

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Provider Services & Quality Assurance

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Statutory Authority for Promulgating Rules Arkansas Code §§ 20-76-201, 20-77-107, and 25-10-129

Rule Title: Definition of Long-Term Care Facility

Intended Effective Date
(Check One)

Date

☐ Emergency (ACA 25-15-204)

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Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

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May 20, 2022

Contact Person

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Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

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Director, Division of Provider Services & Quality Assurance

Title

May 20, 2022

Date

ADMINISTRATIVE RULES FOR PROVIDERS OF ADULT DAY CARE

100 DEFINITIONS

As used in these rules the following definitions shall apply unless the context clearly states otherwise. Where these rules 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 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 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 and laws.

DEPARTMENT - The division within the Department of Human Services that has the responsibility for the licensure and certification 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 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.

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.

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. 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 or of applicable laws.

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 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 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 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 Department to determine an Adult Day Care facility's compliance with program requirements and with applicable rules and laws.