

ASSISTED CARE COMMUNITIES
PART III
ADULT DAY CARE CENTERS
(ss. 429.90-429.931)

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429.90 Purpose.—The purpose of this part is to develop, establish, and enforce basic standards for adult day care centers in order to assure that a program of therapeutic social and health activities and services is provided to adults who have functional impairments, in a protective environment that provides as noninstitutional an atmosphere as possible.

History.—s. 1, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 1, 17, ch. 93-215; s. 4, ch. 2006-197.

Note.—Former s. 400.55.

429.901 Definitions.—As used in this part, the term:

(1) “Adult day care center” or “center” means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.

- (2) “Agency” means the Agency for Health Care Administration.
- (3) “Basic services” include, but are not limited to, providing a protective setting that is as noninstitutional as possible; therapeutic programs of social and health activities and services; leisure activities; self-care training; rest; nutritional services; and respite care.
- (4) “Department” means the Department of Elderly Affairs.
- (5) “Multiple or repeated violations” means 2 or more violations that present an imminent danger to the health, safety, or welfare of participants or 10 or more violations within a 5-year period that threaten the health, safety, or welfare of the participants.
- (6) “Operator” means the licensee or person having general administrative charge of an adult day care center.
- (7) “Owner” means the licensee of an adult day care center.
- (8) “Participant” means a recipient of basic services or of supportive and optional services provided by an adult day care center.
- (9) “Supportive and optional services” include, but are not limited to, speech, occupational, and physical therapy; direct transportation; legal consultation; consumer education; and referrals for followup services.

History.—s. 2, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 2, 17, ch. 93-215; s. 55, ch. 95-418; s. 4, ch. 2006-197; s. 165, ch. 2007-230.

Note.—Former s. 400.551.

429.903 Applicability.—Any facility that comes within the definition of an adult day care center which is not exempt under s. 429.905 must be licensed by the agency as an adult day care center.

History.—s. 3, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 3, 17, ch. 93-215; s. 4, ch. 2006-197; s. 105, ch. 2007-5.

Note.—Former s. 400.552.

429.905 Exemptions; monitoring of adult day care center programs colocated with assisted living facilities or licensed nursing home facilities.—

- (1) The following are exempt from this part:

(a) Any facility, institution, or other place that is operated by the Federal Government or any agency thereof.

(b) Any freestanding inpatient hospice facility that is licensed by the state and which provides day care services to hospice patients only.

(2) A licensed assisted living facility, a licensed hospital, or a licensed nursing home facility may provide services during the day which include, but are not limited to, social, health, therapeutic, recreational, nutritional, and respite services, to adults who are not residents. Such a facility need not be licensed as an adult day care center; however, the agency must monitor the facility during the regular inspection and at least biennially to ensure adequate space and sufficient staff. If an assisted living facility, a hospital, or a nursing home holds itself out to the public as an adult day care center, it must be licensed as such and meet all standards prescribed by statute and rule.

History.—s. 4, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; s. 6, ch. 88-235; ss. 4, 17, ch. 93-215; s. 20, ch. 95-210; s. 4, ch. 2006-197.

Note.—Former s. 400.553.

429.907 License requirement; fee; exemption; display.—

(1) The requirements of part II of chapter 408 apply to the provision of services that require licensure pursuant to this part and part II of chapter 408 and to entities licensed by or applying for such licensure from the Agency for Health Care Administration pursuant to this part. A license issued by the agency is required in order to operate an adult day care center in this state.

(2)(a) Except as otherwise provided in this subsection, separate licenses are required for centers operated on separate premises, even though operated under the same management. Separate licenses are not required for separate buildings on the same premises.

(b) If a licensed center becomes wholly or substantially unusable due to a disaster or due to an emergency as those terms are defined in s. 252.34:

1. The licensee may continue to operate under its current license in premises separate from that authorized under the license if the licensee has:

a. Specified the location of the premises in its comprehensive emergency management plan submitted to and approved by the applicable county emergency management authority; and

b. Notified the agency and the county emergency management authority within 24 hours of operating in the separate premises.

2. The licensee shall operate the separate premises only while the licensed center's original location is substantially unusable and for up to 180 days. The agency may extend use of the alternate premises beyond the initial 180 days. The agency may also review the operation of the disaster premises quarterly.

(3) In accordance with s. 408.805, an applicant or licensee shall pay a fee for each license application submitted under this part and part II of chapter 408. The amount of the fee shall be established by rule and may not exceed \$150.

(4) County-operated or municipally operated centers applying for licensure under this part are exempt from the payment of license fees.

History.—s. 5, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 5, 17, ch. 93-215; s. 4, ch. 2006-197; s. 2, ch. 2007-219; s. 166, ch. 2007-230; s. 119, ch. 2008-4; s. 344, ch. 2011-142.

Note.—Former s. 400.554.

429.909 Application for license.—In addition to all provisions of part II of chapter 408, the applicant for licensure must furnish a description of the physical and mental capabilities and needs of the participants to be served and the availability, frequency, and intensity of basic services and of supportive and optional services to be provided and proof of adequate liability insurance coverage.

History.—s. 6, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 6, 17, ch. 93-215; s. 50, ch. 98-171; s. 4, ch. 2006-197; s. 106, ch. 2007-5; s. 167, ch. 2007-230.

Note.—Former s. 400.555.

429.911 Denial, suspension, revocation of license; emergency action; administrative fines; investigations and inspections.—

(1) The agency may deny, revoke, and suspend a license under this part, impose an action under s. 408.814, and impose an administrative fine against the owner of an adult day care center or its operator or employee in the manner provided in chapter 120 for the violation of any provision of this part, part II of chapter 408, or applicable rules.

(2) Each of the following actions by the owner of an adult day care center or by its operator or employee is a ground for action by the agency against the owner of the center or its operator or employee:

(a) An intentional or negligent act materially affecting the health or safety of center participants.

(b) A violation of this part or of any standard or rule under this part or part II of chapter 408.

(c) Failure to comply with the background screening standards of this part, s. 408.809(1), or chapter 435.

(d) Failure to follow the criteria and procedures provided under part I of chapter 394 relating to the transportation, voluntary admission, and involuntary examination of center participants.

(e) Multiple or repeated violations of this part or of any standard or rule adopted under this part or part II of chapter 408.

(3) The agency is responsible for all investigations and inspections conducted pursuant to this part and s. 408.811.

History.—s. 7, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 7, 17, ch. 93-215; s. 40, ch. 96-169; s. 51, ch. 98-171; s. 143, ch. 98-403; s. 16, ch. 2004-267; ss. 4, 63, ch. 2006-197; s. 168, ch. 2007-230; s. 32, ch. 2010-114.

Note.—Former s. 400.556.

429.913 Administrative fines.—

(1)(a) In addition to the requirements of part II of chapter 408, if the agency determines that an adult day care center is not operated in compliance with this part or with rules adopted under this part, the agency, notwithstanding any other administrative action it takes, shall make a reasonable attempt to discuss with the owner each violation and recommended corrective action prior to providing the owner with written notification. The agency may request the submission of a corrective action plan for the center which demonstrates a good faith effort to remedy each violation by a specific date, subject to the approval of the agency.

(b) The owner of a center or its operator or employee found in violation of this part, part II of chapter 408, or applicable rules may be fined by the agency. A fine may not exceed \$500 for each violation. In no event, however, may such fines in the aggregate exceed \$5,000.

(c) The failure to correct a violation by the date set by the agency, or the failure to comply with an approved corrective action plan, is a separate violation for each day such failure continues, unless the agency approves an extension to a specific date.

(2) In determining whether to impose a fine and in fixing the amount of any fine, the agency shall consider the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or emotional harm to a participant will result or has resulted, the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated.

(b) Actions taken by the owner or operator to correct violations.

(c) Any previous violations.

(d) The financial benefit to the center of committing or continuing the violation.

History.—ss. 64, 83, ch. 83-181; ss. 8, 17, ch. 93-215; s. 4, ch. 2006-197; s. 169, ch. 2007-230.

Note.—Former s. 400.5565.

429.915 Conditional license.—In addition to the license categories available in part II of chapter 408, the agency may issue a conditional license to an applicant for license renewal or change of ownership if the applicant fails to meet all standards and requirements for licensure. A conditional license issued under this subsection must be limited to a specific period not exceeding 6 months, as determined by the agency, and must be accompanied by an approved plan of correction.

History.—s. 8, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 9, 17, ch. 93-215; s. 52, ch. 98-171; s. 27, ch. 2003-57; s. 4, ch. 2006-197; s. 107, ch. 2007-5; s. 170, ch. 2007-230.

Note.—Former s. 400.557.

429.917 Patients with Alzheimer’s disease or other related disorders; staff training requirements; certain disclosures.—

(1) An adult day care center licensed under this part must provide the following staff training:

- (a) Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders.
- (b) In addition to the information provided under paragraph (a), newly hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete initial training of at least 1 hour within the first 3 months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.
- (c) In addition to the requirements of paragraphs (a) and (b), an employee who will be providing direct care to a participant who has Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in activities of daily living, and instruction in skills for working with families and caregivers.
- (d) For certified nursing assistants, the required 4 hours of training shall be part of the total hours of training required annually.
- (e) For a health care practitioner as defined in s. 456.001, continuing education hours taken as required by that practitioner's licensing board shall be counted toward the total of 4 hours.
- (f) For an employee who is a licensed health care practitioner as defined in s. 456.001, training that is sanctioned by that practitioner's licensing board shall be considered to be approved by the Department of Elderly Affairs.
- (g) The Department of Elderly Affairs or its designee must approve the 1-hour and 3-hour training provided to employees and direct caregivers under this section. The department must consider for approval training offered in a variety of formats. The department shall keep a list of current providers who are approved to provide the 1-hour and 3-hour training. The department shall adopt rules to establish standards for the employees who are subject to this training, for the trainers, and for the training required in this section.
- (h) Upon completing any training described in this section, the employee or direct caregiver shall be issued a certificate that includes the name of the training provider, the topic covered, and the date and signature of the training provider. The certificate is evidence of completion of training in the identified topic, and

the employee or direct caregiver is not required to repeat training in that topic if the employee or direct caregiver changes employment to a different adult day care center or to an assisted living facility, nursing home, home health agency, or hospice. The direct caregiver must comply with other applicable continuing education requirements.

(i) An employee who is hired on or after July 1, 2004, must complete the training required by this section.

(2) A center licensed under this part which claims that it provides special care for persons who have Alzheimer's disease or other related disorders must disclose in its advertisements or in a separate document those services that distinguish the care as being especially applicable to, or suitable for, such persons. The center must give a copy of all such advertisements or a copy of the document to each person who requests information about the center and must maintain a copy of all such advertisements and documents in its records. The agency shall examine all such advertisements and documents in the center's records as part of the license renewal procedure.

History.—s. 4, ch. 93-105; s. 3, ch. 2003-271; s. 4, ch. 2006-197.

Note.—Former s. 400.5571.

429.919 Background screening.—The agency shall require level 2 background screening for personnel as required in s. 408.809(1)(e) pursuant to chapter 435 and s. 408.809.

History.—ss. 53, 71, ch. 98-171; s. 83, ch. 2000-349; s. 25, ch. 2001-53; s. 2, ch. 2001-67; s. 148, ch. 2001-277; s. 49, ch. 2004-267; ss. 4, 64, ch. 2006-197; s. 108, ch. 2007-5; s. 171, ch. 2007-230; s. 33, ch. 2010-114.

Note.—Former s. 400.5572.

429.925 Discontinuance of operation of adult day care centers.—In addition to the requirements of part II of chapter 408, before operation of an adult day care center may be voluntarily discontinued, the operator must, at least 60 days before the discontinuance of operation, inform each participant of the fact and the proposed date of discontinuance of operation.

History.—s. 10, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 12, 17, ch. 93-215; s. 4, ch. 2006-197; s. 174, ch. 2007-230.

Note.—Former s. 400.559.

429.927 Right of entry and inspection.—In accordance with s. 408.811, the agency or department has the right to enter the premises of any adult day care center licensed pursuant to this part, at any reasonable time, in order to determine the state of compliance with this part, part II of chapter 408, and applicable rules.

History.—s. 11, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 13, 17, ch. 93-215; s. 4, ch. 2006-197; s. 175, ch. 2007-230.

Note.—Former s. 400.56.

429.929 Rules establishing standards.—

(1) The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. The Department of Elderly Affairs, in conjunction with the agency, shall adopt rules to implement the provisions of this part. The rules must include reasonable and fair standards. Any conflict between these standards and those that may be set forth in local, county, or municipal ordinances shall be resolved in favor of those having statewide effect. Such standards must relate to:

(a) The maintenance of adult day care centers with respect to plumbing, heating, lighting, ventilation, and other building conditions, including adequate meeting space, to ensure the health, safety, and comfort of participants and protection from fire hazard. Such standards may not conflict with chapter 553 and must be based upon the size of the structure and the number of participants.

(b) The number and qualifications of all personnel employed by adult day care centers who have responsibilities for the care of participants.

(c) All sanitary conditions within adult day care centers and their surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance of sanitary conditions, to ensure the health and comfort of participants.

(d) Basic services provided by adult day care centers.

(e) Supportive and optional services provided by adult day care centers.

(f) Data and information relative to participants and programs of adult day care centers, including, but not limited to, the physical and mental capabilities and needs of the participants, the availability, frequency, and intensity of basic

services and of supportive and optional services provided, the frequency of participation, the distances traveled by participants, the hours of operation, the number of referrals to other centers or elsewhere, and the incidence of illness.

(g) Components of a comprehensive emergency management plan, developed in consultation with the Department of Health, the Agency for Health Care Administration, and the Division of Emergency Management.

(2) Pursuant to this part, s. 408.811, and applicable rules, the agency may conduct an abbreviated biennial inspection of key quality-of-care standards, in lieu of a full inspection, of a center that has a record of good performance. However, the agency must conduct a full inspection of a center that has had one or more confirmed complaints within the licensure period immediately preceding the inspection or which has a serious problem identified during the abbreviated inspection. The agency shall develop the key quality-of-care standards, taking into consideration the comments and recommendations of the Department of Elderly Affairs and of provider groups. These standards shall be included in rules adopted by the Department of Elderly Affairs.

History.—ss. 13, 18, ch. 78-336; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 14, 17, ch. 93-215; s. 56, ch. 95-418; s. 61, ch. 2001-45; s. 4, ch. 2006-197; s. 176, ch. 2007-230; s. 345, ch. 2011-142.

Note.—Former s. 400.562.

429.931 Construction and renovation; requirements.—The requirements for the construction and the renovation of a center must comply with the provisions of chapter 553 which pertain to building construction standards, including plumbing, electrical code, glass, manufactured buildings, accessibility by physically handicapped persons, and the state minimum building codes.

History.—s. 14, ch. 78-336; s. 4, ch. 79-152; s. 2, ch. 81-318; ss. 79, 83, ch. 83-181; ss. 15, 17, ch. 93-215; s. 4, ch. 2006-197.

Note.—Former s. 400.563.