

ADMINISTRATIVE RULES FOR PROVIDERS OF ADULT DAY CARE

100 DEFINITIONS

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

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

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

ADA - The Americans with Disabilities Act.

ADULT DAY CARE PROGRAM - Adult Day Care (ADC) is a program which provides care and supervision to meet the needs of four (4) or more functionally impaired adults for periods of less than twenty-four, but more than two hours per day in a place other than the adult's own home.

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

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

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

CONTACT DAYS - Contact days means the number of days the client actually attended the Adult Day Care facility.

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

DEPARTMENT - The ~~division within the~~ Department of ~~Health and~~ Human Services that has the responsibility for the licensure, and certification, and regulation of long term care facilities.

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

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

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

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

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

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

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

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

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

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

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

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

LONG-TERM CARE FACILITY- shall have the same meaning as prescribed by Ark. Code Ann. § 12-12-1703. Per Ark. Code Ann. §20-10-101(10)(B), a long-term care facility does not include an Adult Day Care Program that provides care and supervision to meet the needs of twelve (12) or fewer functionally impaired adults at any time in a place other than the adult's home, or an Adult Day Care Program that provides services to clients for four (4) hours or less per day for no more than two (2) days per week.

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

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

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

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

NON-COMPLIANCE – Any violation of these ~~rules~~ regulations, or of applicable laws ~~s. or regulations~~.

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

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

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

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

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

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

PROGRAM DIRECTOR – The person responsible for the operation of the program.

PROGRAM REQUIREMENTS – The requirements for participation and licensure under these and other applicable ~~rules~~regulations and laws as an Adult DayCare Facility.

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

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 677

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO AMEND THE DEFINITION OF "LONG-TERM CARE
FACILITY"; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DEFINITION OF "LONG-TERM
CARE FACILITY".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-10-101(10)(B), concerning the definition
of "long-care facility", is amended to read as follows:

(B) "Long-term care facility" does not include an adult
day care program that:

(i) Provides care and supervision to meet the needs
of twelve (12) or fewer functionally impaired adults at any time in a place
other than the adult's home;

(ii) Provides services to clients for periods of
four (4) hours or less per day for ~~only one (1) day~~ no more than two (2) days
per week;

(iii) Designates an individual to act as the program
director to have responsibility for the operation of the program;

(iv) Posts a notice in eighteen-point type that:

(a) Is located at or near the main entrance to
the structure in which the program operates;

(b) Lists the name and contact information of
the program director;

(c) Lists the name and the contact telephone



1 number for the Adult Protective Services Unit of the Department of Human
2 Services; and

3 (d) Lists the name and the contact telephone
4 number for the Office of Long-Term Care;

5 (v) Operates in a building or structure that is at
6 all times in compliance with safety code requirements as determined by the
7 local fire authority; and

8 (vi) Operates in accordance with the Alzheimer's
9 Association Dementia Care Practice Recommendations or similarly nationally
10 recognized standards for the treatment and care of individuals with
11 Alzheimer's disease or related dementia, as in existence on January 1, 2009;

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14 **APPROVED: 4/26/21**
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