

10.12.04.00

Title 10 DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Subtitle 12 ADULT HEALTH

Chapter 04 Day Care for the Elderly and Adults with a Medical Disability

Authority: Health-General Article, §§2-104, 14-206, and 14-304, Annotated Code of Maryland

The Secretary of Health and Mental Hygiene proposes to repeal Regulations .01—.52 and to adopt new Regulations under 10.12.04 Day Care for the Elderly and Adults with a Medical Disability.

Statement of Purpose

The purpose of this action is define the roles and responsibilities of nursing staff and other center staff in the Adult Medical Day Care environment. These proposed regulations further defines staffing ratios and transportation of participants and clarifies various definitions related to the Adult Medical Day Care Program.

ALL NEW

.01 Scope.

A. This chapter applies to day care centers for the elderly and adults with a medical disability as defined in Health-General Article, Title 14, Subtitles 2 and 3, Annotated Code of Maryland.

B. This chapter does not:

(1) Affect a relative, domestic partner, neighbor, or friend who cares for an individual with a medical disability by mutual agreement; or

(2) Apply to nutrition sites, senior centers under the auspices of the Department of Aging, or social model programs that individuals may attend to participate in meals or diversion activities.

10.12.04.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Activities of daily living" means normal daily activities, including:

(a) Eating or being fed;

- (b) Grooming, bathing, and oral hygiene;
 - (c) Mobility, transfer, ambulation, and use of environmental aids to assist the individual to achieve greater independence;
 - (d) Toileting; and
 - (e) Dressing.
- (2) "Activity coordinator" means the individual assigned to develop and direct the activity program for the adult day care center.
- (3) "Actual harm deficiency" means a condition existing in a center, or an action or inaction by the center staff that has caused physical or emotional injury or impairment to a participant.
- (4) "Adult Day Care Assessment and Planning System" (ADCAPS) is a system that is comprised of a comprehensive assessment completed by the RN, that is designed to evaluate the participant's strengths and needs, which facilitates the development of a problem list, service plans and personal goals that make up the individualized plan of care.
- (5) "Adult with a medical disability" has the same meaning as "medically handicapped adult" as stated in Health-General Article, §14-301(c), Annotated Code of Maryland.
- (6) "Center" means any nonresidential program meeting the definition in Health-General Article, §§14-201(b) or 14-301(b), Annotated Code of Maryland.
- (7) "Chemical restraint" means the use of a drug or medication that is not a standard treatment for a participant's condition to control or restrict the participant's movement
- (8) "Cognitively intact" means a participant who has sufficient judgment, planning, organization, self-control, and the persistence needed to manage the normal demands of the participant's environment.
- (9) "Communicable disease" has the meaning stated in COMAR 10.06.01.02 and 10.06.01.03.

(10) "Deficiency" means a condition existing in a center, or an action or inaction by the center staff that result in the potential for more than minimal harm, actual harm, or serious and immediate threat to one or more participants.

(11) "Department" means the Department of Health and Mental Hygiene.

(12) "Developmental disability" has the meaning stated in Health General Article §7-101(d)(6), Maryland Annotated Code.

(13) "Direct care" means day-to-day direct assistance to participants in accomplishing activities of daily living and in meeting health and psychosocial needs.

(14) "Employee" means a full-time or part-time staff individual who works regular hours for pay.

(15) "Existing center" means a center that is licensed by the Department, or has its plans approved by the Department at the time of adoption of the regulations of this chapter.

(16) "Full-time" means 40 hours per week or the standard workweek adopted by the center.

(17) "Governing body" means the individual, partnership, agency, group, corporation, or other entity set up to assume full legal responsibility for the policy determination, management, operation, and financial liability of the center.

(18) "Individual plan" means a document that specifies assessments, services, supports, and training required by the individual as specified in COMAR 10.22.05.

(19) "Informal Dispute Resolution (IDR)" means an informal process that provides a licensee the opportunity to question the Department about deficiencies cited on a recent inspection.

(20) "Health care provider" means an individual who is licensed, certified, or otherwise authorized under the Health Occupations Article to provide health care services.

(21) "Licensed practical nurse" (LPN) means an individual:

(a) Licensed to practice licensed practical nursing as defined in Health Occupations Article, §8-301, Annotated Code of Maryland; and

(b) Whose practice is in accordance with the provisions of COMAR 10.27.10.

(22) "Licensed social worker" means an individual who is licensed to practice social work as defined in Health Occupations Article, Annotated Code of Maryland.

(23) "Mental Illness" has the meaning stated in COMAR 10.09.70.10 A.

(24) "New center" means a center that does not have plans approved by the Department.

(25) "Occupational therapist" means an individual licensed to practice occupational therapy as defined in Health Occupations Article, §10-301, Annotated Code of Maryland.

(26) "Ongoing pattern" means the occurrence of any potential for more than minimal harm or greater deficiency on two consecutive on-site visits as a result of annual surveys, follow up visits, any unscheduled visits, or complaint investigations.

(27) "Participant" means a health-impaired adult whose:

(a) Illness or disability does not require 24-hour inpatient care; and

(b) Needs cannot be satisfactorily met in an episodic ambulatory care setting but require at least 1 day of care per week in a day care program.

(28) "Part-time" means less than full-time.

(29) "Physical restraint" means the use of a device or physical action to prevent, suppress, or control head, body or limb movement, that cannot be readily and easily removed by the participant knowingly and with intent.

(30) "Physician" means an individual licensed to practice medicine as defined in Health Occupations Article, §14-301, Annotated Code of Maryland.

(31) "Potential for more than minimal harm deficiency" means a condition existing in a center or an action or inaction by the center staff that has the potential to cause actual harm to the participant.

(32) "Pre-licensure visit" means an on-site survey to determine if a center is ready to begin operating in accordance with the requirements set forth in this chapter.

(33) "Problem list" means issues and concerns identified from the assessment.

(34) "Program assistant" means an individual assigned to perform activities, supportive functions, and direct participant care under appropriate supervision.

(35) "Registered nurse" means an individual licensed to practice as a registered nurse as defined in Health Occupations Article, §8-301, Annotated Code of Maryland.

(36) "Secretary" means the Secretary of the Department of Health and Mental Hygiene or the Secretary's designee.

(37) "Self-administer" means the act of a participant taking medication at the correct time, by the correct route, and in the correct dosage, as prescribed by an authorized prescriber.

(38) "Serious and immediate threat" means a situation in which immediate corrective action is necessary because a center's noncompliance with one or more State regulations has caused, or is likely to cause, serious injury, harm, impairment to, or death of a participant receiving care in the center.

(39) "Significant change of condition" means a change in the participant's physical, mental, or psychological status as defined by the registered nurse's comprehensive assessment.

(40) "Sustained compliance" means a period of 30 days following the date of notice of corrective action with no deficiencies.

(41) "Volunteer" means an individual who gives help, does a service, or takes an obligation, on-site for 8 hours or more per week, without payment. One who serves or acts of his or her own free will who is acting under the direction of the administrative staff of the center.

(42) "Written agreement" means a legally binding contract between two or more parties that sets forth terms and conditions and which has been reduced to writing and signed and dated by all parties.

10.12.04.03

.03 License Required.

A. An individual may not establish, operate, or continue the operation of a center without first obtaining a license from the Secretary.

B. Separate License Required. Separate licenses are required for centers that are maintained on separate premises, even though the centers are operated under the same management.

C. Posting of License. A center shall post its license in a conspicuous place on the premises to which it applies.

10.12.04.04

.04 Licensing Procedure.

A. Letter of Interest

(1) An individual desiring to obtain initial licensure for an adult day care center shall submit a Letter of Interest to the Office of Health Care Quality that contains the following:

- a) Policies and procedures that address medical record completion and retention, the administration and storage of medications, nutrition services, social work support, employee criminal background checks, transportation of participants and participant activities,
- b) Identification of the individual(s) or business entity that will own and/or operate the adult medical day care program,
- c) The job description and qualifications for each position,
- d) Copies of agreements entered into with a physician, substitute physician, nurse practitioner, nursing supervisor, social worker and activities coordinator,
- e) The food service vendor contract if meals are not to be prepared on-site,
- f) The projected hours of operation, daily census and the staffing plan that addresses both licensed and non-licensed staff coverage; and
- g) Verification that the structural design plans for the proposed adult medical day care program have been forwarded to the Department's Plans Review and Approval Unit.

(2) An application for licensure shall not be accepted by the Department until the information submitted in the Letter of Interest is reviewed and approved.

(3) A Letter of Interest is not required for licensees seeking renewal.

(4) Upon approval of the Letter of Interest, an application for licensure shall be submitted on the form developed by the Department along with a licensure fee calculated under the provisions of A(5).

(5) License fee for initials and renewals

(a) The 2-year license fee, based upon total licensed capacity of the center, shall be computed at a rate of \$200, plus \$12 times the licensed capacity of the center.

(b) The nonrefundable fee shall be payable by certified check or money order to the Department.

(c) The fee includes a maximum of two pre-licensure site visits by the Department. When additional site visits are required before issuance of a license due to significant regulatory violations, the Department shall assess an additional fee of \$100 per site visit.

B. Investigation of Application. The Department's authorized representative shall interview the prospective licensee and inspect the proposed center.

C. Issuance of License. When the Department determines that the center has submitted a complete application, including the required fee, and that the center is in compliance with this chapter, the Department shall issue a license to operate the center.

D. Conditions and Limitations of License. The following conditions and limitations apply to a center's license:

(1) A license shall be issued for a 2-year period,

(2) The Department may perform a periodic re-inspection of the center at any time;

(3) A license shall not be transferable or assignable from place to place or from one individual to another;

(4) The licensee shall notify the Department of any change of ownership, and the new owner shall apply to the Department for a license; and

(5) The number of participants cared for at any one time in a center shall not exceed the licensed capacity of the center.

E. Return of License. The current license shall become void immediately and the licensee shall return the license to the Secretary if the center:

- (1) Is sold or leased;
- (2) Ceases to operate for more than 30 consecutive days;
- (3) Moves to a new permanent location;
- (4) Has its license denied, suspended or revoked; or
- (5) Changes its Ownership

10.12.04.05

.05 Changes in a Program that Affect the Operating License.

A. Increase in Capacity or Name Change.

(1) During the license period, a licensee shall not increase capacity, change its name, or change the name under which the program is doing business, without the Department's approval. When there is a change of program ownership or a change of location, the licensee shall submit a new application and written request for a new license with an application fee, as established in Regulation .04A(2) of this chapter to the Department.

(2) Sale, Transfer, or Lease of a Center;

(a) If a sale, lease or any other transaction causes a change in the individual or individuals who control or operate the center, the center shall be considered a new program and the new owner/operator shall apply for a new license and conform to all regulations applicable at the time of transfer of operations.

(b) The transfer of any stock which results in a change of the individual or individuals who control the program or the transfer of any stock in excess of 25 percent of the outstanding stock constitutes a sale.

(c) For the purposes of Life Safety Code enforcement the program is considered an existing center if it has been in continuous use as an adult medical day program.

(3) The Department shall issue a new license on approval of:

(a) A change in licensure capacity;

(b) A change in the name of the licensee;

(c) A change in the name under which the program is doing business; or

(4) The licensee shall return its original license to the Department by certified mail.

B. Voluntary Closure or Change of an Adult Medical Day Program Ownership or Location. (1) A licensee shall notify the Department in writing at least 45 days in advance of any intention to:

(a) Voluntarily close;

(b) Change ownership;

(c) Change location; or

(d) Sell its adult medical day program.

(2) The licensee shall include the following information in the notice to the Department:

(a) The method for informing participants and participant representatives of its intent to close, change ownership, change location, or sell its center; and

(b) The actions the licensee will take to assist participants in securing comparable day services and assistance, if necessary.

(3) A licensee shall notify participants and participant representatives of any proposed changes set forth in §B (1) of this regulation, in writing, at least 45 days before the effective date of the proposed change.

(4) Whenever ownership of a center is changed from the individual or organization named on the license to another individual or organization, the future owner shall apply for a new license. The future owner shall file an application for a license at least 45 days before the final transfer.

(5) The Department shall issue a new license to a new owner if the new owner meets the requirements for licensure under this chapter. The current licensee shall return its license to the Department by certified mail.

(6) A licensee named in the original license shall remain responsible for the operation of the center until a new license is issued to the new owner and the current licensee shall remain responsible for correction of all outstanding deficiencies or impending sanctions until a new license is issued to the new owner.

(7) If a licensee intends to relocate its program, the licensee shall apply for a new license in time to assure continuity of services to the participants. The Secretary shall issue a new license for the new location if the program meets the requirements for licensure under this chapter. The licensee shall return its original license to the Department by certified mail.

(8) In addition to the notice to the Department required by §B of this regulation, after a program closes, the licensee shall:

- (a) Notify the Department of the date of closure and the place of relocation of each participant; and
- (b) Return all licenses, past and present, to the Department by certified mail.

C. Changes to Licensure Information.

(1) A licensee shall immediately notify the Department of any changes that occur in their operations that were not submitted with the most recent application.

(2) A licensee shall forward to the Department a copy of any report or citation of a violation that affects the health, safety or welfare of participants, including building codes, sanitary codes, fire safety codes or other regulations, that remains uncorrected or unresolved within seven days of receiving the report or citation.

D. License—Sale, Assignment, or Other Transfer.

(1) A license is valid only in the name of the individual to whom it is issued, and is not subject to sale, assignment, or other transfer.

(2) A license is valid only for the premises for which it was originally issued.

10.12.04.06

.06 Waiver of Provisions.

A. The Secretary may waive any provision of this chapter if a center experiences practical difficulties or unnecessary hardship in complying with the provisions of this chapter and can demonstrate that granting a waiver will not adversely affect the health and safety of its participants. The licensee shall submit a written request to the Department to obtain a waiver. The licensee shall address the following issues:

- (1) The regulation from which a waiver is sought;
- (2) The reason the licensee is unable to comply with the regulation
- (3) The reason that compliance with the regulation will impose a substantial hardship; and
- (4) The reason that a waiver will not adversely affect participants care or services.

B. The Department shall provide written approval of any waiver granted to a center, and the approval letter shall specify the effective time frame for the waiver.

C. The Department shall review each waiver during the license renewal process.

D. The Secretary may revoke a waiver at any time if a center violates any condition of the waiver, or if it appears to the Secretary that the health or safety of participants attending the center will be adversely affected by the continuation of the waiver. The revocation of a waiver may not be appealed.

10.12.04.07

.07 Inspection by the Department.

A. Center Open for Inspection. A licensed center and any premises proposed to be operated as a center shall be open at all reasonable times to announced or unannounced inspections by the Department and by any agency designated by the Department. Any part of the center, and any surrounding accessory buildings, are considered part of the center and are subject to inspection.

B. Records and Reports. A licensee shall maintain records and make reports as required by the Department. The records and reports shall be open to inspection by the Department or any agency

designated by the Department. On request, a licensee shall immediately provide copies of records and reports, policies and procedures, including medical records of current participants, participants discharged within the last 6 months, personnel records of current staff, and those records and reports relating to quality assurance activities to the Department or any agency designated by the Department. All other records and reports may be stored off-site, but shall be available to the Department within 24 hours of request. If requested, the Department shall reimburse the licensee for the reasonable costs of copying the records and reports.

10.12.04.08

.08 Compliance Monitoring.

A. The Department shall monitor or inspect a center at least once every 2 years to ensure compliance with the requirements of this chapter.

B. The Department may conduct unannounced or announced licensure or complaint investigation visits as frequently as necessary to ensure compliance with this chapter or for the purpose of investigating a complaint.

C. In accordance with a written agreement, the Department may delegate certain aspects of its monitoring or inspection responsibilities to a local health department.

D. Notice of Violations. If a complaint investigation or survey inspection identifies a regulatory violation, the Department shall issue a notice:

(1) Citing the violation; and

(2) Requiring the center to submit an acceptable plan of correction within 10 calendar days of receipt of the notice of violation or deficiency.

(3) Notifying the center of sanctions or that failure to correct the violation may result in sanctions;

and

(4) Offering the center the opportunity for informal dispute resolution (IDR).

(E) The plan of correction referred to in §D(2) of this regulation shall include the date by which the licensee shall complete the correction of each deficiency. Failure to return an acceptable plan of correction within the allotted time frame may result in a sanction.

(F) When a licensee requests an IDR as provided in §G of this regulation, the licensee shall file a plan of correction within the required time, except to the extent that the licensee contests specific findings, in which case absent the Department's specific directive, a licensee may delay submitting its plan of correction with respect to those specific findings until 5 days after the licensee is provided oral or written notice of the outcome of the IDR.

G. Informal Dispute Resolution.

(1) A licensee may request informal dispute resolution (IDR) to question violations or deficiencies within 10 calendar days of receiving the statement of deficiencies. The written request for an IDR shall fully describe the disagreement with the statement of deficiencies and be accompanied by any supporting documentation.

(2) At the discretion of the Office of Health Care Quality, the IDR may be held in-person, by telephone, or in writing. In-person IDRs are informal in nature and are not attended by counsel.

(3) The IDR process may not delay the effective date of any enforcement action.

(4) In the event a licensee requests an IDR of a violation written by a designee of the Department, the Department shall request the designee to participate in the IDR process.

10.12.04.09

.09 Administration.

A. Governing Body. The governing body shall establish and maintain sound operating procedures, including:

(1) Maintenance of an identifiable administrative unit, headed by a director who is responsible for the overall conduct of all center activities;

(2) Adoption of an annual budget; and

(3) Provision of staff capable of performing the center's program.

B. Goals. The center shall have documentation of its philosophy and goals and the services to be provided. The services to be provided by the center shall be reflective of the populations served.

C. Policies and Procedures. The governing body shall establish policies and procedures for the center, including:

- (1) Admissions;
- (2) Discharges;
- (3) Fees;
- (4) Health care;
- (5) Hours of operation;
- (6) Personnel;
- (7) Plans for emergencies, disasters, and epidemics;
- (8) Use of consultants;
- (9) Relationships with other agencies and care providers; and
- (10) That documents and accounts for medications released into the community.
- (11) Quality Assurance
- (12) Other policies as necessary

D. The center shall provide OHCQ a contact phone number, providing direct access to the center or center's representative that shall be available twenty-four hours a day, seven days a week.

E. The governing body shall review all policies annually and make revisions as necessary. A Registered Nurse shall assist in the review process and in developing health policies and providing other services as indicated.

10.12.04.10

.10 Days and Hours of Operation.

A. The center shall be open to participants for at least 6 hours per day 5 days a week, exclusive of holidays and other planned closings. The center's hours of operation shall be posted in a prominent place accessible to and easily seen by participants and the public and participants shall be notified of planned closings.

10.12.04.11

.11 Preadmission Assessment.

A. Before admission, the center shall obtain a written assessment from the prospective participant's health care provider, who shall certify that the information provided reflects the individual's health status within 45 days of the individual's admission. Upon request and for good cause shown, the Department may grant an exception to all or part of the preadmission assessment.

B. Written Assessment. The health care provider's assessment shall include:

- (1) Recent medical history, including any acute medical condition or hospitalization;
- (2) Significant medical conditions affecting function, including the individual's ability for self-care, cognition, physical conditions, and behavioral and psychosocial status;
- (3) Other active and significant chronic or acute medical diagnoses;
- (4) Known allergies to medications, environment, and food;
- (5) Medical confirmation that the individual is free from communicable disease and other active reportable airborne diseases;
- (6) Current and other needed medications and treatments and the ability of the individual to self-medicate or self-treat;
- (7) Information on status of advanced directives for health care;
- (8) Current nutritional status including height, weight, risk factors, and deficits;
- (9) Diets ordered by the health care provider;
- (10) Medically necessary limitations or precautions; and
- (11) Monitoring or performance of tests after admission.

10.12.04.12

.12 Admission Criteria.

A. The center shall develop written criteria for admission. These criteria shall be specific so that the center does not accept individuals whose needs cannot be met by the center.

B. Admission Criteria. The admission criteria shall include at least the following:

(1) The center shall not discriminate against the intended beneficiary because of race, color, or national origin according to Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000 or as otherwise provided by law;

(2) The center shall not deny admission to or involuntarily discharge an individual solely because the individual has a communicable disease.

10.12.04.13

.13 Participant Rights.

A. The adult day care center shall provide care for participants in a manner and in an environment that maintains or enhances each participant's dignity and respect, and in full recognition of the participant's individuality.

B. The center must inform the participant, in a language that the participant understands, of his or her rights and all rules and regulations governing participant conduct and responsibilities while attending the program.

C. A participant of a center has the right to:

(1) Be treated with consideration, respect, and full recognition of the participant's human dignity and individuality;

(2) Receive treatment, care, and services that are adequate, appropriate, and in compliance with relevant State, local, and federal laws and regulations;

(3) Privacy;

- (4) Be free from mental, verbal, sexual, and physical abuse and neglect, involuntary seclusion, and exploitation;
- (5) Be free from physical and chemical restraints except as permitted in Regulation .22 of this chapter;
- (6) Confidentiality;
- (7) Make suggestions, complaints, or present grievances on behalf of the participants or others, to the center director, government agencies, or other individuals without threat or fear of retaliation;
- 8) Receive a prompt response, through an established complaint or grievance procedure, to any complaints, suggestions, or grievances the participant may have;
- (9) Have access to the procedures for making complaints to the:
 - (a) Local department of social services; and
 - (b) Office of Health Care Quality of the Department;
- (10) Participate in care planning and medical treatment; and
- (11) Refuse treatment after the possible consequences of refusing treatment is fully explained.

10.12.04.14

.14 Staff.

A. Staffing Pattern.

(1) Staffing Ratio.

- (a) The staff to participant ratio at each center shall be a minimum of one staff to seven participants (1:7) for a period of two years after the final adoption of 10.12.04.14 (A)(1)(a).
- (b) Two years after the final adoption of 10.12.04.14(A)(1)(a), the staffing ratio at each center shall be determined by the needs of each program participant as determined in the ADCAPS.
- (c) Staffing shall at all times be sufficient to meet the needs of the participants.

(2) The center shall have experienced, and competent relief personnel, with licenses and levels of skill comparable to regular staff, to operate during absences, vacations, or other periods necessitating substitute staff.

(3) Relief personnel shall be oriented to the operation of the center.

B. Required Staff.

(1) Director.

(a) The center shall have a director who is responsible for the overall conduct of the center and for compliance with applicable laws and regulations.

(b) The director shall have a bachelor's degree, preferably in a health and human services field, from an accredited college or university, or the individual shall be a registered nurse.

(c) The director's duties shall be limited to the administration and provision of services at the center.

(d) If a center is part of another center, the center shall have its own director and center staff.

(e) A center with a licensed capacity of 35 or more participants shall have a full-time director.

(f) A center with a licensed capacity of 34 or fewer participants may appoint a director who serves on less than a full-time basis.

(g) A licensee operating two adult medical day care sites that are located within 50 miles of each other may utilize one on-site manager instead of a director at one of the sites if there are fewer than 50 participants at each site. The on-site manager shall have the appropriate background, education, and experience to oversee the administration and provision of services at the center.

(2) Nursing Services.

(a) A center shall have the services of a registered nurse with at least 3 years experience in a health care setting.

(b) A registered nurse shall be on-site or readily available by phone at other times to satisfy the requirements listed in (c).

(c) The duties of the registered nurse shall include:

- (i) Completion of the ADCAPS and the nursing plan of care.
 - (ii) Provision or supervision, or both, of required nursing services to each participant;
 - (iii) Supervision of the LPN and other nursing care staff in accordance with COMAR 10.27.09, 10.27.10, and 10.27.11.05 (H)(1)
 - (iv) Development and ongoing review of the participant's plan of care; and
 - (v) Assisting, as necessary, in the delivery of other required services.
- (d) A licensed practical nurse performs in a team relationship with the registered nurse and shall be on site to meet the nursing services of each participant consistent with COMAR 10.27.10. when the registered nurse is not on site.
- (e) A certified nursing assistant shall be present and on site when a registered nurse or licensed practical nurse is not on site
- (3) Full-time Activities Coordinator. The center shall have the services of a full-time activities coordinator who has a therapeutic recreation degree or who shall have at least 3 years experience in activities coordination or therapeutic recreation for the aged, individuals with disabilities, or other special populations.
- (4) Staff.
- (a) Program assistants shall have a high school diploma or general equivalency diploma (GED), or shall be enrolled currently in a program leading to a high school diploma or GED.
 - (b) The center shall employ sufficient staff to meet the participants' needs.

C. Personnel Policies.

- (1) The center shall have written personnel policies, including at least the following:
 - (a) Annual leave;
 - (b) Pay practices;
 - (c) Employee benefits;
 - (d) Termination procedures;

- (e) Hiring and firing responsibility;
 - (f) Review of applicant and employee criminal conviction histories;
 - (g) New employee orientation; and
 - (h) Use and duration of a probationary period.
- (2) The center shall make a copy of its policies and procedures available to each employee.
- (3) Before hiring, staff shall have a criminal background check as required in Health-General Article, §19-1901 et seq., Annotated Code of Maryland, and may not have criminal convictions or criminal history that indicates behavior that is potentially harmful to participants, as evidenced through a criminal history records check.

D. Position Description.

There shall be a written position description for each job that specifies at least the qualifications for the job, a delineation of the tasks, and the supervisor of the employee.

E. Staff Training.

- (1) When job duties involve the provision of individual care services, employees shall receive a minimum of 2 hours of training on cognitive impairment and mental illness within the first 90 days of employment, including the following as appropriate:
- (a) Overview of normal aging and conditions causing cognitive impairment;
 - (i) Risk factors for cognitive impairment
 - (ii) Health conditions that affect cognitive impairment;
 - (iii) Early identification of and intervention for cognitive impairment;
 - (b) Overview of normal aging and conditions causing mental illness;
 - (i) Risk factors for mental illness;
 - (ii) Health conditions that affect mental illness;
 - (iii) Early identification of and intervention for mental illness; and
 - (iv) Procedures for reporting cognitive, behavioral, and mood changes;

- (c) Effective communication including:
 - (i) The effect of cognitive impairment on expressive and receptive communication;
 - (ii) The effect of mental illness on expressive and receptive communication;
 - (iii) Effective verbal, nonverbal, tone and volume of voice, and word choice techniques; and
 - (iv) Environmental stimuli and influences on communication;
- (d) Behavioral intervention including:
 - (i) Identifying and interpreting behavioral symptoms;
 - (ii) Problem solving for appropriate intervention;
 - (iii) Risk factors and safety precautions to protect the individual and other participants; and
 - (iv) De-escalation techniques;
- (2) The director shall ensure that:
 - (a) Per the center's policies, staff and volunteers receive orientation and training; and
 - (b) An ongoing educational program is planned and conducted for the development and improvement of skills of all the center's personnel, including training related to problems and needs of the elderly, health impaired, and disabled.
- (3) The center shall maintain records that demonstrate proof of employee attendance and training content of orientation and in-service programs.
- (4) The center shall provide a minimum of eight in-service training sessions annually, which shall include, but is not limited to:
 - (a) Prevention and control of infections;
 - (b) Fire prevention programs and participant-related safety procedures in emergency situations or conditions;
 - (c) Accident prevention;

(d) Training on care of individuals that is appropriate to the population served by the center, such as Alzheimer's disease, mental illness, developmental disabilities, cognitive impairment and mental illness;

(e) Recognition of, and duty to report, abuse, exploitation, neglect, and self-neglect; and

(f) Safe food handling and service.

(g).The training that is described in §F of this regulation *may* be provided through various means including:

(1) Classroom instruction;

(2) In-service training;

(3) Internet courses;

(4) Correspondence courses;

(5) Prerecorded training; or

(6) Other training methods.

F. When the training method does not involve direct interaction between faculty and trainee, the center shall make available to the trainee a trained individual to answer questions and respond to issues raised by the training.

G. Proof of training shall include:

(1) Date of class;

(2) Course content;

(3) Documentation of successful completion of the training content;

(4) Qualifications and contact information for the trainer.

10.12.04.15

.15 Program Components—Required Services.

A. Health Services.

(1) Nursing Services. The center shall provide nursing services under the direction of a registered nurse. The licensee shall fully disclose the services that will be provided outside the adult medical day care center's hours of operation, in the service contract agreement. The registered nurse may delegate nursing services as appropriate, to other staff-who are supervised by the registered nurse in accordance with COMAR 10.27.09, 10.27.10, and 10.27.11.05 (H)(1-3)

(2) Consultation with the Health Care Provider.

The RN or LPN nurse shall communicate with the participant's health care provider to report observed changes in the participant's health status, including reaction to medicine, and to obtain current medical orders regarding such items as diet, medications, and treatments. The center shall assist participants in locating a regular source of health care if a participant does not have a health care provider.

(3) Mental Health Services. For participants with mental health needs, the program shall provide, when needed, linkage, collaboration, and coordination with the participant's treating psychiatrist or other mental health professional.

(4) Observation. The registered nurse or the licensed practical nurse shall observe the health, functional status, and adherence to a prescribed medical regimen, and document his or her observations in the participant's medical record at least monthly.

(5) The center shall provide meals and snacks to participants in accordance with Regulation .20 of this chapter.

B. Emergency Services and Medical Plan.

(1) The center shall have a written emergency medical plan for linkage and access to:

(a) Emergency medical care including a health care provider on call in the event that a participant's primary care provider is unavailable;

(b) Hospitalization and emergency room care; and

(c) Transportation to the center providing the emergency care.

(2) The center shall have an established procedure to be followed in an emergency that covers:

- (a) Immediate care of the participants;
- (b) Individuals to be notified; and
- (c) Reports to be prepared.

C. Activities Programs.

(1) Activities Plan.

(a) There shall be a written planned program of daily activities that are age appropriate and culturally relevant for individuals served and designed to:

- (i) Meet the participant's specific needs, preferences, and interests with the individual's cognitive and physical limitations being noted in the development of the activities; and
- (ii) Stimulate interests, rekindle motivation, and provide opportunities for a variety of types and levels of involvement, including small and large group activities.

(b) Staff shall also plan a weekly or monthly calendar of activities that shall be posted in an area of the center where it is plainly visible and easily read by all participants.

(2) Each day's activities shall include:

- (a) Physical exercise;
- (b) Rest;
- (c) Social interaction;
- (d) Personal care, if needed; and
- (e) Mental stimulation.

(3) The center shall permit participants to choose between group and individual activities during some part of the day.

(4) Participants shall have the choice of refusing to participate in any activity.

D. Activities of Daily Living (ADL). Staff shall provide the assistance needed by participants to complete activities of daily living.

10.12.04.16

.16 Program Components.

A. Special Services.

(1) The center shall provide or make arrangements for the services listed in §A(2)—(8) of this regulation when the center admits participants that require these services.

(2) Diet Modifications. The center shall provide special diets and other diet modifications as ordered by the participant's health care provider.

(3) Rehabilitative Services. Rehabilitative services may include:

(a) Physical therapy;

(b) Occupational therapy; and

(c) Speech pathology provided directly, or indirectly, through arrangements with qualified personnel.

(4) Social Services - A licensed social worker shall provide social work services to participants. If social and emotional needs are identified during the assessment that is required in Regulation .10 of this chapter, a licensed social worker shall be consulted before the establishment of goals to meet those needs.

(5) Mental Health Services. When mental health needs are identified, the program shall seek consultation from a mental health professional authorized under the Health Occupations Article, Annotated Code of Maryland.

(6) Services for the Developmentally Disabled. For individuals provided residential services through the Developmental Disabilities Administration, the center shall incorporate the individual plan (IP) in the development of the individual's plan of care and the activities plan.

(7) Medical Consultation. The center may use specialists on a part-time or consultant basis in:

(a) Psychiatry;

(b) Physiatrics;

(c) Orthopedics; or

(d) Other specialties according to the needs of the participants.

(8) Other Special Services. The center may provide the following services as needed:

- (a) Alcoholism counseling;
- (b) Podiatry;
- (c) Dentistry;
- (d) Nutrition counseling;
- (e) Health education; and
- (f) Other services depending upon need.

B. Consultants.

(1) Except as otherwise provided, when regular employment status, full-time or part-time, is not justified by the needs of the participants, the center may use consultants to meet the service and training needs of the center.

(2) When the center uses the services of a consultant, these services shall be specified in a written agreement that is signed and dated by the consultant and the center director.

10.12.04.17

.17 Medication Services and Policies.

A. Written policies for the center shall specify the individual who is authorized to procure, receive, control, and manage the administration of medications at the center.

B. Medicine or drugs shall be restricted to those prescribed for the participant by the Authorized Prescriber. All medications shall be accurately and plainly labeled and kept in the original container issued by the prescriber or pharmacist except as provided in §F(3) of this regulation. Containers shall be labeled with the:

- (1) Participant's full name;
- (2) Authorized Prescriber
- (3) Prescription number;
- (4) Name of the medication and dosage;

- (5) Date of issuance;
- (6) Expiration date;
- (7) Refill limits;
- (8) Directions for use; and
- (9) Name, address, and telephone number of the pharmacy issuing the drug.

C. Nurses shall not package, repackage, bottle, or label, in whole or in part, any medication in any way by tampering or defacing any labeled medication, except that a nurse may take medications from pharmacy dispensed containers and place the medication in a pill box for the cognitively intact participant who lives independently to self-administer.

D. When a RN or LPN observes an adverse reaction to a medication, the nurse shall immediately call the:

- (1) Participant's health care provider;
- (2) Designee of the participant's health care provider; or
- (3) The health care provider that is on call for the center.

E. Drug Administration and Recording.

- (1) The center shall maintain records of all Schedule II drugs.
- (2) Written Order.
 - (a) Except as provided in §E(2)(b) of this regulation, medications shall not be administered-without a written order that has been signed by the authorized health care provider.
 - (b) Medication may be given based upon a verbal order pending countersignature by the RN, LPN, or health care provider.
- (3) Except as provided in §10.12.04.14 B(2)(c)(iii), only an RN, LPN or authorized health care provider shall give injectable medication.

(4) For those participants who are not capable of self-medicating, the individual assigned the responsibility of administering medications shall prepare the dosage, observe the participant swallowing the oral medication, and document that the participant has taken the medication.

(5) Staff members who are responsible for administering medications shall make a written record of the medications and treatments that are administered.

(6) Orders shall be reviewed and updated in a timely manner, consistent with nursing practice standards, when there is a change in the participant's condition.

F. Drug Storage.

(1) The center shall:

(a) Provide a safe, secure, locked place for medicines or drugs, and for making medications available to a participant according to the instructions of his or her health care provider;

(b) Store Schedule II drugs in a locked box within the medicine cabinet;

(c) Keep medications requiring refrigeration in a separate locked refrigerator or a locked box within a medication refrigerator; and

(d) Store medications and medical supplies in a manner that is secured and apart from participant activity areas, food storage areas, and chemical storage areas.

(2) A licensed nurse shall inspect the drug storage conditions at least every 3 months and document his or her findings.

(3) The center may keep over-the-counter type medications or supplements that can be purchased without prescription, such as aspirin or antacids, for administration as ordered by the participant's practitioner.

10.12.04.18

.18 Orders.

A. Orders concerning medication, treatment, and diet shall be in effect for the specified number of days indicated by the health care provider. If not specified, the period may not exceed 6 months.

B. A licensed nurse shall take verbal medication orders from a Health care provider. The nurse shall immediately write orders into the participant's record, and sign and date the note. The original or faxed medication order shall be included in the medical record within 10 calendar days after the date of the telephone order.

10.12.04.19

.19 First-Aid and Cardiopulmonary Resuscitation.

A. At least one staff member who is trained in first aid and in cardiopulmonary resuscitation (CPR) shall be on-site at the center when participants are in attendance, during outings, medical appointments or during transportation of participants.

B. First aid administered by staff shall be limited to that necessary to preserve life or to prevent further immediate danger.

C. Staff shall receive first aid and CPR training from a certified provider approved by the Department. Recertification shall be obtained according to the guidelines of the certified provider.

D. The center shall have adequate first aid supplies available for treating shock, burns, and small, medium, and large wounds.

E. On a 90 day basis, staff shall inspect first aid supplies in the center and in the vehicle or vehicles used for transporting participants. Expiration dates of supplies and the maintenance of supplies at the required levels shall be included in the inspection. The findings of the inspection shall be documented at least quarterly.

F. Supplies with an expired date shall be replaced immediately.

G. The center shall conspicuously post a chart clearly describing first aid and emergency medical treatment techniques and the names and phone numbers of health care providers, ambulances, and medical facilities to be contacted for emergencies and reporting changes in a participant's condition.

10.12.04.20

.20 Nutrition.

A. The center shall ensure that each participant who is present for 4 or more hours is provided with a meal that meets $\frac{1}{3}$ of the recommended dietary allowance of the Food and Nutrition Board of the National Research Council.

B. The center shall provide snacks consisting of a nourishing food or beverage, or both, to participants.

C. The minimum number of meals and snacks shall be provided as follows:

Hours at Center	Minimum Meals and Snacks	Proportion of RDA
4—6 hours	1 meal and 1 snack	$\frac{1}{3}$ plus
7—8 hours	2 meals and 1 snack or 1 meal and 2 snacks	$\frac{1}{2}$
More than 8 hours	2 meals and 2 snacks	$\frac{2}{3}$

D. A center may prepare food on-site if the center meets the requirements of COMAR 10.15.03.

E. The center shall ensure that food prepared off-site from the center is prepared in a center which meets the requirements of COMAR 10.15.03.

F. Therapeutic diets approved by a registered and licensed dietitian shall be served only as ordered.

G. Staff shall assist participants who may be unable to feed themselves, in accordance with the ADCAPS.

H. A Registered Dietitian shall perform a nutritional assessment for all participants with a potential, or an actual, nutritional deficit.

10.12.04.21

.21 Comprehensive Assessments.

A. The participant shall receive a comprehensive assessment (ADCAPS) that is designed to evaluate the participant's strengths and needs. A Registered Nurse shall complete the initial assessment within

7 days of a participant's admission and every 120 days thereafter as long as there is no change in the participant's condition. The assessment shall include:

- (1) Health status;
- (2) Functional status;
- (3) Participation in activities;
- (4) Nutritional status;
- (5) Psychosocial status; and
- (6) Home management skills.

B. Regardless of the schedule in §A of this regulation, the licensed or certified professional health care provider shall complete a reassessment by the end of the participant's next day of attendance when any significant change in the participant's condition occurs. The practitioner shall perform a follow-up evaluation of any significant change, and document the evaluation in the participant's medical record.

10.12.04.22

.22 Care Planning.

A. There shall be an individualized plan of care completed for each participant within 30 days following admission. The participant shall participate in the development of the plan of care, along with the multidisciplinary team, unless the center documents the reasons why the participant is unable or unwilling to participate. The plan of care shall be consistent with the comprehensive assessment and shall include a problem list. A registered nurse shall update the plan of care within 7 calendar days of a participant's change in status, but not less than semiannually.

B. The participant's plan of care shall be based on the comprehensive assessment that is completed by Registered Nurse, as follows:

- (1) The plan of care shall include:
 - (a) Orders by a Health care provider;

- (b) All pertinent diagnoses;
 - (c) Frequency and types of services required;
 - (d) Treatment goals for each type of service ordered;
 - (e) Rehabilitation, services, and prognosis;
 - (f) Functional and cognitive limitations;
 - (g) Level of activity permitted;
 - (h) Diet;
 - (i) Medication and treatment or treatments;
 - (j) Measurable goals for each problem or need that is identified;
 - (k) Goals that are realistic, practical, and tailored to the desired outcome for the participant; and
 - (l) Approaches to accomplishing each goal.
- (2) The multidisciplinary team shall document all components of the participant's care plan in the participant's medical record;
- (3) The center shall give family members, and others designated by the individual with proper consent or responsible parties, an opportunity to participate in the care plan meeting.

C. Service Contract. A written document signed and dated by the center representative and the participant, or his or her responsible party, shall be provided to each participant before admission specifying the:

- (1) Number of days per week and type of services that are to be provided to the participant;
- (2) Process by which goals are developed for the participant;
- (3) Conditions under which the participant may be discharged; and
- (4) Consent agreements as required for:
 - (a) Transportation;
 - (b) Treatment;
 - (c) Medication administration;

- (d) Off-site activities;
- (e) Photographs for promotional use; and
- (f) Release of medical information.
- (g) In accordance with the participant

D. Attendance and Unscheduled Absences.

(1) Staff shall maintain daily records on each participant's attended days of care. When a participant is absent on a scheduled day, staff shall investigate on the day of the occurrence to learn the reason for the absence and document the reason. The center shall have documentation that absences are reviewed on at least a 30-day basis and that appropriate action has been taken.

(2) Each participant's file shall contain contact information of a responsible party in case of an emergency.

10.12.04.23

.23 Use of Restraints.

A. Policy and Procedures. The center shall have a policy and procedure on the use of any device or medication for the specific purpose of restricting the participant's freedom of motion or movement within the center.

B. A participant has the right to be free of restraints used in violation of this chapter

C. Improper Use of Chemicals or Drugs. Chemicals or drugs may not be used for participants in the following ways:

- (1) In excessive dose, including duplicate drug therapy;
- (2) For excessive duration, without adequate monitoring;
- (3) Without adequate indications for its use; or
- (4) In the presence of adverse consequences which indicate the dose should be reduced or discontinued.

D. Improper Use of Physical Restraints. Participants may not be physically restrained:

- (1) For discipline or convenience; or
- (2) If a restraint is not ordered by a physician to treat the participant's symptoms or medical conditions.

E. Restraint Orders.

- (1) All restraints shall be ordered by a physician and shall specify:
 - (a) The purpose of the restraint;
 - (b) The type of restraint to be used; and
 - (c) The length of time the restraint shall be used.
- (2) A participant shall not have an as-needed restraint order.
- (3) Orders for the use of a restraint shall be time specific.
- (4) A participant shall not remain in a restraint for more than 2 hours without a change in position and toileting opportunity.
- (5) If an order for the use of a restraint is to be continued, the order shall be renewed at least every 7 days by a physician.
- (6) The health care provider shall provide training to staff in the appropriate use of the restraint ordered by the physician.

F. The program shall notify the participant's family or the participant's representative each time a restraint is used.

10.12.04.24

.24 Discharge.

A. Before a center discharges a participant, the center shall formulate a discharge plan, including at least a 30-day written advance notice to the participant or the participant's responsible party, and shall assist the participant in obtaining the resources needed to implement the plan.

B. The 30-day written notice of discharge specified in §A of this regulation is not required when:

- (1) The health or safety of the participant or other individuals in the center would be endangered by the continued presence of the participant;
- (2) The participant has urgent medical needs; or
- (3) There is an emergency requiring less than 30 days notice, in which case the center shall notify the Department of the discharge and the circumstances.

C. In circumstances described in §B(1) or (2) of this regulation, the center shall provide written notice of discharge as soon as practicable before discharge.

D. The center shall document in the participant's discharge summary the reasons for discharge and the center or location to which the participant was discharged.

10.12.04.25

.25 Reports and Actions Required in Unusual Occurrences.

A. The center shall immediately report an occurrence such as a communicable disease or food-borne outbreak, poisoning, death, fire, use of restraints or other unusual incident that threatens the health or safety of any participant or staff member to:

- (1) The Office of Health Care Quality; and
- (2) The local health officer, as required by law.
- (3) Participant
- (4) Family and/Guardian

B. The center shall document the incident in the participant's medical record or the staff member's personnel file, if applicable.

C. Staff shall report cases of abuse, neglect, self-neglect, or exploitation of participants to the:

- (1) Local police;
- (2) Department; and
- (3) Local department of social services.

D. If a participant becomes a danger to self or others the center shall, as appropriate, contact the local emergency system or immediately notify the participant's licensed or certified professional health care provider and the participant's family or caregiver.

E. The center shall comply with the Medicaid Home and Community Based Waiver Reportable Event Policy.

10.12.04.26

.26 Records.

A. Records. The center shall maintain records that are needed to operate the center, as required by the Department, and to document the progress of the participants.

B. Retention. The center shall maintain participants' records for at least 5 years from the date of discharge, except as provided in Health-General Article, §4-403, Annotated Code of Maryland.

C. Confidentiality. The center shall maintain records so that they are accessible only to the director, the staff, emergency personnel, and to funding and monitoring agencies. The center may not discuss or reveal the contents of the records with any persons other than those listed above without the participant's written permission.

Travel directions removed

D. Required Records.

(1) Participant Records. The center shall maintain at least the following information for each participant:

(a) Name, age, sex, address, and telephone number;

(b) Name of the individual to be notified in case of emergency;

(c) Next of kin;

(d) Travel directions if transportation service is provided;

(e) Medicare, Medicaid, or private insurance member enrollment numbers related to health care benefits;

- (f) Name and address of primary care provider, with changes noted and dated when change occurs;
 - (g) Functional assessment with original and revised versions noting participant progress;
 - (h) Assessment of the home environment at the time of intake and as needed, or at change of home address;
 - (i) Individual plan of care;
 - (j) Admission physical and subsequent additional information;
 - (k) Medications and adverse drug reactions; and
 - (l) Accidents.
- (2) Personnel Records. The center shall maintain the following information for each staff member:
- (a) Name, age, sex, address, and telephone number;
 - (b) Educational background;
 - (c) Employment history and notes on references;
 - (d) Performance evaluations and attendance;
 - (e) Individual to be notified in case of emergency;
 - (f) Documentation that the individual is free from tuberculosis, measles, mumps, rubella, and varicella as evidenced by:
 - i. Physician's statement,
 - ii. Positive disease histories (affirmed by employee's signature)
 - iii. Antibody serology's of titer
 - iv. Skin tests, or
 - v. Statement of vaccinations (affirmed by the employee signature)
 - (g) Evidence that the annual influenza vaccine has been advised;
 - (h) Any impairment which would hinder the performance of assigned responsibilities; and;
 - (i) Documentation of a criminal history records check in accordance with Health-General Article, §19-1901, Annotated Code of Maryland;

(j) The official driving record and a copy of a valid driver's license if driving is a condition of employment; and

(k) Copies of written agreements with consultants, including services to be provided.

(3) Volunteer Records. The facility shall urge that volunteers accept annual influenza vaccination and tuberculin testing as considered necessary by the facility.

A. The center shall give appropriate health care information to such volunteers to provide maximum protection to residents.

B. The center shall maintain documentation of the discussion between the center and the volunteer concerning influenza vaccine and tuberculin testing.)

4) Administrative and Fiscal Records. The center shall maintain the following administrative and fiscal records:

(a) Expenditures with substantiating documentation;

(b) Current and projected annual operating budgets, including specific cost allocations and formula for determining projected expenditures, and including accurate per diem costs;

(c) Fee charged, and fee schedule, if appropriate;

(d) Records of in-service training offered by the center;

(e) Current inspection reports from the health and fire departments;

(f) The daily schedule of activities;

(g) Daily menu of meals and snacks served for a 30-day period;

(h) Attendance records; and

(i) Audit reports.

10.12.04.27

.27 Transportation.

A. Transportation. The center shall provide or arrange transportation to enable participants to attend the center and to participate in activity outings, medical appointments, or other participant required services.

B. The center and its staff shall operate vehicles in accordance with all applicable federal, State, and local requirements.

C. A participant may not be in transit for more than 1 hour without an opportunity for a rest stop,

(1) For a period of two years after the final adoption of 10.12.04.14 (A)(1)(a); and

(2) Two years after the final adoption of 10.12.04.14(A)(1)(a), the center shall utilize the ADCAPS to determine the length of time a participant may be in transit without a rest stop.

D. A participant shall not be brought to or left at the center when staff is not present.

E. A participant shall not be left in a vehicle when staff is not present, except when the driver is assisting participants to and from their residences and the driver is within eyesight of the vehicle.

F. Centers shall promote and manage vehicle safety, driver safety, accident control and reporting, and driver corrective action efforts.

G. A driver shall not drop off a participant at home until the participant is met at home or enters the home.

H. A driver shall assist the participant to their home, if such assistance is needed due to the participant's documented mobility limitations.

I. Centers shall provide driver training to all employees who are expected to operate motor vehicles as part of their official responsibilities. The following topics shall be included in the driver training:

(1) Review of State vehicle law;

(2) Approaches for defensive driving; and

(3) Control of aggressive driver behavior.

(4) Center shall assure that activities and field trips are staffed in accordance with participant needs as documented in the ADCAPS.

10.12.04.28

.28 Physical Plant.

A. New Center.

(1) A new center shall be designed, constructed, and maintained according to applicable federal, State and local codes and regulations for building, zoning, fire, food, safety, health and other related codes or ordinances, or both. The center shall also comply with the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq.

(2) Where possible, the center shall be located at street level. If a proposed center will not be located at street level, the licensee shall obtain prior approval from the Department before design work proceeds.

B. Existing Center. Any conversion, alteration, or addition that affects the center's functional structure or participant capacity, shall be constructed in accordance with this chapter, including the regulations that apply to new centers.

C. Multi-Use Facilities.

(1) When a center operates in a multi-use center such as a hospital, nursing home, assisted living program, religious structure, or a school, the center shall have a written agreement regarding the cooperative use of facilities allowing the center adequate separate space during its hours of operation.

(2) Certain spaces may be shared with other groups, such as the kitchen and therapy rooms. Where spaces are to be shared, a written agreement shall govern the use of space.

D. Space.

(1) The center shall have sufficient space to accommodate the full range of program activities and services. The center shall be flexible and adaptable to accommodate a variety of group or individual activities and services, and to protect the privacy of participants receiving services. The Department

may require more than the minimum square footage to ensure that there is space for the center to provide activities and services that meet the needs of the participants.

(2) The center shall have the following minimum square footage requirements for activity space:

- (a) 100 square feet for each of the first five participants; and
- (b) 60 square feet per participant thereafter.

(3) Usable Area. In determining required square footage, only those activity areas commonly used by participants are to be included. Fifty percent of the total usable square footage of kitchen areas shall qualify as activity space if participants use these areas as part of the center's activities programs.

(4) Non-Usable Area. Administrative areas, reception areas, offices, closets, storage rooms, toilets and bathrooms, utility rooms, and passageways shall not be included when calculating the qualifying usable square footage for activities. The actual footprint of finished space shall be what constitutes usable space. This excludes the space between partition walls, and the space between the finished interior wall and the outside of the exterior wall.

(5) The center shall provide the following:

- (a) Private space to permit staff to work effectively and without interruption;
- (b) A large room or access to a large room where all participants can gather and rooms or divided areas for small group activities;
- (c) A designated rest or quiet area to provide visual privacy to isolate participants that become ill or disruptive or who may require rest;
- (d) A separate space where participants, family, caregivers, or staff may have private conversations;
- (e) Adequate space that is located in or adjacent to activity areas or offices for storage of activity and operating supplies.
- (f) Exterior lockable doors; and
- (g) An effective automated device or system to alert staff to participants entering or leaving the building.

(h) The center need not use an automated alert for an exit door when the exit door is staffed by a receptionist or other staff member who views and maintains a log of the participants entering and leaving the center.

10.12.04 29

.29 Emergency Preparedness.

A. The center shall develop an emergency and disaster plan that includes policies and procedures that shall be followed before, during, and after an emergency or disaster, including:

- (1) The safe management of individuals who are receiving services at the adult medical day care center when an emergency occurs;
- (2) Notification of families, staff and licensing authorities regarding the action that will be taken concerning the safety and well-being of the participants;
- 3) Staff coverage, organization, and assignment of responsibilities; and
- (4) The continuity of operations, including procedures to secure access to essential goods, equipment and services to sustain operation.

B. A center is solely responsible for any financial obligation arising from voluntary or mandatory activation of any aspect of the emergency plan developed by the center under this section.

C. This section does not prohibit an adult medical day care center from applying for and receiving reimbursement:

- (1) Under any applicable insurance policy; or
- (2) From any state or federal funds that may be available due to a declared state or federal emergency.

D. For purposes of coordinating local emergency planning efforts a center shall provide access to the emergency plans developed under this section to local organizations for emergency management.

E. The center shall provide OHCQ a contact phone number, providing direct access to the center or center's representative, that shall be available twenty-four hours a day, seven days a week.

F. Evacuation Plans. The center shall conspicuously post individual floor plans with designated evacuation routes on each floor.

G. Orientation and Drills.

(1) The licensee shall:

(a) Orient staff to the emergency and disaster plan and to their individual responsibilities within 24 hours of the commencement of job duties; and

(b) Document completion of the orientation in the staff member's personnel file through the signature of the employee.

(2) Fire Drills.

(a) The center shall conduct fire drills at least quarterly on all shifts.

(b) Documentation. The center shall:

(i) Document completion of each drill; and

(ii) Maintain the documentation on file for a minimum of 2 years.

(3) Semiannual Disaster Drill.

(a) The center shall conduct a semiannual emergency and disaster drill on all shifts during which it practices evacuating participants or sheltering in-place so that each is practiced at least one time a year.

(b) The drills may be conducted via a table-top exercise if the program can demonstrate that moving participants will be harmful to the participants.

(c) Documentation. The center shall:

(i) Document completion of each disaster drill or training session;

(ii) Have all staff who participated in the drill or training sign the document;

(iii) Document any opportunities for improvement as identified as a result of the drill; and

(iv) Keep the documentation on file for a minimum of 2 years.

(4) The licensee shall cooperate with the local emergency management agency in emergency planning, training, and drills and in the event of an actual emergency.

10.12.04.30

.30 Furniture, Furnishings, and Supplies.

A. Furniture.

(1) The furniture in a center shall be:

- (a) Appropriate for use by individuals with disabilities;
- (b) Sturdy and secure so that it cannot easily tip when used for support while walking or seated;
- (c) Designed so that it is used easily by individuals with limited agility, permitting feet to rest on the floor and having armrests; and
- (d) Clean, safe, and in good repair.

(2) The center shall have sufficient furniture for the entire participant population. Straight-backed chairs with armrests shall be available for use by participants during activities and meal times.

(3) The center shall have at least:

- (a) One chair for each participant and each staff member;
- (b) Adequate table space for all participants;
- (c) Reclining lounge chairs, the number to be determined by the needs and numbers of participants; and
- (d) A bed for medical examinations and for temporary holdover for participants who become ill or upset.

B. Furnishings.

(1) Floor Coverings. All rugs and floor coverings shall be secured to the floor to eliminate tripping hazards.

(2) All equipment and furnishings shall be in good condition and safe for use by participants and staff.

C. Equipment and Supplies.

(1) The center shall provide equipment to encourage active participation and group interaction. The materials shall reflect the interests and backgrounds of the participants.

(2) Environmental aids and supplies for activities of daily living shall be provided as required by the participant's needs and the goals of the center.

10.12.04.31

.31 Work Stations.

A. The center shall provide at least one work station for use of nurses, social workers, program assistants, or other appropriate staff and consultants.

B. Work stations shall have sufficient storage space for records and to meet the needs of the center.

10.12.04.32

.32 Infection Control.

There shall be sufficient hand-washing facilities to ensure that employees maintain adequate infection control procedures.

10.12.04.33

.33 Food Service Area.

A. Food, whether prepared on-site or off-site, shall be prepared and served under sanitary conditions, and shall meet the requirements of COMAR 10.15.03.

B. The Department shall approve all plans for the construction and renovation of facilities and equipment in food service areas.

C. All food service areas shall include, at a minimum:

(1) At least one hand-washing sink;

(2) At least one three-compartment sink or one commercial grade dishwashing machine;

(3) Surfaces, floors, walls, cabinets, and counters, that are easily cleanable;

(4) Adequate and separate storage for dry food goods;

- (5) Adequate refrigerated storage for perishable and frozen foods;
- (6) Adequate and separate storage for cleaning products and chemical agents;
- (7) Adequate and separate facilities for housekeeping of the food service area or areas;
- (8) A minimum of one Class ABC fire extinguisher, in or adjacent to all food service area or areas;
- (9) A minimum of one telephone, with posted emergency telephone numbers, close to all food service area or areas; and
- (10) For new construction, a separate entrance for deliveries and removal of refuse, with exterior storage of refuse near the food service area or areas.

D. In centers where food service area or areas are used for activities, the center shall take precautions to prevent participant access to cleaning products and other potentially dangerous utensils or equipment.

10.12.04.34

.34 Bathrooms.

A. General Requirements.

- (1) Bathrooms shall be located not more than 30 feet from the primary activity areas.
- (2) The center shall provide at least one toilet and one hand-washing sink for every 10 participants. Additional toilets and hand-washing sinks may be required based upon the toileting needs of the participants.
- (3) Bathrooms shall be accessible to individuals in compliance with the requirements of the Americans with Disabilities Act of 1990.
- (4) The center shall provide individual paper towels, a trash receptacle, soap, and toilet paper in bathrooms at all times and these supplies and equipment shall be accessible to participants at all times.
- (5) Space and equipment shall be provided in bathrooms, to maintain privacy while cleaning or changing the clothing of participants.

B. Change of Clothes. The center shall make arrangements with the family or residential caregiver to store a set of clothing at the center for use if a participant becomes incontinent during his or her stay at the center.

C. Drinking water may not be obtained from a bathroom.

10.12.04.35

.35 Laundry Facilities.

A. Laundry facilities shall be available on-site for use if a participant's clothing become soiled while he or she is at the center.

B. The area or areas where laundry facilities are located shall be equipped with exhaust ventilation, secure chemical storage, and dryer lint exhaust and control.

C. The center shall maintain laundry facilities in a safe and sanitary manner.

10.12.04.36

.36 Water Supply.

A. Water Supply. A center shall be served by water from an approved public water supply. If an approved public water supply is not available, a private water supply may be used if the Department of the Environment approves the source in accordance with COMAR 26.04.02.

B. Loss of Water Supply. The center shall establish written emergency procedures that enable the center to have water in all essential areas in the event of the loss of the normal water supply.

C. Adequacy of Water Pressure. The water supply shall be adequate in quantity and be delivered under sufficient pressure to satisfactorily serve fixtures in the center. A minimum pressure of 15 pounds per square inch shall be maintained at top floor fixtures during peak demand period.

D. Water Temperature. The water heating equipment shall supply adequate amounts of water as follows:

(1) Washing, bathing, and other personal use, not more than 120°F or less than 100°F; and

(2) Food preparation, in conformance with COMAR 10.15.03.

10.12.04.37

.37 Plumbing and Sewage.

A. Plumbing. All plumbing in a center shall be installed and maintained according to all applicable federal, State, and local building codes and sanitation regulations.

B. Sewage. A center shall be served by an approved public sewage disposal system, if available. If no approved public sewerage system is available, a private sewage disposal system may be used if the Department of the Environment approves the system according to COMAR 26.04.02.

10.12.04.38

.38 Heating, Air Conditioning, and Ventilation.

A. Heating.

(1) The center shall have a properly maintained and operating central heating system that is capable of maintaining 75°F throughout the participants' section of the building.

(2) The heating system shall comply with NFPA 101, Life Safety Code, which is incorporated by reference in COMAR 29.06.01.06, and all applicable State and local codes.

(3) A center may not use space heaters or portable heaters unless approved by the State or local fire authority.

(4) The center shall ensure that all exposed heating pipes, hot water pipes, and radiators are covered or protected to prevent exposure to participants, staff, and visitors.

B. Air Conditioning. The center shall have a properly maintained and operating air conditioning system capable of maintaining a maximum temperature of 81°F throughout the participants' section of the building.

C. Ventilation.

(1) Existing Centers. The center shall ensure that all rooms and areas have sufficient ventilation to prevent excessive heat, steam, condensation, smoke, or other noxious odors. The center shall provide forced mechanical exhaust or an approved equivalent for:

- (a) All bathing compartments;
- (b) Toilet rooms;
- (c) Designated smoking rooms, if applicable; and
- (d) Other rooms, as determined by the Department.

(2) New Centers. In addition to the requirements in §C(1) of this regulation, new centers shall meet the following minimum ventilation rates:

Area	Minimum Air Changes Per Hour
Activities space (room)	4 air changes
Dining space	4 air changes
Physical therapy (activity)	6 air changes
Food preparation (kitchen)	10 air changes
Housekeeping/janitorial	10 air changes
Soiled utility	10 air changes
Toilet room	10 air changes
Bathing room	10 air changes
Smoking room	12 air changes

10.12.04.39

.39 Lighting.

A. The center shall ensure that lighting levels in all areas are appropriate for the type of activity. Glare from windows exposed to direct sunlight shall be kept at a minimum by using window coverings and glare from lights shall be kept at a minimum by using shaded light fixtures.

10.12.04.40

.40 Sanitation.

A. The center shall have sufficient maintenance and housekeeping personnel to assure that the center is clean, orderly, attractive, and safe at all times.

B. The center shall ensure that maintenance and housekeeping activities are completed on a regular basis and according to generally accepted sanitation standards. Maintenance and housekeeping functions may not interfere with the provision of care or the activities program of the center.

C. The center shall develop and implement a written plan for preventive maintenance and repair of the center.

D. Insects and Rodents.

(1) The center shall:

(a) Be maintained free of insects and rodents;

(b) Maintain control measures to prevent infestation by insects and vermin; and

(c) Ensure that all control measures are conducted using approved methods.

(2) The use of pesticides shall be controlled so that participants, staff, and visitors are not exposed to fumes or residues. Application of pesticides shall be scheduled at a time when participants are not in the center.

E. Refuse.

(1) The center shall store refuse in water-tight containers with tight-fitting covers. Containers shall be emptied at frequent intervals and be thoroughly scoured and aired before reuse.

(2) The outside storage area for garbage shall be constructed of impervious materials.

F. Special Medical Waste. The center shall dispose of special medical waste in accordance with all federal, State, and local laws and regulations.

10.12.04.41

.41 Safety.

A. Fire Safety. The center shall comply with the provisions of:

- (1) COMAR 20.06.01;
- (2) NFPA 101 Life Safety Code, which is incorporated by reference in COMAR 29.06.01.06; and
- (3) All other applicable federal, State, and local fire codes and regulations.

B. A center that is located within a licensed nursing home or hospital shall meet the applicable requirements of NFPA 101 Life Safety Code, which is incorporated by reference in COMAR 29.06.01.06.

C. The center shall ensure that a floor plan with evacuation routes from the center is posted in each separate space, room, and corridor of the center.

D. The center shall have at least two well-identified exits. Stairs, ramps, and interior floors shall have nonslip surfaces. Handrails shall be installed on all interior and exterior stairs and ramps. Stairways and hallways shall be well lit and kept free of obstructions.

E. The center shall ensure that drugs, cleaning agents, chemicals, pesticides, and other poisonous products are secured for the safety of the participants, staff, and visitors.

10.12.04.42

.42 Smoking.

A. The center shall have a written policy that indicates whether or not the center permits smoking.

B. If smoking is permitted, the center shall establish and implement smoking policies and procedures that minimize the risk of fire.

C. The smoking policies and procedures shall include at least the following provisions:

(1) The center shall prohibit smoking in any hazardous location and in any room or compartment where flammable liquids, combustible gases, or oxygen are stored;

(2) The center shall designate smoking areas with ashtrays of noncombustible material and safe design;

- (3) Participants shall be supervised at all times while smoking; and
- (4) If the center has an exterior designated smoking area, this area may not be located at the front entrance.

10.12.04.43

.43 Sanctions.

A. If the Department determines that a deficiency or deficiencies exist, the Secretary may impose sanctions against the licensee.

B. The Secretary may impose the following sanctions, as appropriate:

- (1) Direct the licensee to correct the deficiencies in a specific manner or within a specific time frame, or both;
- (2) Require the center to use the services of a management firm that is approved by the Department;
- (3) Mandate staffing patterns that specify the number of personnel or personnel qualifications, or both;
- (4) Appoint a state monitor;
- (5) Restrict the number of participants that a center may admit;
- (6) Impose a civil money penalty;
- (7) Impose emergency suspension of license; and
- (8) Deny or revoke a license.

C. If the Secretary determines that the licensee has violated a condition or requirement of an imposed sanction the Secretary may revoke the license.

D. A licensee that is aggrieved by the imposition of a sanction under §B(4)—(8) or C of this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .52 of this chapter. A licensee that is aggrieved by the imposition of a sanction under §B(2) and (3) of this regulation may request a show cause hearing before the Director of the Office of Health Care Quality to show cause why these remedies should not be enforced.

10.12.04.44

.44 State Monitor.

A. If the Department determines that a deficiency or deficiencies exist, the Department may appoint a State monitor who is qualified on the basis of education and experience to oversee correction of the deficiencies.

B. The duties of the State monitor shall be specified in a written agreement between the Department and the State monitor and shall include, but are not limited to:

(1) Conducting periodic on-site inspections to assess the center's compliance with regulations of this chapter;

(2) Making recommendations to achieve compliance with State regulations; and

(3) Issuing written reports to the Department and the center detailing the findings of the on-site inspections and the status of recommended actions that the center shall complete to achieve compliance.

C. The State monitor shall function for a period of time specified by the Department. The center may request rescission or modification of the duration of the State monitor's appointment at intervals of not less than 120 days from the date of appointment.

D. The State monitor shall not be an employee of the Department.

E. The State monitor's salary shall be:

(1) Paid directly by the center; and

(2) At least equivalent to the prevailing salary paid by centers for an individual with similar education and experience.

10.12.04.45

.45 Mandated Staffing Pattern.

A. When the Department determines that a deficiency or deficiencies exist, the Department shall notify the center of the deficiency or deficiencies and may either:

(1) Mandate a staffing pattern that specifies the number of personnel or personnel qualifications, or both; or

(2) Permit the center the opportunity to correct the deficiencies by a specific date.

B. If the center does not correct the deficiency or deficiencies, the Department has the authority to specify the number of personnel or personnel qualifications, or both.

C. The center shall comply with the Department's mandated staffing pattern and notify the Department, in writing, when the staffing pattern has been implemented.

D. A mandated staffing pattern shall be in effect for the period of time specified by the Department.

A center may request rescission or modification of the staffing pattern at intervals of not less than 60 days from the date of imposition of the staffing pattern.

10.12.04.46

.46 Admission Restriction.

A. If the Secretary determines that a serious health or fire safety deficiency exists in a center, the Secretary immediately may restrict new admissions to the center for not more than a 30-day period.

B. Within 7 days after a request by an aggrieved party, a show cause hearing shall be held before the Director of the Office of Health Care Quality to show cause why the admission restriction was not appropriately imposed.

C. Within 21 days after admissions are restricted, the center shall take steps to correct the deficiency.

D. Unless the Secretary lifts the admissions restriction, within 30 days after admissions are restricted, a hearing shall be held to determine whether the center has taken sufficient measures to correct the deficiency.

E. If the Secretary finds that the deficiency still exists, the Secretary may:

(1) Continue to restrict admissions for not more than three consecutive 30-day periods; or

(2) Revoke the license of the center.

10.12.04.47

.47 Civil Money Penalties.

A. The Secretary may impose a civil money penalty if a deficiency or an ongoing pattern of deficiencies exists in a center.

B. In determining whether a civil money penalty is to be imposed, the Secretary shall consider the following factors:

- (1) The number, nature, and seriousness of the deficiencies;
- (2) The extent to which the deficiency or deficiencies are part of an ongoing pattern during the preceding 24 months;
- (3) The degree of risk to the health, life, or safety of the participants of the center that is caused by the deficiency or deficiencies;
- (4) The efforts made by, and the ability of, the center to correct the deficiency or deficiencies; and
- (5) A center's prior history of compliance.

C. If the Department determines that a deficiency or an ongoing pattern of deficiencies exists, the Department shall notify the center of the deficiency or deficiencies and may:

- (1) Impose a per day civil money penalty until sustained compliance has been achieved;
- (2) Permit the center the opportunity to correct the deficiencies by a specific date; or
- (3) Impose a per instance civil money penalty for each instance of violation.

D. If the Department permits a center the opportunity to correct the deficiencies by a specific date, and the center fails to comply with this requirement, the Department may impose a per day civil money penalty for each day of violation until correction of the deficiency or deficiencies has been verified and sustained compliance has been maintained.

E. If the Department proposes to impose a civil money penalty, the Secretary shall issue an order which shall state the:

- (1) Deficiency or deficiencies on which the order is based;
- (2) Amount of civil money penalties to be imposed; and

(3) Manner in which the amount of civil money penalties imposed was calculated.

F. An order issued pursuant to this regulation shall be void unless issued within 60 days of the inspection or re-inspection at which the deficiency is identified.

10.12.04.48

.48 Amount of Civil Money Penalties.

A. A civil money penalty imposed under this chapter for potential for more than minimal harm deficiencies may not exceed:

- (1) \$3,000 per instance; or
- (2) \$300 per day for an ongoing pattern of deficiencies until the center is in compliance.

B. A civil money penalty imposed under this chapter for actual harm deficiencies may not exceed:

- (1) \$5,000 per instance; or
- (2) \$1,000 per day for an ongoing pattern of deficiencies until the center is in compliance.

C. A civil money penalty imposed under this chapter for a serious and immediate threat may not exceed:

- (1) \$10,000 per instance; or
- (2) \$3,000 per day for an ongoing pattern of deficiencies until the center is in compliance.

D. In setting the amount of a civil money penalty under this chapter, the Secretary shall consider the following factors:

- (1) The number, nature, and seriousness of the deficiencies;
- (2) The degree of risk to the health, life, or safety of the participants of the center caused by the deficiency or deficiencies;
- (3) The efforts made by the center to correct the deficiency or deficiencies;
- (4) Whether the amount of the proposed civil money penalty will jeopardize the financial ability of the center to continue operating as a center; and
- (5) Other factors as justice may require.

E. All civil money penalties collected under this chapter shall be paid into the general fund of the State.

10.12.04.49

.49 Civil Money Penalties - Hearings.

A. A hearing on the appeal shall be held in accordance with the State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

B. The Secretary shall have the burden of proof with respect to the imposition of the civil money penalties under this chapter.

10.12.04.50

.50 Civil Penalties - Unlicensed Center.

A. Imposition of Penalty. The Secretary may impose a civil money penalty on a person who manages or operates an unlicensed center as follows:

(1) A civil money penalty imposed on a person under this chapter may not exceed \$10,000 for each offense; and

(2) When a civil money penalty is imposed, the Secretary shall issue an order which includes the:

(a) Deficiency or deficiencies on which the order is based;

(b) Amount of civil money penalty to be imposed; and

(c) Manner in which the amount of civil money penalty was calculated.

B. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .52 of this chapter.

10.12.04.51

.51 Emergency Suspension.

A. The Secretary may immediately suspend a license on finding that the public health, safety, or welfare imperatively requires emergency action.

B. The Department shall deliver a written notice to the center:

- (1) Informing it of the emergency suspension;
- (2) Giving the reasons for the action and the regulation or regulations with which the licensee has failed to comply that forms the basis for the emergency suspension; and
- (3) Notifying the center of its right to request a hearing and to be represented by counsel.

C. The filing of a hearing request does not stay the emergency action.

D. When a license is suspended by emergency action:

- (1) The center shall immediately return the license to the Department;
- (2) The center shall stop providing adult day care services immediately; and
- (3) The licensee shall notify the participants or representatives of the participants of the suspension and make every reasonable effort to assist them in making other arrangements for adult day care services.

E. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .52 of this chapter.

F. Show Cause Hearing. In addition to the right to request a hearing in accordance with Regulation .52 of this chapter, a person aggrieved by the action of the Secretary under this regulation shall be provided with the opportunity for a hearing to show cause why the Department should lift the summary suspension.

G. If requested in writing, the show cause hearing shall be held promptly within a reasonable time after the effective date of the order of summary suspension. The time limit for filing an appeal with the Office of Administrative Hearings to obtain an evidentiary hearing shall be tolled by the filing of a request for a show cause hearing.

H. The show cause hearing shall be a non-evidentiary hearing to provide the parties with an opportunity for oral argument on the summary suspension.

I. The show cause hearing shall be conducted before the Secretary or a designee of the Secretary, who:

- (1) Shall determine procedural issues;
- (2) May impose reasonable time limits on each party's oral argument; and
- (3) Shall make rulings reasonably necessary to facilitate the effective and efficient operation of the show cause hearing.

J. At the conclusion of the show cause hearing, the Secretary or the Secretary's designee may:

- (1) Affirm the order of summary suspension;
- (2) Rescind the order of summary suspension;
- (3) Enter into a consent order; or
- (4) Enter into an interim order warranted by the circumstances of the case, including one providing for a stay of the summary suspension subject to certain conditions.

K. After the show cause hearing, if the Secretary or the Secretary's designee decides to continue the summary suspension, the person aggrieved by the decision may request an evidentiary hearing before the Office of Administrative Hearings in accordance with Regulation .52 of this chapter.

L. The Office of Administrative Hearings shall conduct a hearing as provided in Regulation .52 of this chapter and issue a proposed decision within the time frames set forth in COMAR 28.02.01.

Exceptions may be filed by an aggrieved person pursuant to COMAR 10.01.03. The Secretary shall make a final decision pursuant to COMAR 10.01.03.

M. If the Secretary's final decision does not uphold the emergency suspension, the center may resume operation.

10.12.04.52

.52 Denial or Revocation of License.

A. Denial or Revocation of License. The Secretary, for cause shown, shall notify the center of its decision to deny or revoke the center's license. The denial or revocation shall be stayed if a hearing is requested.

B. The Department shall notify the center in writing of the following:

- (1) The effective date of the denial or revocation;
- (2) The reason for the denial or revocation;
- (3) The regulations with which the licensee has failed to comply that form the basis for the denial or revocation;
- (4) That the center is entitled to a hearing if requested, and to be represented by counsel;
- (5) That the center shall stop providing services on the effective date of the denial or revocation if the center does not request a hearing;
- (6) That the denial or revocation shall be stayed if a hearing is requested; and
- (7) That the center is required to surrender its license to the Department if the denial or revocation is upheld.

C. The licensee shall notify the participants or participants' representatives of any final denial or revocation and make every reasonable effort to assist them in making other arrangements for adult day care.

D. A person aggrieved by the action of the Secretary under this regulation may appeal the Secretary's action by filing a request for a hearing in accordance with Regulation .52 of this chapter.

10.12.04.53

.53 Hearings.

A. A request for a hearing shall be filed with the Office of Administrative Hearings, with a copy to the Office of Health Care Quality of the Department, not later than 30 days after receipt of notice of the Secretary's action. The request shall include a copy of the Secretary's action.

B. A hearing requested under this chapter shall be conducted in accordance with State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland, and COMAR 28.02.01 and 10.01.03.

C. The burden of proof is as provided in COMAR 10.01.03.28.

D. Unless otherwise stated in this chapter, the Office of Administrative Hearings shall issue a proposed decision within the time frames set forth in COMAR 28.02.01.

E. The aggrieved person may file exceptions as provided in COMAR 10.01.03.35.

F. A final decision by the Secretary shall be issued in accordance with COMAR 10.01.03.35.

END NEW

Joshua M. Sharfstein, M.D
Secretary of Health and Mental Hygiene

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