HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 9 ADULT AND COMMUNITY CARE PROGRAMS

CHAPTER 1424

LICENSING OF ADULT DAY CARE CENTERS

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Historical Note: Chapter 17-1424 is based substantially upon chapter 17-882. [Eff 7/19/82; R 6/29/92]

§17-1424-1 Department's responsibility. (a) The department shall recruit and license adult day care centers for disabled adults.

(b) This chapter establishes the standards which shall be applied by the department in granting a certificate of approval to operate an adult day care center for disabled adults.

(c) The standards shall not apply to any center or facility conducted solely for the purpose of education, social or recreational activities, or that is licensed by the state department of health as an adult day health facility. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-2 Definitions. For the purpose of this chapter:

"Adult day care center" or "center" means a licensed facility maintained and operated by an individual, organization, or agency for the purpose of providing regular supportive care to four or more disabled adult participants, with or without charging a fee.

"Applicant" means an individual, organization, or agency that has submitted an application to the department for a certificate of approval to operate an adult day care center.

"Certificate of approval" means a license issued by the department authorizing the operation of an adult day care center.

"Director," "administrator," or "operator of the center" means the person responsible to develop and to administer the adult day care center program.

"Disabled adult" means the adult living alone, or living with a spouse, relative, or friend who is unable to function independently and is in need of regular protective and supportive care.

"Licensee" means the person or organization which holds the certificate of approval to operate an adult day care center.

"Participant" means a disabled adult who is enrolled at an adult day care center.

"Regular care" means care of disabled adult participants which occurs at fixed or uniform intervals, thus excluding temporary, occasional, or casual care.

"Staff member" means any employee of the adult day care center who participates regularly in the care of the disabled adult participants.

"Standard" means the requirements established in

this chapter that must be fulfilled for the issuance of a certificate of approval by the department authorizing the operation of an adult day care center.

"Supportive care" means provision of a supportive environment, personal care, supervision, and opportunities for social and psychological stimulation to help prevent social and psychological deterioration.

"Volunteer worker" means a person who gives time and services regularly without compensation. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-3 Application for certificate of approval. (a) Any individual, organization, or agency desiring to operate an adult day care center shall submit an application to the department for a certificate of approval.

(b) The application shall be considered complete when it includes:

(1) A signed departmental application form;
(2) A written statement of services and operating policies of the applicant's proposed center;
(3) Information relating to the applicant's proposed center's organization and administration;
(4) Information on the number of staff members and the staff member's duties, educational background, and work experiences;
(5) Floor plans of the applicant's proposed center and its location on the property; and
(6) Reports of compliance with applicable county building and zoning codes, fire codes, and state sanitation requirements.

(c) The date of application shall be the date a complete application is received by the department. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-4 Inspection of center. (a) The department shall arrange for the inspection of a center or proposed center by the respective county's building department, county fire department, and, as appropriate, the state department of health to determine whether the center or proposed center meets the standards.

(b) Reports of the building, fire, and sanitation

inspections shall be kept on file by the department. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-4.1 Disposition of application. (a) The department shall dispose of an application for a certificate of approval no later then sixty days from the date of application.

(b) The department shall dispose of an application by taking one of the following actions:

(1) An applicant shall be determined eligible for a certificate of approval when it is clearly established and recorded that the applicant meets all the standards for the issuance of a certificate of approval to operate an adult day care center; or

(2) An applicant shall be determined ineligible for a certificate of approval when it is clearly established and recorded that the applicant does not meet the standards for the operation of an adult day care center.

(c) When the department does not dispose of an application by the sixtieth day from the date of application, the applicant shall be issued a temporary certificate of approval as provided in section 17-1424-5(b). The issuance of this temporary certificate of approval does not constitute a final disposition. The application shall be processed and a disposition shall be made as soon as possible. [Eff 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83; HRS §91-13.5)

§17-1424-5 Temporary certificate of approval. (a) A center with minor deficiencies may be issued a temporary certificate of approval for a period up to three months if the center is temporarily unable to conform to all the standards. "Minor deficiencies" mean deficiencies which do not involve risk to life, health, or safety of the center participants. The center shall notify the department in writing of its plans, including time needed, to correct the deficiencies to conform to the standards.

(1) When necessary action has been initiated to conform to the standards and additional time is required to correct the minor deficiencies, the center shall be granted an extension of three months.

(2) A final three-month extension shall be granted when circumstances beyond the control of the center result in the center's inability to correct the deficiencies. Circumstances beyond the control of the center may include situations such as a strike which may affect the workers' ability to correct the deficiencies or to obtain equipment needed to repair or replace the deficiencies.

(3) At the expiration of the extension period under paragraph (1) or (2), the temporary certificate of approval shall be revoked and the center operation shall be terminated.

(b) A temporary certificate of approval shall be issued by the department to the applicant whose application is not disposed of by the sixtieth day of the date of application. The temporary certificate of approval shall be effective from the sixty-first day and shall remain in effect until the department makes a final disposition on the application. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-43) (Imp: HRS §346-83)

§17-1424-6 Issuance of certificate of approval. (a) A license to operate the adult day care center shall be issued by the department in the form of a certificate of approval when the department's evaluation of the complete application indicates that the center is in compliance with the standards in this chapter.

(b) The department shall issue a certificate of approval that shall be valid for not more than twenty-four months.

(c) The certificate of approval shall specify the name of the center, its address, the maximum number of adults for whom the center is licensed to provide care, and the period during which the center is licensed.

(d) The center shall post the certificate of approval in a prominent location at all times.

(e) The certificate of approval shall be non-transferable when the individual, organization, or agency to whom it is issued ceases to operate the center.

(f) The certificate of approval shall be subject to review when any change occurs in a center's:

(1) Physical facilities or location; or

(2) Operating policies. [Eff 6/29/92; am 8/5/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-7 REPEALED. [Eff 6/29/92; R 10/04/01]

§17-1424-8 Renewal of certificate of approval. (a) At least thirty days prior to the expiration date of the current certificate of approval, the center shall apply for renewal of its certificate of approval by completing the application form, and attaching a statement of services and operating policies of the center and information on staff members and their duties.

(b) A reevaluation of the center shall be conducted by the department to determine whether the center continues to comply with the standards.

(c) When the department's evaluation report indicates compliance with the standards, a certificate of approval shall be issued as provided in section 17-1424-6. [Eff 6/29/92; am 8/5/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-9 Suspension, revocation, and discontinuance of certificate of approval. (a) When a center does not meet the standards under which a certificate of approval was granted, the department shall notify the center in writing of its noncompliance. The written notification shall state the specific violations and shall give the center a minimum of thirty-three days from the date of the mailing of the notice to make the necessary corrections.

(1) If a center fails to make the necessary corrections within the stated time limit after the notice is given, the certificate of approval shall be suspended or revoked by the department.

(2) The department may issue a temporary certificate of approval as provided in section 17-1424-5 while the necessary corrections are being made.

(b) The immediate suspension of the certificate

of approval shall be ordered when conditions exist which constitute imminent danger to life, health, or safety of center participants.

(c) When a center intends to discontinue operations, it shall notify the department in writing at least thirty days in advance of its intended actions. [Eff 6/29/92; am 8/05/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-10 Appeals and hearings. (a) Any center whose certificate of approval is to be suspended or revoked shall be given written notice addressed to the center's last known mailing address.

(b) The notice shall contain a statement of the reasons for the proposed action and shall inform the licensee of the right to appeal the decision to the director of the department in writing, within ten working days after the mailing of the notice of the proposed action.

(c) The director of the department shall give a written acknowledgement of the receipt of the appeal to the licensee. The acknowledgement shall be given no later then fifteen calendar days following the receipt of the timely written appeal. The department shall provide an opportunity for a prompt hearing before a departmental hearing officer with respect to the proposed action. On the basis of the evidence adduced at the hearing, the hearing officer shall make the final decision of the department as to whether the certificate of approval shall be suspended or revoked.

(d) If no timely written appeal is made, the certificate of approval shall be suspended or revoked as of the termination of the ten day period. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-11 Administration. (a) Each center shall have a director responsible for the total program of the center. The duties and responsibilities of staff members shall be clearly defined and individuals exercising administrative authority shall be specifically identified.

(b) Each center shall have a written statement of operating policies that shall include:

(1) The name and address of the center;

(2) The name of the individual, organization, or sponsoring agency that operates the center;
(3) Admission policies of the center;
(4) Maximum number of adults for whom the center is equipped to provide services;
(5) Specific hours of operation and whether meals are served or whether transportation is provided;
(6) Fees charged by the center;
(7) Policy and plans for routine and emergency medical care for participants; and
(8) Program of the center and services provided.
(c) Each center shall keep the following records:
(1) A list of current staff members, including the staff members' training, work and other related experiences, and health records, as provided in section 17-1424-12;
(2) Daily schedule of activities;
(3) Daily menu, if meals are served;
(4) Emergency information on each participant including:
(A) The name of the family physician of the participant;
(B) Where next of kin or other relatives may be located; and
(C) Written consent to call another physician when the participant's regular physician cannot be contacted;
(5) A list of participants who attend the center;
(6) The record of attendance of the participants;
(7) Completed application forms for each participant; and
(8) A health record for each participant.
(d) A staff member shall receive all participants upon the participants' arrival at the center.
(e) Each center shall have comprehensive liability insurance coverage. [Eff 6/29/92; am 8/5/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-12 Personnel and staffing. (a) A director's responsibilities shall include:
(1) Possession of basic knowledge and training or experiences in caring for disabled adults;
(2) Responsibility for the overall administration of the center and arrangement for adequate care of the participants; and

(3) Designation of a staff member to be responsible for administration, whenever the director is absent for any part of the day.

(b) Each center shall have staff members who are:

(1) Capable of providing supervision to the number of participants at the center at all times. The staff-participant ratio shall be one regular staff member to six participants. This ratio may include the director of the facility. Volunteer workers shall not be included in the staff-participant ratio;

(2) Mature, responsible persons. Staff members shall be capable of handling emergencies and accidents. Staff members shall have attributes and the ability to understand the disabled person;

(3) Currently certified in first aid and cardiovascular pulmonary resuscitation (CPR). At least one staff member currently certified in first aid and CPR training shall:

(A) Be at the center while participants are present; and

(B) Accompany participants on field trips; and

(4) In good physical and mental health as evidenced by results of a complete health examination by a licensed physician and obtained within one year prior to initial hire, and annually thereafter. The examination shall include a tuberculosis clearance that complies with department of health guidelines. All required examination reports shall be maintained at the center, available for review by department staff.

(c) All volunteer workers shall be required to have a tuberculosis clearance that complies with department of health guidelines, obtained within one year prior to starting volunteer work. In addition, the volunteer worker who works ten or more hours per week shall be required to provide to the center a complete health examination report obtained within one year prior to starting work at the center. All examination reports shall be maintained at the center for review by department staff. [Eff 6/29/92, am 8/5/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-13 Admissions. (a) Each application form for admission to the center shall include:

(1) The name of the applicant, home address, date of birth, and sex;

(2) The name, address, telephone number, and other pertinent information of next of kin or any other person responsible for the applicant's care;

(3) The family physician who may be called;

(4) Written consent to call another physician when the family physician cannot be located; and

(5) The specific hours of the day the applicant shall be under the care of the center.

(b) Each applicant shall have a physical examination by a licensed physician prior to admission to a center. The examination shall take place within ninety calendar days prior to admission to the center. The physician's report shall contain information regarding the applicant's medical diagnosis, including a tuberculosis clearance that complies with department of health guidelines and instructions concerning any special care required by the applicant while at the center. An annual physical examination or statement of health, including a tuberculosis clearance that complies with department of health guidelines, shall be required after an individual becomes a client of the center.

(c) The applicant and the applicant's family shall be interviewed prior to admission to the center. The personal interview shall be conducted to secure pertinent information on the applicant's overall behavior as well as to acquaint the applicant and family about the center's program, policies, and administration. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83 (Imp: HRS §346-83)

§17-1424-14 Participant fees. Participants shall be informed in writing of the fees they will be charged for adult day care services. [Eff 6/29/92; comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-15 Transportation. When transportation is provided by the center, rules of the public

utilities commission and chapter 286, Hawaii Revised Statutes, shall be met. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-16 Services for center participants.

(a) Services through the center shall include:

(1) Observation and supervision by center staff throughout the participant's stay at the center;

(2) Proper handling and notification of the person responsible for the participant's care or a physician when a participant becomes ill;

(3) Counseling and referral to a social agency or psychiatric facility when participants have inter-personal, behavioral, or family-related problems;

(4) Isolation of a participant when symptoms of a communicable disease are evident, pending medical clearance. The family or the participant's representative shall be contacted and encouraged to seek medical care for the participant;

(5) Adherence by staff members to specific instructions obtained from a physician for the care of a participant with special problems. The instructions shall be written in the participant's records;

(6) Provision of a participant's medication by the family to the center on a daily basis. The staff shall not give the medication, except as allowed under subparagraph (A), but may supervise or remind a participant about the need to take the prescribed medication. Medication:

(A) May be administered by staff members licensed by the state as a licensed practical nurse or registered nurse, or by unlicensed assistive personnel delegated the task by a licensed registered nurse as provided in chapter 16-89, subchapter 15, Hawaii Administrative Rules, and if the participant's physician has signed an authorization statement for the administration of medication by staff

licensed as a practical nurse or registered nurse, or by unlicensed assistive personnel delegated the task by a licensed registered nurse as provided in chapter 16-89, subchapter 15, Hawaii Administrative Rules;

(B) Shall be kept in their original container bearing the prescription label which shows the date filled, the physician's directions for use and the adult participant's name; and

(C) Shall be stored out of reach of participants and returned to the participant or responsible family member at the end of each day; and

(7) Retention of first aid supplies at the center.

(b) Meal requirements shall include:

(1) Well balanced meals, when provided by the centers, which approximate federal standards, type A lunch requirements, which provide the framework for nutritionally adequate school lunches based on the recommended daily dietary allowances chart; and

(2) Appropriate snacks between meals.

(c) Program requirements shall include:

(1) A planned, well-balanced program of activities and services at each center in order to enhance the participant's well-being and to maximize individual functioning;

(2) Supervision and personal care services by staff members in order to protect the participants. The center shall provide assistance such as toileting and shall encourage a withdrawn or passive individual to participate in activities and to develop self-help skills;

(3) Therapeutic, social, educational, recreational, and other activities such as:

(A) Opportunities for arts and crafts;

(B) Daily exercise as can be tolerated by the participant or as prescribed by the participant's physician;

(C) Development of hobbies;

(D) Helping with community activities which may be handled at the center and as the participant is capable of managing;

(E) Reading magazines and books or other sedentary activities such as television viewing or listening to the radio; and

(F) Excursions or outings at least twice monthly to points of interest to the participants, such as senior centers or other group functions;

(4) Provision of regular rest periods in the morning and in the afternoon; and

(5) Provision of family consultation or referral services to appropriate community agencies, clinics, or physicians when a participant or family is observed to be in need of intensive counseling, medical, or mental health services. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-17 Physical location. (a) Site requirements shall include:

(1) Location of the center in a safe and sanitary area which conforms to laws and regulations of the state and county governments;

(2) Clean and sanitary conditions for the center, with proper means of refuse disposal. All solid waste generated by the operation shall be properly stored and removed from the premises at least once a week. There shall be proper disposal of sewage with all plumbing outlets connected to a private sewage disposal system or a public sewer system;

(3) Provision of adequate natural light, artificial lighting, and ventilation in the building;

(4) Proper maintenance of the building so that it is free from leakage during periods of rainfall and free from rodent and insect infestation;

(5) Adequate space for outdoor activities; and

(6) Well-drained outdoor space with both sunny and shady areas. The outdoor space shall not be subject to ponding during periods of heavy rainfall.

(b) Building requirements shall include:

(1) Conformance by the center to construction

standards of the local county building ordinances, state statutes, including architectural barrier requirements, applicable local fire codes, and rules of the state department of health, and other government agencies having jurisdiction; and

(2) Conformance by the center to county building code requirements for buildings used for day care purposes for children.

(c) Electrical requirements shall include:

(1) Maintenance of electrical circuits with proper fire protection which shall be installed in accordance with the respective county electrical code; and

(2) Proper use of extension cords which shall not exceed ten feet in length and shall not extend from one room to another. The extension cords shall not be extended under rugs or be stapled, nailed, or otherwise permanently fastened to walls, floors, or ceilings.

(d) There shall be a minimum of fifty square feet of floor space per person for recreational, resting, and dining purposes.

(e) Requirements of toilet facilities shall include:

(1) A minimum of one toilet and one wash basin conveniently located for every ten persons or fraction thereof, for each sex;

(2) Installation of grab bars in the toilet enclosures; and

(3) An adequate supply of soap, toilet tissues, and paper hand towels.

(f) Kitchen facility requirements shall include:

(1) Kitchen facilities that comply with the requirements of a single family dwelling when used for the preparation of meals for ten or less persons. When meals are prepared for more than ten persons, kitchen facilities shall comply with the food service establishment regulations of the state department of health;

(2) Adequate facilities and use of proper methods for the preparation, serving, refrigeration, and storage of food according to public health regulations of the state department of health including:

(A) A separate kitchen, which is properly

screened and insect and rodent proofed, for preparing food; and

(B) An adequate number of sinks with hot and cold running water, soap, and paper towels;

(3) Adequate facilities and use of proper methods for garbage disposal and for washing, sanitizing, and storage of cooking, eating, and drinking utensils;

(4) Kitchen stoves or commercial types of heating appliances requiring stacks or hoods located at a safe distance from the wall, ceiling, roof, or other combustible material which conform to requirements of the state fire marshal's rules; and

(5) An approved potable water supply. Adequate and approved drinking facilities shall be provided.

(g) Health and safety requirements shall include:

(1) Provision of moisture proofed below finished grade walls and floors, adequate natural light, and ventilation where a basement is used as a center;

(2) Proper artificial lighting in all indoor areas;

(3) Confinement of the storage of combustible material to essential articles in line with operations of the center. There shall be no unnecessary storage of combustible material, flammable liquids, or other explosive materials within the building or on the premises;

(4) Confinement of the burning of rubbish where necessary to an approved type domestic incinerator with suitable stack. An incinerator shall meet pollution regulations of the department of health;

(5) Storage of all poisons and dangerous chemicals in locked closet or cupboard;

(6) Facilities for washing, rinsing, and drying of mops provided exclusively for this purpose; and

(7) Proper facilities for laundering.

(h) Equipment requirements shall include:

(1) Equipment and material of sufficient quantity and variety suited to the needs of disabled adults;

(2) At least one chair with arms per participant

and sufficient table space for meals and arts and crafts activities;

(3) Equipment of safe construction and material, which is easily cleaned, sturdy, and in good condition;

(4) Arrangement of furniture and equipment so as not to interfere with exits;

(5) At least one bed, lounging chair or reclining chair for each three participants for resting purposes;

(6) Comfortable chairs such as recliners or rockers so the participants may rest while remaining within the central activity area;

(7) Adequate insulation of beds and chairs;

(8) Bedding protection, pillow coverings, coverlets, and blankets for each participant. Each participant shall store the above provisions between usage; and

(9) All equipment used by participants being maintained in a clean and safe condition.

[Eff 6/29/92; am 8/5/93; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-18 Fire protection. (a) The director shall formulate an evacuation plan for the protection and evacuation of the participants to areas of refuge. This plan shall include training of all staff members and participants in the event of fire. The plan shall be submitted to the fire department for approval.

(1) Fire drills shall be staged at least once a month in which all participants and staff members shall participate;

(2) The staff members shall be trained to properly report a fire, to extinguish a small fire, and to escape from a fire; and

(3) There shall be an alarm system that meets local fire codes to notify the staff and the participants in case of fire.

(b) An adequate number of fire extinguishers that meet local fire codes shall be installed for use in extinguishing fires. The extinguishers shall be inspected at least once a year and be kept charged and filled at all times.

(c) An automatic fire alarm system conforming to appropriate local fire codes shall be installed at all centers giving care to disabled adults for any part of

a night. [Eff 6/29/92; am and comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-19 Other disasters and evacuations. Centers located in areas subject to tsunami action, flooding, or similar disasters, shall have a plan of evacuation to a place of refuge, according to local civil defense regulations. [Eff 6/29/92; comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)

§17-1424-20 Exceptions. Exceptions to the provisions of this chapter may be made at the discretion of the director of the department. [Eff 6/29/92; comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS 346-83)

§17-1424-21 Penalty. Any individual, organization, or agency operating a day care center for disabled persons, who wilfully makes any false statement or who violates these rules shall be cited by the department and fined an amount deemed to be appropriate by a court of appropriate jurisdiction, but not to exceed the maximum of $5,000. [Eff 6/29/92; comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS 346-83)

§17-1424-22 Separability. If any part, section, subsection, paragraph, subparagraph, or clause of this chapter, or its application to any person or circumstance, is for any reason held to be unconstitutional or invalid, the remaining portions of this chapter, or the application of this chapter to other persons or circumstances shall not be affected. [Eff 6/29/92; comp 10/04/01] (Auth: HRS §346-83) (Imp: HRS §346-83)