a change in ownership include, but are not limited to, the following:

(a) A sole proprietor becomes a member of a partnership or corporation, succeeding him as the new operator;
(b) A partnership dissolves;
(c) One partnership is replaced by another through the removal, addition or substitution of a partner;
(d) The corporate owner merges with, or is purchased by, another corporation or legal entity;
(e) A not-for-profit corporation becomes a general corporation, or a for-profit corporation becomes not-for-profit.

205.2 Transactions that do not constitute a change of ownership include, but are not limited to, the following:

(a) Changes in the membership of a corporate board of Directors or board of trustees, or;
(b) Changes in the membership of a not-for-profit corporation.

300 ADMINISTRATION

301 GOVERNING BODY

Each Adult Day Health Care facility shall have an owner or governing body that has ultimate authority for:

(a) The overall operation of the facility;
(b) The adequacy and quality of care;
(c) The financial solvency of the facility and the appropriate use of its funds;
(d) The implementation of the standards set forth in these regulations; and
(e) The adoption, implementation and maintenance, in accordance with the requirement of state and federal laws and regulations and these licensing standards, of the Adult Day Health Care policies and administrative policies governing the operation of the facility.

302 GENERAL PROGRAM REQUIREMENTS

302.1 Each person or legal entity issued a license to operate an Adult Day Health Care facility shall, through their employees and agents, provide an organized program of supervision, care and services that:

(a) Conform to Office of Long Term Care rules and regulations;
(b) Meet the needs of the clients of the facility;
(c) Provide for the full protection of clients' rights; and
(d) Promote the social, physical and mental well being of clients.

302.2 The facility shall provide any authorized agents of DHHS or their designee, full access at anytime during business hours to:

(a) Clients
(b) Grounds
(c) Buildings
(d) Books, files and/or papers relating to clients or operation of the facility.

302.3 The facility shall provide for maintenance and submission of such statistical, financial or other information, records or reports, in such form, at such time and in such a manner as DHHS may require.

302.3 The facility shall provide for notification to DHHS when incidents/accidents occur involving the facility or its clients as specified in Section 305.

303 PERSONNEL AND GENERAL POLICIES AND PROCEDURES

Required Policies and Procedures governing general administration of the facility.

303.1 The facility must develop, maintain, follow and make available for public inspection the following policies and procedure:

(a) Client policies and procedures as set forth in Section 304.
(b) Admission policies as set forth in Section 402.
(c) Discharge policies as set forth in Section 403.
(d) Incident report policies and procedures including procedures for reporting suspected abuse or neglect as set forth in Section 305.
(e) Client Rights policies and procedures as set forth in Section 403.
(f) Fire Safety standards as set forth in Section 700.
(g) Smoking policies for clients and facility personnel as set forth in Sections 303.2, 705 and 504.1.19.
(h) Emergency Treatment plan policies and procedures as set forth in Section 306.

(i) Medication Storage and administration policies and procedures as set forth in Section 503.

(j) Policy and procedures for the relocation of clients in cases of emergencies (such as fires, natural disasters, or utility outages) in Section 704.

(k) Failure of a facility to meet the requirements of this subsection shall be a violation pursuant to Ark. Code Ann. §20-10-205, *et seq.*

303.2 Each facility must have written employment and personnel policies and procedures. Personnel records shall include, as a minimum, the following:

(a) Employment applications for each employee.

(b) Written functional job descriptions for each employee that are signed and dated by the employee.

(c) Minimum qualifications, to include educational qualification and documentation of continuing training, including orientation training and continuing education units (CEU) related to professional licensure, personal care, food management, etc. CEU documentation must include copies of the documentary evidence of the award of hours by the certifying organization. Each facility is responsible for maintaining employee educational records.

(d) Evidence of credentials, including current professional licensure or certification.

(e) Written statements of reference or documentation of verbal reference check. Verbal check documentation must include the name and title of the person giving the reference, the substance of any statements made, the date and time of the call, and the name of the facility employee who is making the call.

(f) Employee's signed acknowledgement that he or she has received and read a copy of the Clients' Bill of Rights.

(g) Verification that the employee is at least 18 years of age.

(h) Verification that the employee has not been convicted or does not have a substantiated report of abusing or neglecting clients or misappropriation of client property. The facility shall, at a minimum, prior to employing any individual or any individuals working in the facility through contract with a third party, make inquiry to the Employment Clearance Registry of the Office of Long Term Care and the Adult Abuse Registry maintained by the Department of Health and Human Services, Division of Aging and Adult Services, and shall conduct re-checks of all employees every five (5) years. Inquiries to the Adult Abuse Registry shall be made by requesting a Request for Information form addressed to Adult Protective Services Central Registry, P.O. Box 1437, Slot S540, Little Rock, AR 72203.

(i) Documentation that all employees and other applicable individuals utilized by the facility as staff have successfully completed a

criminal background check pursuant to Ark. Code Ann.§20-33-201, *et seq.* and in accordance with the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities.

(j) A copy of a current health card issued by Arkansas Department of Health and Human Services or other entities as provided by law.

(k) Documentation that the employee has been provided a copy of all personnel policies and procedures. A copy of all personnel policies and procedures must be made available to OLTC personnel or any other Department personnel.

(l) Documentation that policies and procedures developed for fire safety standards and evacuation of building has been provided to the employee.

(m) Documentation that policies and procedures developed for tobacco use has been provided to the employee.

(n) The facility shall meet all regulations issued by the Arkansas Department of Health and Human Services regarding communicable diseases.

303.3 Failure to comply with the provisions of this subsection or violation of any policies and procedures developed pursuant to this subsection shall be a violation pursuant to Ark. Code Ann. §20-10-205 or may constitute a deficiency finding against the facility.

303.4 Orientation records will be maintained for each employee to include but not limited to:

(a) Job duties;
(b) Orientation to client rights;
(c) Abuse/neglect reporting requirements; and,
(d) Fire and tornado drills

303.5 In-service training sessions for direct care staff are required at a minimum of four (4) hours per annual quarter for a total of sixteen (16) hours per year. Training shall be appropriate to job function and shall include but is not limited to:

(a) Client Rights;
(b) Safety standards;
(c) Abuse reporting;
(d) Normal signs of aging;
(e) Health problems of aging;
(f) Communications
(g) Alzheimer's or Dementia Training

303.6 In-service training sessions for non-direct care staff are required at a minimum of two (2) hours per annual quarter for a total of eight (8) hours per year.

303.7 In-services training sessions for part-time workers (20 hours or less per week) are required at a minimum of two (2) hours per annual quarter for a total of eight (8) hours per year.

303.8 Staffing

303.8.1 The staffing pattern shall be dependent upon the enrollment criteria and the particular needs of the clients who are to be served. The ratio of paid staff to client shall be adequate to meet the goals and objectives of the program. The minimum ratios shall be one paid full-time staff position with the responsibility for direct care for each five (5) clients. The Office of Long Term Care may require additional staff when it is determined that the needs and services of the clients are not being met. Secretaries, accountants, and other non-direct care staff shall not be considered in the staffing ratio. In case of an emergency when a direct care staff must leave, one (1) non-direct care staff may count until the emergency has been resolved.

303.8.2 Substitutes

Whenever paid staff are absent, substitutes must be used to maintain the staff-client ratio and to assure proper supervision and delivery of health services.

(a) In the absence of a regular staff person a substitute staff person may be used in order to maintain the required staff-client ratio.

(b) Such substitute staff shall have the same qualifications, training and personal credentials as the regular staff position they are substituting.

(c) Trained volunteers, with the same qualifications, training and personal credentials as the regular staff they are volunteering, may be used instead of paid substitutes.

303.8.3 Program Director

The Program Director shall have the authority and responsibility for the management of activities and direction of staff and shall insure that activities and services are appropriate and in accordance with established policies.

(a) ADHC facilities licensed for more than fifteen (15) clients must have a full-time Director.

(b) Facilities licensed for fifteen (15) or fewer clients may have a full-time Director who also serves as the Health Care Coordinator, provided that this individual meets all the qualifications of both positions, and the requirements for the staffing pattern are met.

(c) The Director shall meet all the minimum qualifications:

(1) Shall be at least 21 years of age;

(2) Shall have at least one year of work experience in the area of human services (e.g., services to the elderly, disabled, or handicapped adults);
(3) Shall have demonstrated ability in supervision and administration;
(4) Shall have a current health card;
(5) Shall have knowledge of the aspects of aging and appropriate activity programming.

303.8.4 Executive Director

In Adult Day Health Care programs where the executive Director is responsible for more than Adult Day Health Care services, the Executive Director may not be counted as direct care staff.

303.8.5 Health Care Coordinator

The program must have a full-time Health Care Coordinator to supervise the delivery of health care services.

(a) Responsibilities include but are not limited to:

1. Periodic screening of vital signs, weight, dental health, general nutrition and hygiene of clients;
2. Monitoring medical regimen;
3. Monitoring provision of personal care; coordinating with other health care professionals and family members concerning health matters;
4. Educating other staff members about emergency procedures and educating staff and family members about health concerns and conditions of clients;
5. Providing minor first aid treatment as needed;
6. Administration of medication.

(b) The Health Care Coordinator shall meet all the minimum qualifications:

1. Shall be at least 21 years of age;
2. Shall be licensed by, and in good standing with, the State of Arkansas, and shall comply with all requirements including continuing education requirements, as

established by law or regulation. No individual who is unlicensed may be employed as a Registered nurse (RN).

3. May be a Licensed Practical Nurse working under supervision of a Registered Nurse. A statement from the supervising RN must be on file as well as a copy of the RN's current license.
4. Shall have a current health card.

(c) Prior experience shall include at least:

1. Managerial and administrative skills, including the ability to supervise staff and to plan and coordinate meaningful staff training; and
2. Knowledge and understanding of the physical and emotional aspects of aging, its associated diseases and infirmities, and related medication and rehabilitative measures.

(d) To be qualified as a Health Care Coordinator in an ADHC program, the health care professional must have knowledge of the aspects of aging and appropriate activity programming.

303.8.6 Personal Care Staff

The ADHC shall have sufficient other staff responsible for personal care to comply with these regulations and the care requirements of the clients. Minimum requirements are:

(a) Be at least 18 years of age;
(b) Have a current health card;
(c) Have successfully completed an approved training course for nurse's aides, patient care technicians or home health aides;
(d) In-service training sessions are required for all direct care staff. In-service sessions are four (4) hours per annual quarter for a total of 16 hours per year.

303.8.7 Volunteers

The ADHC shall comply with the following in regard to utilization of volunteers who provide direct care in lieu of paid staff:

(a) Volunteers shall:

1. Be at least 18 years of age;
2. Have a current health card;

(b) Volunteers shall be provided written job descriptions. These shall describe in detail:

1. Task(s) to be performed;
2. Qualifications for performing assigned task;

(c) Paid staff position who is responsible for supervising the volunteer and specifics regarding:

- Hours
- Days
- And length of commitment of volunteer's services

(d) Volunteers shall receive a formal orientation.

1. In-service training sessions are required for all volunteers. In-service sessions shall total a minimum of four (4) hours per annual quarter for full time volunteers and eight (8) hours per year for part time volunteers (less than 20 hours per week).
2. Paid staff shall be informed of their responsibilities to the volunteer prior to the volunteer's working in the program.
3. The volunteer's job performance shall be evaluated as necessary.
4. Provision shall be made for recognition and appreciation of the volunteer, at least on an annual basis.
5. Trained volunteers may be counted in the direct care staff-client ratio. When counted in direct care staff-client ratio, the volunteer shall have the same qualifications as the staff position being substituted for.

303.8.8 Universal Worker

Each staff person on duty may be counted as direct care staff even if they are currently involved in housekeeping, laundry or dietary activities as long as universal precautions are followed.

304 GENERAL REQUIREMENTS CONCERNING CLIENTS

The facility shall:

(a) Permit unrestricted visiting hours. However, facilities may deny visitation when visitation results or substantial probability exists that visitation will result in disruption of service to other clients or threatens the health, safety, or welfare of the client or clients.

(b) With the exception of fish in aquariums and service animals (e.g. guide dogs), live animals shall not be permitted in common dining areas, storage areas, food preparation areas or common serving areas. Pets may be permitted in Adult Day Health Care facilities if sanitary conditions and appropriate behavior are maintained. If the facility permits pets, the facility shall ensure that the facility is free of pet odors and that pets' waste shall be disposed of regularly and properly. Pets must not present a danger to clients or guests. Current records of inoculations and license, as required by state law or local ordinance, shall be maintained on file in the facility. For purposes of these regulations, *pets* mean domesticated mammals (such as dogs and cats), birds or fish, but not wild animals, reptiles, or livestock. Parameters for pets (including behavior and health) must be set and be included in the admission agreement.

(c) Require that conduct in the common areas shall be appropriate to the community standards as defined by the clients and staff.

(d) Ensure that clients not perform duties in lieu of direct care staff, but may be employed by the facility in other capacities.

(e) Ensure that clients are not left in charge of the facility.

(f) In the event of an acute change in client's condition or accident;

1. Notify the client's responsible party or next of kin and personal physician or advance practice nurse, or in the event such physician or advance practice nurse is not available, a qualified alternate. A competent client may decline to have someone contacted, if such a request is in writing and filed in the client's file;
2. Take immediate steps to see that the client receives necessary medical attention including transfer to an appropriate medical facility;
3. Make a notation of the illness or accident in the client's records.

305 REPORTING SUSPECTED ABUSE, NEGLECT, OR MISAPPROPRIATION OF CLIENT PROPERTY

Pursuant to Ark. Code Ann. §12-12-1701, *et seq*. and Ark. Code Ann. § 12-12-501, *et seq*., the facility must develop and implement written policies and procedures to ensure incidents are prohibited, reported, investigated and

documented as required by these regulations and by law, including:

- alleged or suspected abuse or neglect of clients;
- exploitation of clients or any misappropriation of client property.

A facility is not required under this regulation to report death by natural causes. However, nothing in this regulation negates, waives, or alters the reporting requirements of a facility under other regulations or statutes.

Facility policies and procedures regarding reporting, as addressed in these regulations, must be included in orientation training for all new personnel/staff/employees and must be addressed at least annually during in-service training for all facility staff.

305.1 Next-Business-Day Reporting of Incidents

The following events shall be reported to the Office of Long Term Care by facsimile transmission to telephone number 501-683-5306 of the completed Incident & Accident Intake Form (Form DMS-731) no later than 11:00 a.m. on the next business day following discovery by the facility.

a. Any alleged, suspected, or witnessed occurrences of abuse, including verbal statements or gestures, or neglect to clients.

b. Any alleged, suspected, or witnessed occurrence of misappropriation of client property or exploitation of a client.

c. Any alleged, suspected, or witnessed occurrences of sexual abuse to clients by any individual.

In addition to the requirement of a facsimile report by the next business day on Form DMS-731, the facility shall complete a Form DMS-742 in accordance with Section 305.5. Forms DMS-731 and DMS-742 are found in the Appendix or on the OLTC website at:

http://www.medicaid.state.ar.us/InternetSolution/General/units/oltc/forms/forms.aspx

305.2 Incidents or Occurrences that Require Internal Reporting Only – Facsimile Report or Form DMS-742 Not Required

The following incidents or occurrences shall require the facility to prepare an internal report only and does not require a facsimile report or Form DMS-742 to be made to the Office of Long Term Care. The internal report shall include all content specified in Section 305.5, as applicable. Facilities must maintain these

incident report files in a manner that allows verification of compliance with this provision.

a. Incidents where a client attempts to cause physical injury to another client without resultant injury. The facility shall maintain written reports on these types of incidents to document "patterns" of behavior for subsequent actions.

b. All cases of reportable disease as required by the Arkansas Department of Health and Human Services, Division of Health.

c. Loss of heating, air conditioning, or fire alarm system for a period of greater than two (2) hours.

305.3 Internal-Only Reporting Procedure

Written reports of all incidents and accidents shall be completed within five (5) days after discovery. The written incident and accident reports shall be comprised of all information specified in forms DMS-731 and DMS-742 as applicable.

All written reports will be reviewed, initialed, and dated by the facility program Director or designee within five (5) days after discovery.

1. All reports involving accident or injury to clients will also be reviewed, initialed, and dated by the facility registered nurse within five (5) days of the review by the facility program Director.

2. The care plan portion of the admission agreement shall be reviewed by the registered nurse and:

    a. Shall be amended upon any change of a client's condition or need for services;

    b. Copies of the amended versions of the care plan shall be attached to the written report of the incident or accident.

Reports of incidents specified in Section 305.3 will be maintained in the facility only and are not required to be submitted to the Office of Long Term Care.

All written incident and accident reports shall be maintained on file in the facility for a period of three (3) years from the date of occurrence or report, whichever is later.

305.4 Other Reporting Requirements

The facility's program Director or designee is also required to make any other

reports as required by state and federal laws and regulations.

305.5 Abuse Investigation Report

The facility must ensure that all alleged or suspected incidents involving client abuse, exploitation, neglect, or misappropriations of client property are thoroughly investigated. The facility's investigation must be in conformance with the process and documentation requirements specified on the Form DMS-742, and must prevent the occurrence of further incidents while the investigation is in progress.

The results of all investigations must be reported to the facility's program Director or designated representative and to other officials in accordance with state law, including the Office of Long Term Care, within five (5) working days of the facility's knowledge of the incident. If the alleged violation is verified, appropriate corrective action must be taken.

The DMS-742 shall be completed and mailed to the Office of Long Term Care by the end of the 5th working day following discovery of the incident by the facility. The DMS-742 may be amended and re-submitted at any time circumstances require.

Reporting Suspected Abuse or Neglect

The facility's written policies and procedures shall include, at a minimum, requirements specified in this section.

305.5.1 The requirement that the facility's program Director or his or her designated agent immediately reports all cases of suspected abuse or neglect of clients of an Adult Day Health Care to the local law enforcement agency in which the facility is located as required by Ark. Code Ann. § 12-12-1708(b)(1)(A) and as amended.

305.5.2 The requirement that the facility's program Director or his or her designated agent report suspected abuse or neglect to the Office of Long Term Care as specified in this regulation.

305.5.3 The requirement that all facility personnel/staff/employees who have reasonable cause to suspect that a client has been subjected to conditions or circumstances that have resulted in abuse or neglect are required to immediately notify the facility program Director or his or her designated agent (this does not negate that all mandated reporters employed by or contracted with the facility shall report immediately to the local law enforcement agency in which the facility is located as required by Ark. Code Ann. § 12-12-1708(b)(1)(A)).

305.5.4 The requirement that, upon hiring, each facility employee be given a copy of the abuse or neglect reporting and prevention policies and procedures and sign a statement that the policies and procedures have been received and read. The statement shall be filed in the employee's personnel file.

305.5.5 The requirement that all facility personnel receive annual, in-service training in identifying, reporting and preventing suspected abuse or neglect, and that the facility develops and maintains policies and procedures for the prevention of abuse and neglect and accidents.

305.6 When the Office of Long Term Care makes a finding that a facility employee or personnel of the facility committed an act of abuse, neglect or misappropriation of client property against a client, the name of that employee or personnel shall be placed in the Employment Clearance Registry of the Office of Long Term Care. If the employee or personnel against whom a finding is made is a CNA, the name of the CNA will be placed in the CNA Registry of the Office of Long Term Care. Further, the Office of Long Term Care shall make report of its finding to the appropriate licensing or enforcement agencies.

306 EMERGENCY MEDICAL PLAN

Each provider shall have a written emergency medical plan which assures transportation to a hospital or other type of facility providing emergency care.

306.1 The facility shall have on file a written agreement, signed by the client or legal guardian, granting permission to transport a client who needs emergency care to the designated hospital or other type of facility.

306.2 Client records must note any accident, injury or illness and emergency procedures that occur.

306.3 Emergency telephone numbers shall be posted in a prominent place near the telephone where facility staff has full access to its use.

306.4 Emergency telephone numbers for each client shall be documented in the client's file.

307 ADMINISTRATIVE RECORDS

Administrative records must include at least:

307.1 Written program description, copies of which are available to the Department, clients, families or other interested parties. The document shall describe at a minimum:

(a) Administrative organization;

(b) Maximum number of clients that can be served;
(c) Admission criteria for clients to be accepted;
(d) Days of the week and hours of operation'
(e) Services available to clients including cost for such services;
(f) Criteria for discharge.

307.2 Current facility inspection reports from local fire departments as applicable, and/or DHHS.

307.3 Current inspection report for any catered services;

307.4 Record of activities conducted for the previous three (3) months.

307.5 Weekly menu plan and record of actual meals served for the previous one (1) month.

307.6 Emergency medical plan.

307.7 Fire safety plan.

307.8 Record of fire drills, disaster drills and tornado drills for the past twelve (12) months.

307.9 Record of smoke detector checks and fire extinguisher checks for the past twelve (12) months.

308 CLIENT RECORDS

The facility must maintain a separate and distinct record for each client.

308.1 The record must contain:

(a) Client's name;
(b) Client's address;
(c) Admission date;
(d) Name, office telephone number and emergency telephone number of each physician or advanced practice nurse who treats the client;
(e) Name, address and telephone number of family members and the person identified by the client who should be contacted in the event of an emergency;
(f) Date of birth;
(g) All identification numbers, such as Medicaid, Medicare/Medipak, Veterans Administration;
(h) Transportation arrangements, (if applicable);
(i) A copy of the client's signed Rights Statement;
(j) A copy of the client's signed Admission, Discharge Agreements;

(k) A written acknowledgement that the client or responsible party has been notified of the charges for the services provided;
(l) Medical and social history;
(m) Progress notes, including any significant change in client's health status, either positive or negative;
(n) Significant changes must be reported to the appropriate person (physician, Advance Practice Nurse, or, caregiver, etc.) as soon as possible.
(o) Documentation of who was notified and when they were notified shall be placed in the client's file
(p) A list of all current medications kept by the facility for the client;
(q) Documentation of any treatment or therapies;
(r) Documentation of any special diets, if applicable;
(s) Documentation regarding any accident or incidents;
(t) A copy of court orders or letters of guardianship, or power of attorney, if applicable;
(u) Copy of any advance directive;
(v) Copy of the client's care plan;
(w) Discharge date;
(x) A signed copy of the HIPPA release form.

308.2 Confidentiality of Records

(a) Client records are confidential and shall not be released without legal authorization or subpoena.
(b) Active records shall be available to authorized agents of DHHS or their designee during business hours.
(c) Record shall contain a copy of a signed copy of the HIPPA release form indicating that the facility is in compliance with HIPPA regulations.

308.3 Record Retention

(a) In accordance with regulations, all pertinent records will be retained for a period of five (5) years. In the event that an audit, litigation or other action involving these pertinent records is started before the end of the five year period, those records shall be retained until all issues arising out of the actions are resolved or until the end of the five (5) year period, whichever is later.
(b) Documentation concerning persons whose requests for services were denied as a result of the assessment process will also be retained for five (5) years.
(c) All records shall be maintained on site. They shall be made available within 24 hours of an official request. When a facility changes ownership, the original records shall remain at the facility.
(d) Documentation shall be on file that the client or responsible party has been informed of their right to privacy under HIPPA.

308.4 Care Plan

There shall be a written care plan for each client based on the referring physician's orders. Care plans:

(a) Shall be developed within five (5) contact days following the client's entry into the program;
(b) Shall be designed to maintain the client at the optimal level of functioning;
(c) Shall cover all:
  1. Medications
  2. Treatments
  3. Rehabilitative services (where appropriate)
  4. Diets
  5. Precautions related to activities
  6. Plans for continuing care
  7. Discharge
(d) Shall be individualized for each client to address:
  1. Functional activities and interests, and specific goals;
  2. Means of accomplishing these goals;
(e) Shall identify the client's regularly scheduled days for attendance including arrival and departure times
(f) Shall be revised as frequently as warranted by the client's condition
(g) Shall be reviewed and documented at least every six (6) months and updated as necessary.

400 ADMISSION/DISCHARGE

401 Admission Agreement

Each Director shall execute with and provide to each client at or prior to admission (and periodically thereafter, for changes as specified in this section) a written Admission Agreement dated and signed by the client or their legal guardian.

401.1 The ADHC shall have a written agreement that shall be printed and contain the entire agreement between the parties that includes but is not limited to:
(a) A complete statement enumerating in detail all charges, expenses and other assessments, if any, for services, materials, equipment and food required by law or regulations, and other services, materials, equipment and food which the facility agrees to furnish and supply to clients during their period of stay;
(b) The maximum total monthly, weekly, daily or hourly rate to be charged to the client or responsible person;
(c) A provision that no additional charges shall be levied by the operator unless specified in the listing of supplemental services and supplies and agreed to in writing by the client or the responsible person;

(d) The conditions under which the operator may adjust the basic monthly, weekly, daily or hourly rate and charges for supplemental services and supplies, including the provision of written notification of such adjustments to the client or responsible person at least 30 days prior to their effective date;

(e) A provision that a refund of advance payment(s) in the event of death, voluntary or involuntary discharge shall be calculated on a pro-rata basis. The formula for such calculations shall be detailed.

401.2 Once executed, neither party may waive any provision of the Admission Agreement; changes to the Admission Agreement must be agreed to in writing by all parties subject to the Admission Agreement.

402 Admission Criteria

402.1 To be eligible for an ADHC, clients must;

(a) Be a functionally impaired adult;
(b) Have a written recommendation for an ADHC from their physician;
(c) Have a current medical history provided;
(d) Have a written plan of care.

402.2 Clients will be ineligible for an ADHC if they;

(a) Are bed-fast;
(b) Have behavior problems that create a hazard or danger to themselves or others.

403 Discharge Criteria

The facility must develop and implement written discharge policies and procedures that are in accordance with Ark. Code Ann. § 20-10-1005 and include, at a minimum, the following:

403.1 A client may be discharged only when:

(a) The transfer or discharge is necessary to meet the resident's welfare, and the resident's welfare cannot be met in the facility;
(b) The transfer or discharge is appropriate because the resident's health has improved sufficiently so that the resident no longer needs the services provided by the facility;
(c) The transfer or discharge is appropriate because the resident is no longer benefiting from therapeutic programming;
(d) The safety of individuals in the facility is endangered;
(e) The health of individuals in the facility would otherwise be endangered;
(f) The resident has failed, after reasonable and appropriate notice, to pay or to have paid under state-administered programs on the resident's behalf an

allowable charge imposed by the facility for an item or service requested by the resident and for which a charge may be imposed consistent with federal and state laws and regulations; or

(g) The facility ceases to operate.

403.2 The reasons for discharge of a client must be documented in the client's permanent record and the discharge must be discussed with the client and his guardian or personal representative, who must be given a copy of the documentation setting forth the alternatives available. This notice must be given thirty (30) days prior to the date of discharge. An immediate discharge for emergency on the grounds set forth in Section 402.1 does not require that the facility provide notice of the discharge thirty (30) days in advance of the discharge. However, the facility shall provide the notice as soon as practicable. The facility shall document, prior to the discharge, the facts and circumstances leading to the emergency discharge.

403.3 "Medical Reasons" for discharge must be based on the client's needs and are to be determined and documented by a physician. The client's permanent record shall contain documentation of medical reasons for the discharge, including when discharge is immediate and due to emergency.

403.4 Written appeals process for clients objecting to discharge must be developed by the facility in conformity with Ark. Code Ann. §20-10-1002, as amended, as well as all applicable regulations. That process shall include:

(a) The written notice of discharge must state the reason for the proposed discharge as documented in 402.2. The notice must inform the client that he/she has the right to appeal the decision to the Director within seven (7) calendar days. The client must be assisted by the facility in filing the written objection to the discharge.

(b) Within fourteen (14) days of filing of the written objections, a hearing will be scheduled.

(c) A final determination in the matter will be rendered within seven (7) days of the hearing.

(d) The facility must provide assistance to clients to ensure safe and orderly discharge.

403.5 The facility, in conjunction with the responsible party, must make arrangements to discharge clients who require a higher level of medical, nursing or psychiatric care than can be safely and effectively provided in an Adult Day Health Care facility.

403.6 If the Office of Long Term Care determines that a client is inappropriate for continued placement in the facility, the provider must arrange for discharge of the client within ten calendar (10) days of such notification or as otherwise specified by the Office of Long Term Care. Less time may be given by the Office of Long

Term Care when a client's life or health requires immediate medical attention. The responsibility for the client's care or lack of care shall rest with the provider. If OLTC determines that the discharge of a client is necessary for reasons other than appropriateness of placement, the facility will have up to thirty (30) days to effectuate the discharge or as otherwise specified by the Office of Long Term Care.

403 Client Rights

The facility shall develop, maintain and follow written policies and procedures defining the rights and responsibilities of clients. The policies shall present a clear statement defining how clients are to be treated by the facility, its personnel, volunteers and others involved in providing care.

403.1 A copy of the synopsis of the client's bill of rights must be prominently displayed within the facility in a general use area.

403.2 Each client admitted to the facility is to be fully informed of these rights and of all rules and regulations governing client conduct and responsibilities.

403.3 Appropriate means shall be utilized to inform non-English speaking, deaf or blind clients of their rights.

403.4 The facility shall communicate these expectations/rights during the period of not more than two (2) weeks before or five (5) working days after admission.

403.5 The facility shall obtain a signed and dated acknowledgement from the client or his legal guardian that they have read and understand these rights.

403.6 The signed and dated acknowledgement shall be maintained in the client's file.

403.7 Client Rights shall be deemed appropriately signed if signed by:

(a) A client capable of understanding. Client and one witness sign;

(b) A client incapable because of illness. The attending physician documents the specific impairment that prevents the client from understanding or signing their rights and legal the guardian and two witnesses sign;

(c) A client is mentally retarded. Rights read and if understood by the client, he/she and two witnesses sign. At least one witness shall be an outside disinterested party. If client cannot understand rights, legal guardian and one witness sign;

(d) A client capable of understanding but signs with a mark other than name: Client signs with a mark (i.e. "X") and two witnesses sign.

403.8 Facility employees shall be provided a copy of Client Rights and complete a signed and dated acknowledgement stating they have received and read the Rights. A copy of the acknowledgement shall be placed in the employee's

personnel file.

404 Bill of Rights

1. Each Adult Day Health Care must post the Clients' Bill of Rights, as provided by the Department, in a prominent place in the facility. The Clients' Bill of Rights must prominently display the toll-free number for contacting the Office of Long Term Care and filing a complaint, or the facility must post the number and its purpose beside the Client Bill of Rights. Further, the facility shall prominently display the contact information for the State Ombudsman's office. A copy of the Clients' Bill of Rights must be given to each client in a manner and form comprehendible to the client or his or her responsible party.

2. A client has all the rights, benefits, responsibilities, and privileges granted by the constitution and laws and regulations of this state and the United States except where lawfully restricted. The client has the right to be free of interference, coercion, discrimination, or reprisal in exercising these civil rights.

3. In addition to the provisions of Section 404.1(1) and (2), each client in the Adult Day Health Care has the right to, and the facility shall ensure that clients shall:

   a. Be free from physical or mental abuse, including corporal punishment;

   b. Be permitted to participate in activities of social, religious, or community groups unless the participation interferes with the rights of others;

   c. Be provided a schedule of individual and group activities appropriate to individual client needs, interests and wishes;

   d. Be, at a minimum, provided:

      (i.) In-house activities and programs, the character and scope of which shall be disclosed to potential clients or their responsible parties in writing as part of the application process;

      (ii.) Group recreation and socialization;

   e. Not be prevented in any way from the practice of the religion of the client's choice. The Adult Day Health Care facility shall not be expected to participate or facilitate the practice of religion

beyond arranging or coordinating transportation to the extent possible;

f. Be treated with respect, kindness, consideration, and recognition of his or her dignity and individuality, without regard to race, religion, national origin, gender, age, disability, marital status, sexual orientation or source of payment. This means that the client:

(i.) Has the right to make his or her own choices regarding personal affairs, care, benefits, and services,

(ii.) Has the right to be free from abuse, neglect, and exploitation, and

g. Be provided a safe and appropriate environment;

h. Not be confined to his or her chair;

i. Not be prohibited from communicating in his or her native language with other clients or personnel/staff/employees;

j. Be permitted to complain about the client's care or treatment. The complaint may be made anonymously or communicated by a person designated by the client. The provider must promptly respond to resolve the complaint. The provider must not discriminate or take any punitive, retaliatory, or adverse action whatsoever against a client who makes a complaint or causes a complaint to be made;

k. Be allowed communication, including personal visitation with any person of the client's choice, including family members, representatives of advocacy groups, and community service organizations;

l. Be allowed access to the client's records. Client records are confidential and may not be released without the client's or his or her responsible party's consent unless the release without consent is required by law;

m. Have the right and be allowed to choose and retain a personal physician or advance practice nurse;

n. Participate in the development of the individual care that describes the client's direct care services and how the needs will be met;

o. Be given the opportunity to refuse medical treatment or services after the client or his or her responsible party:

(i.) Is advised by the person providing services of the possible consequences of refusing treatment or services, and

(ii.) Acknowledges that he or she understands the consequences of refusing treatment or services;

p. Be allowed unaccompanied access to a telephone;

q. Have privacy while attending to personal needs, and a private place for receiving visitors or associating with other clients, unless providing privacy would infringe on the rights of other clients. The right applies to medical treatment, toileting and bathing, written communications, telephone conversations, and meeting with family;

r. Be allowed to determine his or her dress, hairstyle, or other personal appearance according to individual preference, except the client has the responsibility to maintain personal hygiene;

s. Be allowed to refuse to perform services for the facility;

t. Clients are discharged or transferred in conformity with Ark. Code Ann. § 20-10-1005 and the provisions governing transfer and discharge in these regulations;

u. Be allowed to immediately leave the Adult Day Health Care facility, either temporarily or permanently, subject to contractual or financial obligations as specified in Section 401.1;

v. Have access to the services of a representative of the State Long Term Care Ombudsman Program of the Arkansas Department of Health and Human Services, Division of Aging and Adult Services;

w. Be allowed to maintain an advance directive or designate a guardian in advance of need to make decisions regarding the client's health care should the client become incapacitated;

x. Receive reimbursement from the facility for any lost, misappropriated, or destroyed property or funds, when the loss, misappropriation, or destruction occurs at a time in which the facility was exercising care or control over the funds or properties,

including loss or destruction of clients' property that occurs during laundering or cleaning of the facility, or the client's property, excluding normal wear and tear.

500 MANDATORY SERVICES

501 Health Care Services

The Adult Day Health Care program shall provide at least the following health care services:

501.1 Personal care such as assistance with feeding, ambulation and toileting as needed by individual clients;

501.2 Monitoring of each client's general health and medical regimen including screening of:
(a) Daily vital signs;
(b) Daily hygiene;
(c) Monthly weight;
(d) Dental health, every six (6) months.

501.3 Assistance to clients and caregivers with medical treatment plans and diets;

501.4 Injection of insulin or other IM or Sub-Q injections by licensed personnel for individual clients, as ordered by the clients' physician;

501.5 Health education programs for all clients at least once each week;

501.6 Counseling with individual clients, as needed, regarding health care;

501.7 Minor first aid treatment if needed;

501.8 Facilitating specialized services (i.e., speech therapy, physical therapy, counseling, etc.) which may be arranged for or provided through the program as needed by individual clients and as available through community sources.

502 Activities

502.1 A monthly schedule of group activities shall be planned and posted in the facility.

502.2 Activities may be conducted individually and in groups.

502.3 Activities shall be planned to suit the needs and interests of clients and designed to stimulate interest, rekindle motivation and encourage physical exercise.

502.4 Planned activities shall include but not be limited to:

(a) Exercise;
(b) Recreation;
(c) Social activities.

502.5 Physical exercise shall be:
(a) Designed in relation to each individual's needs, impairments and abilities;
(b) Shall be alternated with rest periods or quite activities.

503 Medications

503.1 Administration

503.1.1 Each Adult Day Health Care facility must have written policies and procedures to ensure and facilities shall ensure that clients receive medications as ordered. In-service training on facility medications policies and procedures (Section 303.1) shall be provided at least annually for all facility personnel/staff/employees/volunteers supervising or administering medications.

503.1.2 Facilities must comply with applicable state laws and regulations governing the administration of medications and restrictions applicable to non-licensed personnel/staff/employees/volunteers. However, licensed nursing personnel (RN/LPN) may administer medications in accordance with Section 303.8.4 of these regulations in cases in which the client is assessed as being unable to self-administer his or her medication. In such cases, the facility shall document, and shall be responsible to ensure that, medications are administered by licensed nursing personnel/staff/employees/volunteers, and are administered without error.

503.1.3 The facility shall document in the client's record whether the client or the facility is responsible for storing the client's medication.

503.1.4 The facility shall document in the client's record whether the client will self-administer medication or the facility will administer medication to the client.

503.1.5 Clients who self-administer their medications must be familiar with their medications and comprehend administration instructions. Facility staff shall provide assistance to enable clients to self-administrator medications. For clarification, examples for acceptable practices are listed below:

a. The medication regimen on the container label may be read to the client.
b. A larger sterile or disposable container may be provided to the client if needed to prevent spillage. The containers shall not be shared by clients.

c. The client may be reminded of the time to take the medication and be observed to ensure that the client follows the directions on the container.

d. Facility staff may assist the client in the self-administration of medication by taking the medication in its container from the area where it is stored and handing the container with the medication in it to the client. In the presence of the client, facility staff may remove the container cap or loosen the packaging. If the client is physically impaired but cognitively able (has awareness with perception, reasoning, intuition and memory), facility staff, upon request by or with the consent of the client, may assist the client in removing oral medication from the container and in taking the medication. If the client is physically unable to place a dose of oral medication in his or her mouth without spilling or dropping it, facility staff may place the dose of medication in another container and place that container to the mouth of the client.

503.1.6 Changes in dosage or schedule of the medication shall be made only upon the authorization of the client's attending physician or advance practice nurse. Any such authorization shall be documented by the facility in the resident's care plan.

503.2 Medication Storage

503.2.1 Medication stored for clients by the facility must be stored in a locked area in individual compartments or bins labeled with the client's name. Drugs or medications kept by the facility for external use, such as creams, shall be kept in a location accessible to licensed staff only, and that is separate and apart from other medications and drugs. If the client administers his or her own medication, the client shall have access to his or her medication.

503.2.2 Medications may be kept on the client's person. Prior to a client being permitted to keep his/her medications, the facility shall:

a. Assess the client to determine the client's understanding of, and ability to follow, the instructions on the prescription or label, and the understanding of and ability to follow storage requirements or recommendations on the prescription or label, or as made by the pharmacist or facility employees;

b. Document the assessment in the client's records. The assessment shall include at a minimum:

1. Date of assessment;

2. Name of person performing assessment; and,

3. The information obtained by the assessment that indicated the client's ability to understand and follow prescription or label directions and instructions.

After the initial assessment, facilities shall perform reassessments as needed, including upon changes of conditions of clients, and shall perform the steps outlined in subsections (a) through (b) above. Failure to assess or reassess, or to identify clients at risk of harm from medications in unsecured locations or rooms, shall constitute a deficient facility practice. Resulting harm from a failure to assess or reassess, or to identify clients at risk of harm from medications in unsecured locations or rooms, shall constitute a deficient facility practice.

503.2.3 Medications must be stored in an environment that is clean, dry and not exposed to extreme temperature ranges. Medications requiring cold storage shall be refrigerated. A locked container placed below food level in a facility's refrigerator is acceptable storage. All drugs on the premises of the facility shall be labeled in accordance with accepted professional principles and practices, and shall include the appropriate accessory and cautionary instructions and the expiration date.

503.2.4 Prescriptive medications must be properly labeled in accordance with applicable laws and regulations pertaining to the practice of pharmacy.

503.2.5 All medications in the control or care of the facility shall have an expiration date.

503.2.6 Medications must be individually labeled with the client's name and kept in the original container unless the client or responsible party transfers the medication into individual dosage containers. Under no circumstances may an owner or personnel/staff/employee of the facility repackage medication.

503.2.7 Any medication that is stored by the facility that has been prescribed for but is no longer in use by a client must be destroyed or disposed of in accordance with state law or may be given to the client's family in accordance with this section.

Scheduled II, III, IV and V drugs dispensed by prescription for a client and no longer needed by the client must be delivered in person or by registered mail to: Drug Control Division, Arkansas Department of

Health and Human Services, along with the Arkansas Department of Health and Human Services' Form (PHA-DC-1) Report of Drugs surrendered for Disposition According to Law. When unused portions of controlled drugs go with a client who leaves the facility, the person who assumes responsibility for the client and the person in charge of the medications for the facility shall sign the Controlled Drug Record in the facility. This shall be done only on the written order of the physician or advance practice nurse and at the time that the client is discharged, transferred or visits home.

All other medications not taken out of the facility when the client leaves the facility shall be destroyed or returned in accordance with law and applicable regulations.

503.2.8 Under no circumstance will one client's medication that is under the facility's control be shared with another client.

503.2.9 For all medication that is stored by the facility, the facility must remove from use:

1. Outdated or expired medication or drugs;
2. Drug containers with illegible or missing labels;
3. Drugs and biologicals discontinued by the physician or advance practice nurse.

All such medications shall be destroyed or returned in accordance with law and applicable regulations.

503.2.10 All controlled drugs or substances stored by the facility shall be stored in a locked, permanently affixed, substantially constructed cabinet within a locked room designed for the storage of drugs. When mobile medication carts for unit-dose or multiple day card systems are used, the cart must be:

1. In a locked room when the cart is not in use and the unit contains controlled drugs;

2. When the cart is in use, the facility shall ensure that the cart remains in the observation of staff utilizing the cart, and that clients are not able to access the cart or obtain medications from the cart. Controlled substances of less than minimal quantity shall be stored in a separately locked compartment within the cart. Minimal quantity means a twenty-four (24) hour or less supply.

503.2.11 Medication destruction shall comply with state and federal laws and regulations governing the destruction of drugs. The record of the

destruction shall be recorded in a bound ledger, in ink, with consecutively numbered pages, and retained by the facility as a permanent, retrievable record.

503.3 Medication Charting

503.3.1 If a facility stores a client's medications, the facility shall maintain a list of those medications.

503.3.2 If the facility stores and supervises a client's medication, a notation must be made on the individual record for each client who refuses, either through affirmative act, omission, or silence, or is unable to self-administer his or her medications or refuses to take his or her medication. The notation shall include the date, time and dosage of medication that was not taken or administered to or by the client, including a notation that the client's attending physician or advance practice nurse was notified, as required by physician or advance practice nurse's orders.

503.3.3 If medications are prescribed to be taken as needed (PRN) by the client, documentation in the client's file should list the medication, the date and time received by the client and the reason given.

503.3.4 A record shall be maintained in a bound ledger book, in ink, with consecutively numbered pages, of all controlled drugs procured or administered. The record shall contain:

1. Name, strength and quantity of drug;
2. Date received and date, time and dosage administered;
3. Name of the client for whom the drug was prescribed, or received the drug;
4. Name of the prescribing physician or advance practice nurse;
5. Name of the dispensing pharmacy;
6. Quantity of drug remaining after each administrated dosage;
7. Signature of the individual administering the drug.

503.3.5 When a dose of a controlled drug is dropped, broken or lost, two (2) employees shall record in the record the facts of the event and sign or otherwise identify themselves for the record. One of the employees shall

be a licensed nurse.

503.3.6 For all medications stored by the facility, there shall be a weekly count of all Scheduled II, III, IV and V controlled medications. The count shall be made by the person responsible for medications in the facility, and shall be witnessed by a non-licensed employee. The count shall be documented by both employees, and shall include the date and time of the event, a statement as to whether the count was correct, and if incorrect, an explanation of the discrepancy. When the count is incorrect, the facility shall document as required under Section 503.3.5 above.

503.3.7 Taking or administration of medication shall be recorded in each client's medical record no less than once each shift in which the medication is administered or taken. The notation shall be in ink and shall state at a minimum:

a. The name of the medication;

b. The dosage prescribed and the dosage taken or administered;

c. The method of administration; and,

d. The date and time of the administration.

503.3.8 When a client is transferred or enters a hospital, the Adult Day Health Care facility shall hold all medication until the return of the client, unless otherwise directed by the authorized prescriber. All continued or re-ordered medications will be placed in active medication cycles upon the return of the client. If the client does not return to the Adult Day Health Care, any medications held by the Adult Day Health Care shall be placed with other medications or drugs for destruction as described in Section 503.2.11 or return as permitted by State Board of Pharmacy regulations.

503.4 PHARMACEUTICAL SERVICES

Responsibility for Pharmacy Compliance

The Director shall be responsible for full compliance with federal and state laws and regulations governing control and administration of all drugs. Full compliance is required with the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513 and all amendments of this set and all regulations and rulings passed down by the federal Drug Enforcement Agency (DEA), Arkansas Act No. 590 (Title 5, Subtitle 6, Chapter 64 of the Arkansas Code Annotated) and all amendments to it and these rules and regulations.

504 Dietary

504.1 Required Facility Dietary Services

504.1.1 Each Adult Day Health Care facility must make available food for balanced meals and make between-meal snacks available. Potable water and other drinking fluids shall be available at all times. Meals shall be served at approximately the same time each day. Variations from these stated parameters may be permitted at the written request of the client or his or her responsible party or as directed by the client's personal physician or advance practice nurse in writing. The facility shall retain documentation of the request to, and stating the reason for the variance.

504.1.2 In the event that a client is unable or unwilling to consume regular meals served to him or her for more than two (2) consecutive days, the facility shall immediately notify the family or legal representative. If a client chooses not to consume regular meals, this must be documented in the client's care plan.

504.1.3 For those facilities that prepare food on site, a supply of food shall be maintained on the premises at all times. This shall include at least a 24-hour supply of perishable food and a three (3)-day supply of non-perishable food. The food supply shall come from a source approved by the Arkansas Department of Health and Human Services' Division of Health. Adult Day Health Care facilities attached to other licensed long term care facilities may utilize the kitchen facilities of the attached long term care facility; however, the Adult Day Health Care shall ensure that the kitchen facilities so utilized are adequate to meet the needs of the clients of the Adult Day Health Care.

504.1.4 Dietary personnel/staff/employees shall wear clean clothing and hair coverings.

504.1.5 Each facility shall comply with all applicable regulations relating to food service for sanitation, safety, and health as set forth by state, county, and local health departments.

504.1.6 Food service personnel/staff/employees shall ensure that all food is prepared, cooked, served, and stored in such a manner that protects against contamination and spoilage.

504.1.7 The kitchen and dining area must be cleaned after each meal.

504.1.8 An adequate supply of eating utensils (e.g., cups, saucers, plates, glasses, bowls, and flatware) will be maintained in the facility's kitchen to meet the needs of the communal dining program. An adequate number of pots

and pans shall be provided for preparing meals. Eating utensils shall be free of chips or cracks.

504.1.9 Each Adult Day Health Care facility shall have adequate refrigeration and storage space. An adequately sized storage room shall be provided with adequate shelving. The storage room shall be constructed to prevent the invasion of rodents, insects, sewage, water leakage or any other contamination. The bottom shelf shall be of sufficient height from the floor to allow cleaning of the area underneath the bottom shelf.

504.1.10 Refrigerator temperature shall be maintained at 41 degrees Fahrenheit or below, and freezer temperatures shall be maintained at 0 degrees Fahrenheit or below. Thermometers will be placed in each refrigerator and freezer.

504.1.11 Raw meat and eggs shall be separated from cooked foods and other foods when refrigerated. Raw meat is to be stored in such a way that juices do not drip on other foods.

504.1.12 Fresh whole eggs shall not be cracked more than 2 hours before use.

504.1.13 Hot foods should leave the kitchen (or steam table) above 140 degrees Fahrenheit and cold foods at or below 41 degrees Fahrenheit.

504.1.14 Containers of food shall not be stored on the floor of a walk-in refrigerator, freezer, or storage rooms. Containers shall be seamless with tight-fitting lids and shall be clearly labeled as to content.

504.1.16 In facilities that have a home-style type kitchen, a five (5)-lb. ABC fire extinguisher is required in the kitchen. In facilities that have commercial kitchens with automatic extinguishers in the range hood, the portable five (5)-lb. fire extinguisher must be compatible with the chemicals used in the range hood extinguisher. The manufacturer recommendations shall be followed.

504.1.17 Food scraps shall be placed in garbage cans with airtight fitting lids and bag liners. Garbage cans shall be emptied as necessary, but no less than daily.

504.1.18 Leftover foods placed in the refrigerator and freezer shall be sealed, dated, and used or disposed of within 48 hours.

504.1.19 Personnel/staff/employees shall not use tobacco, in any form, while engaged in food preparation or service, nor while in areas used for equipment or utensil washing, or for food preparation.

504.1.20 Menus shall be posted on a weekly basis. The facility shall retain a copy of the last month's menus.

504.1.21 The Adult Day Health Care facility shall arrange for clients' special diets and other diet modifications as ordered by a physician.

505 OTHER SERVICES

The Provider may offer the following services:

505.1 Transportation between the client's home and the facility. If transportation services are offered, whether provided directly or under contract, the facility shall ensure that:

(a) The driver has a valid Arkansas Driver's License;
(b) Liability insurance is in force;
(c) All vehicles have seat belts;
(d) All clients wear seat belts while being transported;
(e) Any charge for transportation shall be described in advance to the client or responsible party.
(f) All applicable federal, state and local laws and ordinances are followed concerning the condition of the vehicle used for transportation and the manner in which it is operated.
(g) add locking mechanisms for vans with wheelchairs.

600 FACILITY PHYSICAL REQUIREMENTS

601 Space Requirements

601.1 Space requirements shall be forty (40) square feet per participant.

601.2 Minimum space requirements do not include office space, bathrooms, storage, or dining rooms, unless the latter are also used for activities;

601.3 Adult Day Health Care facilities located in buildings that house other facilities (e.g., child care) shall not share required space or bathrooms. Kitchen facilities are not included in this requirement.

601.4 There shall be at least one room where all of the clients can gather.

601.5 There shall be a quiet room for rest. This room shall have walls that extend to the ceiling and a swinging door that latches.

601.6 The quiet room shall be equipped with a comfortable bed in good repair with clean linens and pillows.

601.7 The quiet room shall not be used for any other purpose.

602 Furnishings

602.1 All equipment and furnishings shall be safe and in good condition. Furniture including dining tables and chairs shall be of size and design that is easily used by persons with physical limitations. Furniture shall be sturdy and secure so that it cannot easily tip when used for support by someone walking, standing, sitting, or arising from the furniture.

602.2 Minimum requirements for furnishings:

(a) At least one comfortable chair per participant;
(b) Table space and chairs adequate for all clients to be served a meal at the same time;
(c) Reclining lounge chairs or other sturdy comfortable furniture, the number to be determined by the needs of the clients.

603 Equipment and Supplies

Equipment and supplies shall be adequate to meet the needs of clients. They shall include items necessary to provide direct care and to encourage active participation and group interaction.

604 Building Construction/Maintenance

The building in which the program is located shall be of sound construction and maintained in good repair. No facility shall be licensed in a factory built structure constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and transported to the site as one or more sections on a permanent chassis.

605 Ventilation

605.1 The facility shall be ventilated by either natural or mechanical means.

605.2 All screen doors shall be equipped with self-closing devices and shall fit tightly within the door frame.

605.3 Doors, windows and other openings to the outside shall be screened to prevent entrance of insects and vermin.

606 Heating and Cooling

The heating system shall be in compliance with all state and local codes.

606.1 Exposed heating pipes, hot water pipes, or radiators in rooms and areas used by clients shall be covered or protected, and insulated when appropriate.

606.2 Portable space heaters shall not be used.

606.3 Room temperatures shall be maintained between seventy (70) degrees Fahrenheit and eighty-five (85) degrees Fahrenheit in all seasons, and the reasonable comfort needs of the individual clients shall be met.

607 Lighting/Electrical

607.1 There shall be illumination in all participant use areas that is appropriate to the uses of the area and the need of the clients.

607.2 Glare shall be kept at a minimum by providing shades at all windows exposed to direct sunlight.

607.3 Light fixtures shall have shades or globes.

607.4 Extension cords shall not be used.

607.5 Facilities may utilize Transient Voltage Surge Protectors or Surge Suppressors with microprocessor electronic equipment such as computers or CD/DVD recorders or players. Any Transient Voltage Surge Protectors or Surge Suppressors must have a maximum UL rating of 330v and must have a functioning protection indicator light. Facilities may not use Transient Voltage Surge Protectors or Surge Suppressors that do not have a functioning protection indicator light or Transient Voltage Surge Protectors or Surge Suppressors in which the functioning protection indicator light does not light to indicate that the device is functioning.

608 Plumbing

608.1 All plumbing and plumbing fixtures shall conform to applicable local codes.

608.2 There shall be no cross-connection between any potable water supply and any source of pollution through which the potable water supply might become contaminated.

609 Water System

609.1 An adequate supply of water, the source of which is approved by the state water control authority, under sufficient pressure to properly serve the facility, shall be provided.

609.2 The potable water system shall be installed to preclude the possibility of backflow.

610 Drinking Water

610.1 Drinking water shall be easily accessible to the clients and provided by either an angle jet drinking fountain with mouth guard or by a running water supply with individual drinking cups, or bottled water supply with individual drinking cups.

610.2 Drinking facilities shall not be located in the toilet room.

611 Toilet Facilities

611.1 At least one (1) toilet and washbowl shall be provided for each ten (10) clients and shall have an additional toilet and washbowl for each 5 clients over the 10 e.g., the facility has 35 licensed slots the facility shall have four toilets and washbowls.

611.2 At least one toilet room shall be accessible to handicapped persons.

611.3 Toilet rooms shall provide privacy for clients.

611.4 Each toilet room shall be ventilated by either natural or mechanical means.

611.5 All toilets shall have grab rails that are securely affixed to walls in such a manner as to support the weight of clients using the rails to raise or lower themselves.

611.6 The washbowl shall be in proximity to each toilet and shall have hot and cold running water.

611.7 Hot water temperature will be between one hundred (100) and one hundred fifteen (115) degrees Fahrenheit.

611.8 Individual paper towels, a trash receptacle, soap and toilet paper shall be provided at all times and shall be within reach of the clients.

612 Accommodations for Handicapped

Facilities shall have ramps or other means of accessibility for handicapped persons to all areas of the facility utilized by clients. All facilities will make provisions for the clients they accept.

613 Stairways/Hallways

613.1 Stairways and hallways shall be kept free of obstructions and shall be well lighted.

613.2 All stairways and ramps shall have non-slip surface or treads.

613.3 All inside and outside stairways and ramps shall have handrails securely affixed to the wall and able to support the weight of a client utilizing the handrail in locomotion or in raising or lowering themselves.

614 Floor Covering

614.1 All rugs and floor coverings shall be secured to the floor.

614.2 Throw rugs shall not be used.

614.3 Polish used on floors shall provide a non-slip finish.

615 Housekeeping and Maintenance

Sufficient housekeeping and maintenance service shall be provided to maintain the facility in good repair and in a safe, clean, orderly and sanitary manner.

615.1 All areas of the facility must be kept clean and free of insects, trash, and lingering odors.

615.2 Corridors shall not be used for storage.

615.3 Attics, cellars, basements, under or below stairways and similar areas must be kept clean of accumulation of refuse, old newspapers and discarded furniture.

615.4 Garbage shall be stored in a closed container and disposed of in a manner approved by OLTC, or applicable laws, regulations, or ordinances.

615.5 Ventilation, heating, air conditioning, and air changing systems shall be properly maintained. Gas systems shall be inspected at least every 12 months to assure safe operation. Inspection certificates, where applicable, shall be maintained for review.

615.6 Entrances, exits, steps and outside walkways shall be free from ice, snow and other hazards.

615.7 Repairs or additions must meet applicable building codes at the time construction begins.

615.8 The facility shall be maintained free of insects and rodents. Documented control measures shall be taken to prevent rodent and insect infestation.

616 Storage of Cleaning Supplies

Cleaning agents, pesticides and poisonous products shall be stored at all times apart from food and in a locked room, closet or cabinet and shall be issued and utilized in a manner which assures the safety of clients and staff.

700 FIRE SAFETY

701 Written Approval

Adult Day Health Care facilities located in organized areas or municipalities shall obtain from local fire safety officials annual written certification that the facility complies with local fire codes. If there are no applicable codes, or if the Division determines that such codes are not adequate to assure the safety of older or handicapped persons, the provisions of the National Fire Protection Association Life Safety Code 101, Section 16, 2000 Edition shall apply.

702 Exits

702.1 The facility shall have a minimum of two (2) exits remote from each other.

702.2 Exits shall be clearly marked with exit signs.

702.3 Exits shall provide egress at ground level. The facility may only be housed on the ground floor of a building approved by OLTC.

702.4 Each exit door shall be equipped with a device to sound an alarm when the door is opened.

702.5 Each exit door shall swing out in those facilities with over twenty (20) licensed slots.

702.6 Emergency lighting shall be provided in accordance with NFPA Life Safety Code 101, Section 16.2.9, 2000 Edition, and be in working order.

703 Smoke Detection/Fire Extinguishers

703.1 Each provider shall locate, install and maintain in operable condition smoke detectors in each room of the Adult Day Health Care.

(a) Smoke detectors shall be inspected monthly.

(b) Documentation of the monthly inspection shall be kept at the facility.

703.2 Fire extinguishers, of the appropriate type as determined in consultation with local fire authorities shall be installed and maintained in operable condition.

(a) Fire extinguishers shall comply with NFPA 10 requirements.

(b) Fire extinguishers shall be inspected monthly and the inspection results documented.

(c) Fire extinguishers shall be inspected annually by a company/person licensed by the State of Arkansas to provide this service.

704 Fire/Disaster Drills

Employees shall be trained in the rapid evacuation of the building, including assistance to clients in evacuation.

704.1 Clients and staff shall take part in quarterly fire drills. Documentation of the fire drills shall be kept at the facility.

704.2 Disaster drills shall be held annually.

(a) Documentation of the annual disaster drill shall be kept at the facility.

(b) The facility shall have a written training plan and schedule for staff and volunteers on safety responsibilities and actions to be taken if an emergency occurs. Such training shall be conducted and documented semi-annually.

(c) Tornado drills shall be conducted at least annually. Documentation of training by clients and staff shall be kept at the facility.

705 Smoking

Facilities may elect to prohibit smoking in the facility or on the grounds or both. If a facility elects to permit smoking in the facility or on the grounds, the facility shall include the following minimal provisions, and the facility shall ensure that:

a. In facilities equipped with sprinkler systems, the facility may designate a smoking area or areas within the facility. The designated area or areas shall have a ventilation system that is separate from the ventilation system for non-smoking areas of the facility. Facilities lacking a sprinkler system are prohibited from designating smoking areas within the facility.

b. Smoking shall be prohibited in any room, ward or compartment where flammable liquids, combustible gases or oxygen is used or stored and in other hazardous locations and any general use/common areas of the Adult Day Health Care facility. Such areas shall be posted with “NO SMOKING” signs.

c. Smoking by residents classified as not responsible shall be prohibited unless the resident is under direct supervision.

d. Ashtrays of noncombustible material and safe design shall be placed in all areas where smoking is permitted.

e. Metal containers with self-closing cover devices into which ashtrays may be emptied shall be placed in all areas where smoking is permitted.

800 IMPOSITION OF REMEDIES - AUTHORITY

The following Rules and Regulations for the Imposition of Remedies are duly adopted and promulgated by the Arkansas Department of Human Services, Office of Long Term Care, pursuant to the authority conferred by Ark. Code Ann. §20-10-203 and Ark. Code Ann. §25-10-129.

801 Inspections by the Department

a. All areas of the facility that are accessible to clients or are used in the care or support of clients, including but not limited to kitchen or food preparation areas, laundry areas, and storage areas, and all client records, including but not limited to clients' financial records maintained by the facility and clients' medical records maintained by the facility, shall be open for inspection by the Department, the Office of Long Term Care, or the Office of the Attorney General. All facility records related to the care or protection of clients and all employee records related to the care or protection of clients shall be open for inspection by the Department or OLTC or the Attorney General's Office for the purpose of enforcing these regulations and applicable laws. The facility shall provide access to any copying equipment the facility has on premises to permit the above-named entities the ability to make copies of facility records. This shall not be construed as a requirement that a facility be required to have copy equipment on its premises.

b. The facility shall submit to regular and unannounced inspection surveys and complaint investigations in order to receive or maintain a license. The facility shall inform clients of the survey process and clients' rights with regard to privacy during the process. Clients or employees may refuse to be interviewed or photographed. The Department or its agents, the Office of Long Term Care or its agents or the Attorney General's Office or its agents have the right to conduct interviews in a private area with clients or employees who consent to interviews, and shall be permitted to photograph the facility. Clients shall be photographed in accordance with

Ark. Code Ann. §20-10-104. This regulation shall not be construed as a waiver of any constitutional rights, including but not limited to the right against self-incrimination.

c. An inspection may occur at any time, in the discretion of the Department or its agents, the Office of Long Term Care or its agents or the Attorney General's Office or its agents.

d. The facility shall provide for the maintenance and submission of such statistical, financial or other information, records, or reports related to client care or property in such form and at such time and in such manner as the Department or its agents, the Office of Long Term Care or its agents, Attorney General or its agents may require. Provided, however, those records created by, or for the exclusive use of, the quality assessment unit shall not be subject to release to the Department or its agents, or the Office of Long Term Care or its agents.

e. Facilities must provide a written acceptable plan of correction within 15 business days of receipt of written notification of deficiencies (also referred to as a Statement of Deficiencies) found during any inspections or surveys. The OLTC shall determine whether the proposed plan of correction, including any proposed dates by which correction will be made, is acceptable.

f. The facility must post the Statement of Deficiencies and the facility's response and the outcome of the response from the latest survey in a public area utilized by clients or their responsible parties and visitors. A copy shall be provided to each client or client's responsible party upon request of the client or the client's responsible party. The last twelve (12) months of deficiency notices and facility responses and outcomes of responses, for all surveys shall be provided to persons or their responsible parties upon request when they apply for residence in the facility.

802 General Provisions

a. The provisions of this section are supplemental to, and independent of, the provisions of Title 20 of the Arkansas Code Annotated.

b. *Purpose of remedies*. The purpose of remedies is to ensure prompt compliance with program requirements.

c. *Basis for imposition and duration of remedies*. When OLTC chooses to apply one or more remedies specified herein, the remedies are applied on the basis of noncompliance found during surveys or inspections of any nature conducted by OLTC, or for failure to comply with applicable laws or regulations.

d. *Number of remedies*. OLTC may apply one or more remedies for each deficiency constituting noncompliance or for all deficiencies constituting noncompliance.

e. *Plan of correction requirement*.

1. Regardless which remedy is applied, or the nature or severity of the violation, each facility that has deficiencies must submit a plan of correction for approval by OLTC. The plan of correction shall be set forth on the Statement of Deficiencies. While a facility may provide a disclaimer in the plan of correction, the facility is still required to provide corrective actions to address the cited deficiencies, the time frames in which the corrective actions will be completed, and the manner to be utilized by the facility to monitor the effectiveness of the corrective action.

2. Failure by the facility to provide an acceptable plan of correction may result in the imposition of additional remedies pursuant to these regulations at the discretion of the OLTC or in a finding of a violation and imposition of additional remedies set forth in Title 20 of the Arkansas Code Annotated, or set forth in these regulations, or both.

f. Notification requirements

1. Except in cases of emergency termination of a license or in cases or emergency removal or transfer or clients, OLTC shall give the provider notice of the remedy, including:

a. Nature of the noncompliance;

b. Remedy or remedies imposed;

c. Date the remedy begins; and,

d. Right to appeal the determination leading to the remedy.

2. Notice shall not be required for state monitoring.

803 <u>Remedies</u>

a. *Available Remedies*. In conformity with, and in addition to remedies as set forth in Title 20 of the Arkansas Code Annotated, the following remedies are available:

1. Civil Money Penalties (CMP) pursuant to Ark. Code Ann. § 20-10-205 and § 20-10-206.

2. Denial of New Admissions.

3. Directed in-service training.

4. Directed plan of correction.

5. State monitoring.

6. Temporary Director.

7. Termination of license.

8. Transfer of clients.

b. Duration of Remedies. Unless otherwise provided by law or other applicable regulations, remedies continue until:

1. The facility has corrected the cited deficiencies that resulted in the imposition of the remedy or remedies, as determined by the Office of Long Term Care based upon a revisit, or after an examination of credible written evidence that it can verify without an on-site visit, or both; or,

2. OLTC terminates the Adult Day Health Care license.

804 Temporary Director

a. *Temporary Director* means the temporary appointment by OLTC, or by the facility with the approval of OLTC, of a substitute facility Director with authority to hire, terminate or reassign staff, obligate facility funds, alter facility procedures and manage the facility to correct deficiencies identified in the facility's operation, or to assist in the orderly closure of a facility. A temporary Director may be appointed by the Office of Long Term Care only upon the consent and agreement of the facility. The temporary Director shall provide reports to the OLTC regarding the operation of the facility and the efforts toward correction by the facility as requested by the OLTC.

b. *Qualification*s. The temporary Director must:

1. Be qualified to oversee correction of deficiencies on the basis of experience and education, as determined by OLTC;

2. Not have been found guilty of misconduct by any licensing board or professional society in any State;

3. Have, or a member of his or her immediate family have, no financial ownership interest in the facility;

4. Not currently serve or, within the past 2 years, have served, unless approval has been obtained from the OLTC, as a member of the staff of the facility;

5. Successfully undergo a criminal record check pursuant to the Rules and Regulations of the Office of Long Term Care.

c. *Payment of salary*. The temporary Director's salary:

1. Is paid directly by the facility while the temporary Director is assigned to that facility; and

2. Must be at least equivalent to the sum of the following:

A. The prevailing salary paid by providers for positions of this type in what OLTC considers the facility's geographic area;

B. Additional costs that would have reasonably been incurred by the provider if such person had been in an employment relationship; and

C. Any other costs incurred by such a person in furnishing services under such an arrangement or as otherwise set by OLTC.

3. May exceed the amount specified in Section 804(c)(2) if OLTC is otherwise unable to attract a qualified temporary Director.

d. *Failure to relinquish authority to temporary Director*:

1. *Termination of Adult Day Health Care licensure*. If a facility fails to relinquish authority to the temporary Director, OLTC may impose additional remedies, including but not limited to termination of the Adult Day Health Care license.

2. *Failure to pay salary of temporary Director*. A facility's failure to pay the salary of the temporary Director is considered a failure to relinquish authority to temporary administration.

3. *When imposed*. The remedy of temporary Director shall be used only in lieu of termination of the facility license. Provided, however, that if the appointment of the temporary Director does not result in compliance by the facility within the time frames estimated by the temporary manager and agreed to by the Office of Long Term Care, the remedy of termination or revocation of license may be imposed.

805 State Monitoring

a. A State monitor:

1. Oversees the correction of deficiencies specified by OLTC at the facility site and protects the facility's clients from harm;

2. Is an employee or a contractor of OLTC;

3. Is identified by OLTC as an appropriate professional to monitor cited deficiencies;

4. Is not an employee of the facility;

5. Does not function as a consultant to the facility;

6. Does not have an immediate family member who is a client of the facility to be monitored; and,

7. Does not have an immediate family member who owns the facility or who works in the facility or the corporation that operates or owns the facility.

b. A State monitor may be utilized by the Office of Long Term Care for any level or severity of deficiency.

806 Directed Plan of Correction

The Office of Long Term Care, or the temporary manager with OLTC approval, may develop a plan of correction. A directed plan of correction sets forth the tasks to be undertaken and the manner in which the tasks are to be performed by the facility to correct deficiencies, and the time frame in which the tasks will be

performed. A facility's failure to comply with a directed plan of correction may result in additional remedies, including revocation of license when the failure to correct meets the conditions specified in Section 809. The intent of a directed plan of correction is to achieve correction of identified deficiencies and compliance with applicable regulations.

807 Directed In-Service Training

a. *Required training*. OLTC may require the staff of a facility to attend an in-service training program if education is likely to correct, or is likely to assist in correcting, cited deficiencies. The Office of Long Term Care may specify the time frames in which the training will be performed, the type or nature of the training, and the individual or entities to provide the training.

b. *Action following training.* After the staff has received in-service training, if the facility has corrected the violations or deficiencies that led to the imposition of remedies, OLTC may impose one or more other remedies.

c. *Payment*. The facility pays for directed in-service training.

808 Transfer of Clients or Closure of the Facility and Transfer of Clients

a. *Transfer of clients, or closure of the facility and transfer of clients in an emergency*. OLTC has the authority to transfer clients to another facility when:

1. An emergency exists wherein the health, safety, or welfare of clients is imperiled, and no other remedy exists that would ensure the continued health, safety or welfare of the clients;

2. A facility intends to close but has not arranged for the orderly transfer of its clients at least thirty (30) days prior to closure.

3. The facility exceeds its slot capacity as indicated or stated on the facility's license, or accepts more clients than the facility has number of slots as indicated or stated on the facility's license, unless granted a waiver by the Office of Long Term Care.

b. *Required transfer when a facility's Adult Day Health Care license is terminated*. When a facility's license is terminated, or when the facility closes either voluntarily or involuntarily, OLTC may assist in the safe and orderly transfer of all clients to another facility.

c. When the Office of Long Term Care orders transfer of clients from a facility, the Office of Long Term Care may:

1. Assist in providing for the orderly transfer to other suitable facilities or make other provisions for the clients' care and safety.

2. Assist in or arrange for transportation of the clients, their medical records and belongings, assist in locating alternative placement, assist in preparing the client for transfer, and permit the clients' legal guardians or responsible party to participate in the selection of the clients' new placement.

3. Unless transfer is due to an emergency, explain alternative placement options to the clients and provide orientation to the placement chosen by the client or their guardian or responsible party.

d. *Notice of Transfer Remedy*. Unless transfer is due to an emergency, the Office of Long Term Care shall provide the facility from which the clients are to be transferred at least fifteen (15) days notice of the proposed transfer.

809 Termination of Adult Day Health Care License

a. The remedy of termination or revocation of licensure is a remedy of last resort, and may be imposed only in accordance with law or as set forth in Section 809(b), below.

b. *Basis for termination*. OLTC may terminate a facility's Adult Day Health Care license if a facility:

1. Permits, aids or abets in the commission of any unlawful act in connection with the operation of the Adult Day Health Care;

2. Refuses to allow entry or inspection by the Office of Long Term Care;

3. Fails to make any or all records set forth in Section 801 available to representatives or agents of the Department or the OLTC, unless such refusal is made pursuant to court order or during the pendency of an appeal specifically on the issue of the release of the records, or the records are records created by the quality assessment unit;

4. Closes, either voluntarily or through action of the State;

5. Director or owner refuses to obtain a criminal record check of any individual required to undergo a criminal record check pursuant to the Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities or pursuant to Ark. Code Ann. §20-33-201, *et seq*.;

6. Is cited for a third Class A violation within six months of the citation of the first Class A violation, or is cited for a third Class B violation within six months of the citation of the first Class B violation, in accordance with Ark. Code Ann. § 20-10-205 and § 20-10-206;

7. Has conditions wherein the health, safety, or welfare of clients is imperiled, and no other remedy exists that would ensure the continued health, safety, or welfare of the clients.

8. Is unable to meet program requirements.

810 Denial or Suspension of New Admissions

The Office of Long Term Care may deny to, or suspend the ability of, a facility to admit new admissions upon the imposition of a Class A violation as defined and set forth in Ark. Code Ann. § 20-10-205 and § 20-10-206.

811 Civil Money Penalties

The Office of Long Term Care may impose civil money penalties in accordance with Ark. Code Ann. § 20-10-205 and § 20-10-206.

812 Closure

Any Adult Day Health Care facility that closes or ceases operation or surrenders or fails to timely renew its license must meet the regulations then in effect for new construction and licensure to be eligible for future licensure. Closure of a facility shall result in the immediate revocation of the license.

A facility that closes or is unable to operate due to natural disaster or similar circumstances beyond the control of the owner of the facility, or a facility that closes, regardless of the reason, to effectuate repairs or renovations, may make written request to the Office of Long Term Care for renewal of the facility license to effect repairs or renovation to the facility. The Office of Long Term Care may, at its sole discretion, grant the written request.

If the request for licensure renewal is granted, the Office of Long Term Care will provide written notification to the facility, which will include deadlines for various stages of the repairs or renovations, including the completion date. In no event shall the completion date set by the Office of Long Term Care extend beyond twenty-four months of the date of the request; provided, however, that the deadlines may be extended by the Office of Long Term Care upon good cause shown by the facility. For purposes of this regulation, *good cause* means natural disasters or similar circumstances, such as extended inclement weather that prevents repairs or construction within the established deadlines, beyond the control of the owner of the facility. *Good cause* shall not include the unwillingness or inability of the owner of the facility to secure financing for the renovations or repairs. The facility shall comply with all deadlines established by the Office of Long Term Care in its notice. Failure to comply with the deadlines established by the Office of Long Term Care shall constitute grounds for revocation of the license and for denial of re-licensure.

900 Appeals to the Court

Any applicant or licensee who considers himself/herself injured in his or her person, business or property by final Department administrative adjudication shall be entitled to judicial review thereof as provided for by law. All petitions for judicial review shall be in accordance with the Arkansas Administrative Procedure Act as codified at Ark. Code Ann. § 25-15-201, *et seq*.

APPENDIX

FORMS

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES

DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE

Incident & Accident Next Day Reporting Form

Purpose/Process

This form is designed to standardize and facilitate the process for the reporting allegations of resident abuse, neglect, misappropriation of property or injuries of an unknown source by individuals providing services to residents in Arkansas long term care facilities for next day reporting pursuant to Section 507.1.

The purpose of this process is for the facility to compile the information required in the form DMS-731, so that next day reporting of the incident or accident can be made to the Office of Long Term Care.

Completion/Routing

This form, with the exception of hand written witness statements, MUST BE TYPED!

The following sections are **not** to be completed by the facility; the Office of Long Term Care completes them:

1. The top section entitled **COPIES FOR:**
2. The **FOR OLTC USE ONLY** section found at the bottom of the form.

All remaining spaces **must** be completed. If the information can not be obtained, please provide an explanation, such as "moved/address unknown", "unlisted phone", etc.

If a requested attachment can not be provided please provide an explanation why it can not be furnished or when it will be forwarded to OLTC.

The original of this form **must be faxed to the Office of Long Term Care the next business day following discover by the facility.** Any material submitted as copies or attachments must be legible and of such quality to allow recopying.

COPIES FOR: ATY GEN_____ PASARR_____APS_____OLTC ENG_____QMRP_____
OLTC PAHRM_____NEXT VISIT_____FOLLOW UP NEEDED_____SPC VISIT #_____
DATE:_____ INITIAL:_____NOTES:_____

OLTC INCIDENT AND ACCIDENT REPORT (I&A)

Date & Time Submitted (if known): _____ Date & Time of Discovery: _____

Facility Name: _____

Facility Area Code And Telephone# (____) _____

Facility Address: _____
_____

Staff Reporting I & A: _____ Title: _____

Date of I & A _____ Time: _____ ☐ AM or ☐ PM

Name Of Injured Resident: _____ Age:____ Sex:____ Race: _____

Status of Alleged Perpetrator: ☐ Facility Employee ☐ Family ☐ Visitor ☐ Other ☐ Unknown

Type Of Incident: **Neglect** ☐
Abuse: (Select from list)
Verbal ☐
Sexual ☐
Physical ☐
Emotional/Mental ☐

Misappropriation of Property:
Drugs ☐
Personal Property ☐
Resident Trust Fund ☐

NOTIFICATIONS:

FAMILY:	☐	Yes	☐	No	DOCTOR	☐	Yes	☐ No
LAW ENFOREMENT	☐	Yes	☐	No	ADMINISTRATOR	☐	Yes	☐ No

Summary of Incident - <u>Enter on Page 3</u>.

Steps taken to prevent continued abuse or neglect during the investigation - <u>Enter on Page 4</u>.

FOR OLTC USE ONLY

CODES: **A**-Abuse **E**-Elopement **F**-Fire **PO**-Power outage **DI**-Disease **OT**-Other
RA-Res to Res Abuse **MP**-Misappropriation of Property **UD**-Unusual Death
ND-Natural Death **IUS**-Injury of Unknown Source **NG**-Neglect

SUMMARY OF INCIDENT

STEPS TAKEN TO PREVENT CONTINUED ABUSE OR NEGLECT DURING THE INVESTIGATION

ARKANSAS DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF MEDICAL SERVICES
OFFICE OF LONG TERM CARE

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property,

& Exploitation of Residents in Long Term Care Facilities

Purpose/Process

This form is designed to standardize and facilitate the process for the reporting allegations of resident abuse, neglect, or misappropriation of property or exploitation of residents by individuals providing services to residents in Arkansas long term care facilities. This investigative format complies with the current regulations requiring an internal investigation of such incidents and submittal of the written findings to the Office of Long Term Care (OLTC) within five (5) working days.

The purpose of this process is for the facility to compile a substantial body of credible information to enable the Office of Long Term Care to determine if additional information is required by the facility, or if an allegation against an individual(s) can be validated based on the contents of the report.

Completion/Routing

This form, with the exception of hand written witness statements, MUST BE TYPED!

Complete **all** spaces! If the information can not be obtained, please provide an explanation, such as "moved/address unknown", "unlisted phone", etc. Required information includes the actions taken to prevent continued abuse or neglect during the investigation.

If a requested attachment can not be provided please provide an explanation why it can not be furnished or when it will be forwarded to OLTC.

This form, and all witness and accused party statements, **must be originals**. Other material submitted as copies must be legible and of such quality to allow re-copying.

The facility's investigation and this form must be completed and submitted to OLTC within five (5) working days from when the incident became known to the facility.

Upon completion, send the form by certified mail to:
Office of Long Term Care, P.O. Box 8059, Slot 404, Little Rock, AR 72203-8059.

Any other routing or disclosure of the contents of this report, except as provided for in LTC 507.4 and 507.5, may violate state and federal law.

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property,

& Exploitation of Residents in Long Term Care Facilities

Section I-Reporting Information

Name Of Facility: _____

Phone #: (_____) _____

Address: _____

City _____ State _____ Zip Code _____

Facility Staff Member Completing DMS 762: _____

Title:

Date Incident Reported/Faxed To OLTC: _____ Time: _____ ☐ AM ☐ PM

Date & Time Of Incident (if known): _____

Date & Time Of Discover: _____

Type Of Incident: **Neglect** ☐

Abuse: (Select from list)

- Verbal ☐
- Sexual ☐
- Physical ☐
- Emotional/Mental ☐

Misappropriation of Property:

- Drugs ☐
- Personal Property ☐
- Resident Trust Fund ☐

Name Of Involved Resident: _____ Room #: _____

Social Security #: _____ DOB: _____

Height _____ Weight _____ Physician _____

Is Resident Still Living: ☐ YES ☐ NO If not, Date Of Death: _____

Ambulatory? ☐ YES ☐ NO Oriented (Select all appropriate) ☐ Time ☐ Place ☐ Person ☐ Events

Physical Functional Level/Impairment _____

Mental Functional Level _____

Primary Diagnosis _____

Section II-Complete Description of Incident
"See Attached Is Not Acceptable!"

(Attach Additional Pages as Necessary)

Section III- Findings and Actions Taken

Please include Resident's current medical condition

Facility Administrator's Signature

Date

Section IV- Notification/Status

Administrator/Written Designee Must Be Notified!

Name Of Administrator _____

Date: _____ Time: _____ ☐ AM ☐ PM

Family Notified: ☐ YES ☐ NO ☐ NONE Date: _____Time: _____ ☐ AM ☐ PM

Name Of Family Member: _____

Relationship: _____ Phone #: _____

Doctor Notified: ☐ YES ☐ NO ☐ NONE Date: _____ Time: _____ ☐ AM ☐ PM

Doctor's Name: _____ Phone #: _____

Resident Sent To Hospital: ☐ YES ☐ NO ☐ NONE Date: _____ Time:_____ ☐ AM ☐ PM

Admitted To Hospital: ☐ YES ☐ NO

Name/ Address/ Phone of Hospital: _____
_____
_____

Law Enforcement Must Be Notified for abuse and neglect

Date: _____ Time: _____ ☐ AM ☐ PM

Name Of Law Enforcement Agency:

Phone #: _____

Address: _____

City/Zip: _____

Was An Investigation Made By The Law Enforcement Agency?: ☐ YES ☐ NO

Date Of Investigation: _____ Time: _____ ☐ AM ☐ PM

Name Of Officer: _____

Section VI-Accused Party Information

Name Of Accused Party: _____

Job Title (if any): _____ Phone #: _____

Home Address: _____

City/State/Zip: _____

Social Security #: _____ DOB: _____

Dates Of Current Employment: From _____ To _____

Certified Nursing Assistant: ☐ YES ☐ NO

Registration #: _____ Date Issued: _____

Date Criminal Background Check Completed: _____

Licensed By State Board Of Nursing: ☐ YES ☐ NO

Type Of License: RN # _____ LPN # _____

Date Issued: _____

Section VII- Attachments

Attach the following information to the back of this form. If you do not have one of the specified attachments, please provide an explanation why it can not be obtained or if it will be forwarded in the future.

1. Statement from the accused party.

2. All witness statements. Use the attached OLTC Witness Statement Form for all witness statements submitted. If the statement is a typed copy of a handwritten statement, the handwritten statement must accompany the typed statement.

3. Law enforcement incident report. This can be mailed at a later date if necessary.

4. Other pertinent reports/information, such as Ombudsmen, autopsy, reports, etc. These can be mailed at a later date if necessary.

Facility Investigation Report for Resident Abuse, Neglect, Misappropriation of Property, & Exploitation of Residents in Long Term Care Facilities

OTLC Witness Statement Form

Date: _____ Time: _____ ☐ AM ☐ PM

Witness Full Name: _____

Job Title: _____ Shift: _____

Home Address: _____ City/Zip _____

Home Phone #: _____ Work Phone #: _____

Relation To Resident (If Any?) _____

State in your own words what you witnessed (be very descriptive) and sign below.

(Continue on Back as Necessary)

The information provided above is true to the best of my knowledge.

Signature of Witness: _____ Date: _____