

**WISCONSIN DEPARTMENT OF HEALTH SERVICES  
PROPOSED ORDER TO ADOPT PERMANENT RULES**

The Wisconsin Department of Health Services (“the Department”) proposes an order to create s. DHS 105.14, relating to adult day care centers.

**RULE SUMMARY**

**Statute interpreted**

Section 49.45 (2) (a) 11. and (47) (a) and (b), Stats.

**Statutory authority**

Section 49.45 (2) (a) 11. and (10), Stats.

**Explanation of agency authority**

Section 49.45 (2) (a) 11., Stats., authorizes the Department to establish criteria for certification of providers of Medical Assistance (MA), certify providers who meet certification criteria and promulgate rules to implement the statute.

Section 49.45 (10), Stats., authorizes the Department to promulgate rules consistent with its duties in administering MA, including its duties relating to reimbursement for personal care services by certified providers.

**Related statute or rule**

There are no related statutes or rules.

**Plain language analysis**

Adult day care providers offer services for part of a day, in a group setting, to adults who need an enriched health, supportive, or social experience, and who may need assistance with activities of daily living, supervision, or protection. These may include personal care and supervision, meals, medical care, transportation, and activities designed to meet physical, social, and leisure time needs. Adult day care providers do not need to be licensed or certified to operate in Wisconsin. However, certification as an MA provider is required, under both state and federal law, s. 49.45 (47) (b), Stats., and 42 C.F.R. 441.352 (a) (1) and (2), for providers that wish to receive reimbursement by MA for adult day care services provided to MA recipients. Adult day care centers (ADCCs) are either free-standing, or housed in nursing homes or multi-use facilities such as churches, schools, or senior centers. ADCCs provide a necessary link and resource for older adults who either reside in their own homes or come to the center for part of the day from assisted living facilities or other settings. There are currently 124 ADCCs in Wisconsin. In 1990, the Department articulated interim requirements for ADCCs seeking MA reimbursement. Pursuant to the directive given by the Legislature in s. 49.45 (2) (a) 11. b., Stats., the Department proposes to establish these requirements by rule, in DHS 105.14. There are no reasonable policy alternatives to implementing this statutory requirement.

**Summary of, and comparison with, existing or proposed federal regulations**

There appears to be no existing or proposed federal regulation that addresses the criteria for certification of ADCCs to be established by the proposed rule.

## **Comparison with rules in adjacent states**

### **Illinois:**

Illinois Administrative Code at Title 89 Social Services, Chapter 11 Department on Aging, Part 240 Community Care Program, Section 240.230, adult day services requires programs to provide an assessment of the participant's strengths and needs and development of an individual written person-centered plan of care that establishes participant goals for all services to be provided or arranged for by the service provider. Programs are to provide purposeful activities to meet the participant's needs and interests designed to improve or maintain the optimal functioning of the participant. Programs must also provide assistance or supervision of activities of daily living, health-related services including monitoring, nursing intervention, and medication administration if needed. A copy of participant rights and responsibilities are to be provided to participants at the time of admission.

There shall be 40 square feet of activity area per participant. The facility shall meet the Illinois Plumbing Code, Accessibility Code, Fire Prevention and Food Services Sanitation Code, the National Fire Protections Association standards and the Americans with Disabilities Act. Room temperature in the facility shall be not less than 70 degrees and not more than 85 degrees by using a heating system, air conditioning or circulating fans. Hot water shall be controlled to not exceed 119 degrees but not less than 100 degrees. Exit areas shall be clear of equipment and debris and equipped with monitoring or signaling devices to alert staff of participants leaving the facility unattended. Service providers shall provide 1 meal at mid-day that meets the dietary guidelines for Americans established by the Secretary of Health and Human Services. Minimum ratios of full-time staff are established by code. Staff is required to have 24 hours of training within the first week of employment and include purpose of adult day services, assistance with activities of daily living, dealing with adverse behaviors, recognizing abuse, confidentiality of participant information, universal precautions, fire safety, cardiopulmonary resuscitation and understanding Alzheimer's disease and dementia. Staff who hold a valid, active certified nursing assistant, registered nursing, or licensed practical nursing degree are exempt from training. A minimum of 12 hours of in-services training for continuing education is mandatory annually.

### **Iowa:**

Iowa Administrative Code 481, Chapter 70, adult day services requires programs to evaluate each prospective participant prior to the participant signing the contractual agreement to determine the participant's eligibility for the program including whether the services needed are available. A service plan shall be developed for each participant based on the evaluation conducted and shall be designed to meet the specific service needs of the participant. The program shall provide a hot or other appropriate meal at least once a day or shall make arrangements for the availability of meals in accordance with the Food and Nutrition Board of the National Research Council. Dementia specific programs shall provide staff with a minimum of eight hours of dementia specific education within 30 days of employment. Programs must have a managed risk policy and provide the participant with a copy at the time of admission. The program shall submit to the department and follow written emergency policies and procedures related to fire safety procedures, regular staff training, fire drills, monitoring and testing smoke control system, participant evacuation procedures, reporting and documentation. The program shall meet building and public safety codes including accessibility regulations related to people with disabilities.

### **Michigan:**

Michigan Master Standards C-1 adult day services must complete a uniform preliminary screening and maintain consistent records for all individuals. Screening may be conducted over the telephone. If the screenings indicates that the individual is eligible for adult day services, a comprehensive individual assessment of needs shall be performed before admission to the program. All assessments shall be conducted face to face. The assessment must identify the individual's functional status,

supporting resources, and needs. The adult day care shall provide directly or make arrangement for transportation, personal care, nutrition, rehabilitation, and medical support. The center shall provide one hot meal per 8 hour day.

The program shall establish written policies and procedures to govern the assistance given to a participant in taking medication. Each program shall employ a full-time program director with a minimum of a bachelor's degree in health or human services field or be a qualified health professional. The program shall provide support staff at a ratio of no less than one staff person for each 10 participants. Program staff shall receive orientation training that includes topics specified in the general requirement of all service programs including assessment and observation skills and basic first-aid. In-service training shall be provided twice a year which is designed to increase staff knowledge and understanding of the program, aging process issues, including cultural diversity, dementia, cognitive impairment, mental illness, abuse and exploitation.

Each program shall have first-aid supplies, and a staff person knowledgeable in first-aid procedures, including cardiopulmonary resuscitation, shall be present at all time at the center. Procedures to be followed in an emergency situation shall be posted in each room of the center. Programs shall conduct practice drills or emergency procedure every six months and maintain a record of all practice drills. Each center shall have at least one straight back chair for each participant, lounge chairs or day beds as needed for rest periods, storage space for participant's personal belongings, tables, a telephone that is accessible to all participants and special equipment as needed to assist person with disabilities. Each program shall be in compliance with fire safety standards and the Michigan Food Code.

### **Minnesota:**

Minnesota Administrative Rules 9555.9600 require the program to conduct an intake screening to determine whether the center can serve the person's needs and condition. After conducting the screening the center shall conduct a needs assessment and develop a service plan. The assessment shall include the participant's functional status, psychosocial needs, physical status, nutritional needs and services needed. Each center shall adopt and hold employees accountable for complying with the participant's bill of rights. The center shall provide a meal which meets the requirements of the Food and Nutrition Board of the National Research Council. The center shall offer health services developed in consultation with a registered nurse. The center shall offer a daily structured exercise program for participants and a daily activity program that includes socialization, activities, group projects, arts, craft, and music. Required safety components include a first aid kit, telephone and posted emergency numbers, and emergency phone numbers for participants.

Furniture and equipment shall be in good repair and without sharp points, splinter and paint that contains lead. Areas used by participants must be free from debris, loose plaster, peeling paint, and litter. Rugs must have a nonskid backing. The center shall have written procedures governing medical emergencies and emergencies caused by fire or weather. The center shall provide 40 square feet for each participant. A minimum of 70 degrees must be maintained in indoor areas. Outside doors and windows used for ventilation must be screened in summer months.

### **Summary of factual data and analytical methodologies**

The Department formed an advisory committee with 7 members composed of the President of the Wisconsin Adult Day Services Association, adult day care providers for elders and for persons with disabilities, and a representative from the Disability Provider Network, an advocacy organization. Committee members were provided a copy of an initial draft of the rule for review and asked for comments. Recommendations from the advisory committee were incorporated into the proposed rule.

## **Analysis and supporting documents used to determine effect on small business**

The Department solicited information and advice from individuals, businesses, associations representing businesses, and local governmental units who may be affected by the proposed rule for use in analyzing and determining the economic impact that the rules would have on businesses, individuals, public utility rate payers, local governmental units, and the state's economy as a whole from 3/24/2020 through 4/14/20. No public comments were received. In 1990, the Department articulated interim requirements for ADCCs seeking MA reimbursement. Pursuant to the directive given by the Legislature in s. 49.45 (2) (a) 11. b., Stats. the Department established these requirements by rule, in DHS 105.14. MA certified adult day care centers have been required to meet these interim requirement since 1990. There is no fiscal impact on ADCCs.

## **Effect on small business**

Based on the foregoing analysis, the rules are anticipated to have little to no economic impact on small businesses.

## **Agency contact person**

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## **Statement on quality of agency data**

The data used by the Department to prepare this proposed rule and analysis comply with s. 227.14 (2m), Stats.

## **Place where comments are to be submitted and deadline for submission**

Comments may be submitted to the agency contact person that is listed above until the deadline given in the upcoming notice of public hearing. The notice of public hearing and deadline for submitting comments will be published in the Wisconsin Administrative Register and to the department's website, at <https://www.dhs.wisconsin.gov/rules/permanent.htm>. Comments may also be submitted through the Wisconsin Administrative Rules Website, at: <https://docs.legis.wisconsin.gov/code/chr/active>.

## **RULE TEXT**

**SECTION 1.** DHS 105.14 is created to read:

### **DHS 105.14 Adult day care centers.**

(1) GENERAL PROVISIONS.

(a) *Introduction.* In accordance with s. 49.45 (2) (a) 11. and (47) (a) and (b) Stats., this section is promulgated to establish regulations and standards for the care, treatment or services, and health, safety, rights, well-being and welfare of participants in certified adult day care centers (ADCCs). This section is promulgated to ensure that each ADCC provides a supportive environment in a community-based group setting that is the least restrictive of each participant's freedom, and that care and services are provided in a manner that protects the rights and dignity of each participant.

(b) *Definitions.*

1. "Abuse" has the meaning given in s. DHS 13.03 (1) (a).
2. "Accessible" means barriers are not present that prevent a person from entering, leaving, or functioning within an ADCC without physical help.
3. "Activities of daily living" or "ADL" means bathing, eating, oral hygiene, dressing, toileting, incontinence care, mobility and transferring from one surface to another such as from a bed to a chair.
4. "Adult" means an individual who is at least 18 years of age.
5. "Adult day care center" or "ADCC" means an entity that provides services for part of a day in a group setting to adults who need an enriched health, supportive or social experience, and who may need assistance with activities of daily living, supervision, or protection.
6. "Applicant" means the person seeking certification of an ADCC.
7. "Assessment" means gathering and analyzing information about a prospective or existing participant's needs and abilities as provided in sub. (7) (a).
8. "Caregiver" has the meaning given in s. 50.065 (1) (ag), Stats.
9. "Chemical restraint" means a psychotropic medication used for discipline or convenience, and not required to treat medical symptoms.
10. "Department" means the Wisconsin department of health services.
11. "Legal representative" means any of the following:
  - a. The health care agent under an activated power of attorney for health care under ch. 155, Stats.
  - b. A person appointed as a durable power of attorney under ch. 244, Stats.
  - c. A guardian, guardian of the estate, or guardian of the person, as defined in s. 54.01 (10), (11), or (12), Stats.
12. "Medication administration" means the direct injection, ingestion or other application of a prescription or over-the-counter drug or device to a participant by any of the following:
  - a. A practitioner.
  - b. The practitioner's authorized agent.
  - c. An ADCC caregiver, or the participant, at the direction of the practitioner.
  - d. Medication administration does not include reminders to take medication.
13. "Misappropriation of property" has the meaning given in s. DHS 13.03 (12).
14. "Neglect" has the meaning given in s. DHS 13.03 (14).
15. "Nursing care" means nursing procedures, other than personal or supportive care, that a registered nurse or a licensed practical nurse performs directly on or to a participant.
16. "Occupant" means any of the following:

- a. A person who lives and sleeps in the ADCC, but who is not a participant.
- b. A non-client resident, as defined in 50.065 (1) (cn), Stats.

17. "Operator" means an individual or business entity to whom a certification is granted and is legally responsible for the operation of the ADCC.

18. "Participant" means an adult who attends the ADCC during listed hours of operation and receives care, treatment, or services.

19. "Participant group" means a group of participants who need similar services because of a common disability, condition, or status. A participant group includes a group of individuals who have any of the following:

- a. Functional impairments commonly associated with advanced age.
- b. Irreversible dementia, such as Alzheimer's disease.
- c. Developmental disability, as defined in s. 51.01 (5), Stats.
- d. An emotional disturbance or a mental illness as defined in s. 51.01 (13) (a), Stats.
- e. Physical disability.
- f. Traumatic brain injury.

20. "Physical restraint" means any manual method, article, device, or garment interfering with the free movement of the participant or the normal functioning of a portion of the participant's body or normal access to a portion of the participant's body, and which the participant is unable to remove easily, or confinement of a participant in a locked room.

21. "Program Director" means an employee who is responsible for the management and day-to-day operation of the ADCC. A program director includes any of the following:

- a. The operator.
- b. An employee designated by the operator.

22. "Psychotropic medication" means a prescription drug, defined in s. 450.01 (20), Stats., that is used to treat or manage a psychiatric symptom or challenging behavior.

23. "Qualified Caregiver" means an employee who is at least 18 years of age and has successfully completed all of the applicable orientation and training under sub. (4), pars. (a) and (b) of this section.

24. a. "Seclusion" means physical or social separation of a participant from others by actions of caregivers.

b. "Seclusion" does not include separation to prevent the spread of communicable disease or voluntary cool-down periods in an unlocked room.

25. "Serious injury" means an injury from any incident or accident which results in any of the following:

- a. A temporary or permanent increase in the level of assistance needed in one or more ADL categories, such as bathing, eating, oral hygiene, dressing, toileting, incontinence care, or mobility and transferring.

- b. A fracture.
- c. A pronounced decline in communication or cognitive abilities.

26. “Significant change” in a participant’s physical or mental condition means any of the following:

- a. A decline in a participant’s medical condition that results in further impairment.
- b. A decline in 2 or more ADLs.
- c. A pronounced decline in communication or cognitive abilities.
- d. A decline in behavior or mood which requires either a temporary or permanent increase in the level of assistance needed in one or more ADL categories, such as bathing, eating, oral hygiene, dressing, toileting, incontinence care, or mobility and transferring.

27. “Standard precautions” are a set of infection control practices used to prevent transmission of diseases that can be acquired by contact with blood, body fluids, non-intact skin (including rashes), and mucous membranes. These measures are used when providing care to all individuals, whether or not they appear infectious or symptomatic.

28. a. “Supervision” means oversight of a participant’s functioning.

b. Supervision includes keeping track of a participant’s whereabouts and providing guidance and intervention when needed by a participant.

29. “Transferor” means the current operator in a change of ownership process who will voluntarily relinquish the current certification.

30. “Transferee” means the recipient of a property or business in a change of ownership process who will submit application for a new certification.

31. “Utensils” means dishes, silverware and pots and pans used for storing, preparing, serving, or consuming food.

32. “Variance” means an alternate means of meeting a requirement in this section, as approved by the department under par. (c).

33. “Volunteer” means any person who provides services for participants without compensation.

34. “Waiver” means an exemption from a requirement in this section, as approved by the department under par. (c).

*(c) Variances and waivers.*

1. The department may grant approval of a waiver or variance if the department determines that the proposed waiver or variance will not jeopardize the health, safety, welfare or rights of any participant.

2. A written request for a waiver or variance shall be sent to the department and include justification that the waiver or variance will not adversely affect the health, safety or welfare of any participant for the requested action.

3. A written request for a variance shall include a description of an alternative means planned to meet the intent of the requirement.

4. The department may terminate approval of a waiver or variance if any of the following occurs:

a. The department determines the waiver or variance has adversely affected the health, safety, well-being or welfare of a participant.

b. The ADCC fails to comply with any of the conditions of the waiver or variance as granted.

c. A change in circumstances from the time the waiver or variance approval was initially granted.

d. The ADCC failed to disclose a fact that is material to the approval.

(2) CERTIFICATION.

(a) *General requirements.*

1. No person may receive reimbursement under s. 46.27 (11), Stats., for the provision of services to a participant in an ADCC unless the ADCC is certified by the department. A person who assumes ownership interest in a certified ADCC, regardless of whether the transfer includes title to the real estate, or changes the location of the ADCC shall complete an application as required under this subsection.

2. An application for certification shall be on a form or web-based application provided by the department and shall include all of the following:

a. A program description as specified under par. (b) of this subsection.

b. A floor plan specifying dimensions of the ADCC, including exits and planned room usage.

c. A fire inspection report.

d. All required fees.

e. A balance sheet.

f. Evidence that the applicant has 60 days of projected operating funds in reserve.

g. Proof of transportation liability insurance if the ADCC provides transportation.

h. Well water test results if the ADCC uses well water.

i. A program evaluation plan.

j. Any additional information requested by the department.

3. An ADCC may not be located on a parcel of land zoned for industrial or manufacturing use.

(b) *Program description.*

1. The program description included as part of an application under par. (a), subd. 2. of this subsection shall include all of the following:

a. The name of the operator, the program director, and the caregiver position in charge when the operator or program director is away from the ADCC.



- b. The participant capacity of the ADCC.
- c. A definition of the program goals and a description of the services provided or made available to participants at the ADCC.
- d. The days and hours of operation of the ADCC.
- e. A description of any limits the program establishes for providing service to a participant with specific care needs.
- f. A fee schedule which includes the daily charges and additional fees for specific services, goods, or supplies that are not included in the daily charge, and the method for notifying a participant or a legal representative of fee changes.
- g. A procedure for informing the participant's legal representative, family, or caregiver of any major change in the participant's general functioning or medical condition.
- h. A procedure for documenting any incident occurring at the site which would affect the health, safety or welfare of a participant.
- i. The participant group to be served and, if serving more than one participant group, an explanation acceptable to the department of how each participant group is compatible with one another.
- j. A grievance procedure for investigating and resolving complaints made by a participant, legal representative, family member, caregiver, or other interested persons about the services provided by the ADCC which includes informing such persons of appropriate local, county and/or state agency contacts and informing such persons that pursuant to s. DHS 13.05 (4) (a) and s. 146.40 (4r) (a), Stats., any individual may report to the department that he or she believes that any person employed by or under contract with the ADCC has neglected or abused a participant or misappropriated the participant's property.
- k. The criteria for voluntary and involuntary discharge of a participant from the program as defined in sub. (5), par. (c) of this section.

2. Before finalizing an agreement to provide care, the ADCC shall provide its program description to each person seeking services or to the person's legal representative, or both.

3. The program description shall be provided to each caregiver and any other person upon request.

(c) *Fit and qualified determination.* An applicant may not be certified unless the department determines the applicant is fit and qualified to operate an ADCC. To determine whether a person is fit and qualified, the department shall consider all of the following:

1. Whether the applicant, any operator, or any non-client residents, as defined in s.50.065 (1) (cn), Stats., meet the requirements of ch. DHS 12 and s. 50.065, Stats.

2. The applicant's history of compliance with Wisconsin or any other state or federal licensing or certification requirements, including any license revocation or denial.

3. The applicant's arrest and criminal records, including any of the following:

a. Crimes or acts involving abuse, neglect or mistreatment of a person or misappropriation of property of a person.

b. Crimes or acts subject to elder abuse reporting under s. 46.90, Stats.

c. Crimes or acts related to the manufacture, distribution, use, or dispensing of a controlled substance.

d. Fraud or substantial or repeated violations of applicable laws and rules in the operation of any health care center or in the care of dependent persons.

e. A conviction or pending criminal charge which substantially relates to the care of adults or minors, to the funds or property of adults or minors, or to the operation of a residential or health care center.

4. The financial history and the financial viability of the applicant or the applicant's organization, including any outstanding debts, fees, or fines due to the department or other government agencies.

(d) *Department action.*

1. Within 70 days of receipt of a complete application, the department shall review the application and either approve or deny certification of the ADCC.

2. A certification issued by the department shall be only for the premises and operator named in the application. A certification may not be transferred or assigned to another operator without following the change of ownership provisions in sub. (2), par. (i) of this section.

3. A certification is valid until suspended or revoked by the department.

4. The department shall deny a certification to any applicant who does not substantially comply with any provision of this chapter or ch. 49, Stats., who is not deemed fit and qualified as specified in par. (c) of this subsection, or who has failed to pay any fee or any outstanding amounts due to the department.

5. The department shall provide the reasons for denial and the process for appeal of the denial in writing to the applicant.

(e) *Monitoring after certification.* The department shall conduct periodic inspections of the ADCC during the period of certification and may, without notice to the operator, visit an ADCC at any time to determine if the ADCC is compliant with this section. The operator shall be able to verify compliance with this section and shall provide the department access to the ADCC, its staff, each participant, and records.

(f) *Biennial reporting and fees.* Every 24 months, on a date determined by the department, the operator shall submit a biennial report on the form provided by the department, and shall submit payment of the certification continuation fees.

(g) *Sanctions for noncompliance.*

1. 'Notice of violation.' The department shall issue a written notice of violation when it finds that an ADCC is in violation of this section or with any federal, state, or local laws and codes that govern the operation of the ADCC. The notice shall explain the grounds for the notice of violation, the sanction to be imposed, if any, and, if certification is suspended or revoked, and the process for an appeal.

2. 'Plan of correction.' An ADCC may submit a written plan of correction to the department within 10 days after the date of receipt of the notice of violation.

3. 'Suspension.' The department may summarily suspend the ADCC's certification following procedures in ch. 227, Stats., when the department finds that participant health, safety or welfare requires emergency action.

4. 'Revocation.' The department may revoke the ADCC's certification whenever the department finds that the ADCC has failed to maintain substantial compliance with one or more of the requirements set forth in this section.

(h) *Appeals.*

1. Any person whose application for certification is denied under par. (d) of this subsection or suspended or revoked under par. (g), subd. 3. or 4. of this subsection may request a hearing on that decision in accordance with s. 227.42, Stats.

2. A request for hearing shall be made in writing to the department of administration's division of hearings and appeals. The request for a hearing must be received by the division of hearings and appeals within 10 days of the department's written notice of certification denial under par. (d), subd. 5., suspension under par. (g), subd. 3., or revocation under par. (g), subd. 4.

(i) *Change of ownership.*

1. When an ADCC seeks a change of ownership, the transferee shall submit a complete application for certification as required under sub. (2), par. (a), subd. 2. of this section at least 30 days prior to the change of ownership.

2. If a participant is given less than 30 days' notice of the change of ownership, neither the transferor nor the transferee may enforce any advanced notice requirements for discharge as specified in any participant's enrollment agreement.

3. The transferor shall notify the department within 30 days before a change of ownership of an ADCC and shall include the name and contact information of the transferee.

4. The transferor remains responsible for the operation of the ADCC until the department issues a certification to the transferee.

5. The transferor shall disclose to the transferee any waiver or variance granted by the department under sub. (1), par. (c), or outstanding deficiencies.

6. Any violation reported in a department inspection report shall be corrected prior to the change of ownership. Any correction must be verified by the department prior to the issuance of the certification to the transferee.

7. The department shall issue a certification only for the premises and persons named in the certification application. A certification may not be transferred or reassigned without following the change of ownership provisions in sub. (2), par. (i) of this section.

(j) *ADCC closure.*

1. An ADCC that intends to close shall notify the department, each participant or legal representative, and case manager, if any, in writing at least 30 days before closing and comply with the discharge requirements under sub. (5), par. (c) of this section.

2. The ADCC shall surrender the certification to the department when the ADCC closes.

3. The ADCC shall surrender its certification if it has not served any participants for 24 months.

(k) *Death reporting requirements.*

1. If a participant dies while at or under the supervision of the ADCC, the ADCC shall report the following to the department no later than 3 days after any of the following occurs:

a. Death due to physical restraint, psychotropic medication, or suicide, if there is reasonable cause to believe that the death was related to physical restraint, psychotropic medication, or suicide.

b. Death due to accident or injury not attributable to physical restraint, psychotropic medication, or suicide.

2. An ADCC is not required to report a death to the department if the death is the result of natural causes, and none of the circumstances surrounding the death involve a condition under subd. 1. of this paragraph.

(L) *Other reporting requirements.* An ADCC shall send a written report to the department within 3 working days after any of the following occurs:

1. Any time a participant's whereabouts are unknown, except those instances when a participant who is competent chooses not to disclose his or her whereabouts or location to the ADCC. The ADCC shall also notify the local law enforcement authority immediately upon discovering that a participant is missing.

2. Any time law enforcement is called to the ADCC as a result of an incident that jeopardizes the health, safety or welfare of a participant or caregiver. The ADCC's report to the department shall provide a description of the circumstances requiring the law enforcement intervention.

3. Any incident or accident resulting in serious injury requiring hospital admission or emergency room treatment of a participant.

4. A catastrophe causing structural damage to the ADCC that results in any change in services provided to the participants.

5. A fire occurs on the premises of the ADCC.

6. Anytime the ADCC must evacuate and temporarily relocate participants and caregivers from the ADCC for reasons other than a fire drill.

(m) *Investigation and reporting requirements.*

1. 'Misconduct reporting.' When an ADCC receives a report of an allegation of abuse or neglect of a participant, or misappropriation of property, the ADCC shall take immediate action to ensure the safety of each participant and security of their property. The ADCC shall do all of the following:

a. Thoroughly investigate any allegation of abuse or neglect of a participant, or misappropriation of property and document all allegations, investigations, and the results of investigations.

b. Report incidents to the department when the ADCC's investigation concludes the alleged abuse, or neglect of a participant or misappropriation of property meets the definition of abuse or neglect of a participant, or of misappropriation of property under DHS ch. 13. The ADCC shall maintain documentation of any investigations.

**Note:** Information and resources for reporting misconduct through the Misconduct Incident Reporting system are available at <https://www.dhs.wisconsin.gov/caregiver/complaints.htm>.

c. Use the form or web-based application provided by the department to submit all reportable incidents to the department within 7 days from the date the ADCC knew or should have known about the abuse, neglect, or misappropriation of property.

d. Document its conclusions and rationales in writing if it concludes, after investigation, that the incident did not meet the definition of abuse, neglect, or misappropriation.

2. 'Elder abuse and adults-at-risk reporting.' The ADCC shall follow the elder abuse reporting requirements under s. 46.90, Stat., and the adult at risk requirements under s. 55.043, Stat., whichever is applicable.

3. 'Injuries of unknown source.' When an ADCC receives a report of a participant's injury with an unknown cause, it shall thoroughly investigate, document, and report an injury of unknown source in a manner consistent with the requirements of subd. 1. or 2. of this paragraph when both of the following conditions are met:

a. The source of the injury was not observed by any person or the source of the injury could not be explained by the participant.

b. The injury appears suspicious because of the extent of the injury or the location of the injury on the participant.

c. The ADCC shall maintain documentation for each investigation of an injury referenced under subd. 3. of this paragraph.

4. 'Other duties.' Filing reports under subd. 1. or 2. of this paragraph does not relieve the operator of any obligation to report an incident to any other authority, including law enforcement or the coroner, or both.

*(n) Notification of changes affecting a participant.*

1. The ADCC shall immediately notify the participant's legal representative and the participant's residential provider and document the notification when there is an incident or injury to the participant or a significant change in the participant's physical or mental condition.

2. The ADCC shall immediately notify the participant's legal representative and document the notification when there is an allegation of abuse or neglect of the participant.

3. The ADCC shall notify the participant's legal representative within 72 hours when there is an allegation of misappropriation of the participant's property and document the notification.

4. The ADCC shall give the participant or the participant's legal representative a 30-day written notice of any change in services available or in charges for services that will be in effect for more than 30 days.

*(o) Documentation requirement.* All written reports required under sub. (2), pars. (k-n), shall include, at a minimum, all of the following:

1. The time, date, place, and details of the reportable occurrence.

2. Any individuals involved in the reportable occurrence.

3. The action taken by the provider to ensure the health, safety, welfare and well-being of each participant following the reportable occurrence.

(p) *Record retention.*

1. The ADCC shall retain all records required under this section for 2 years, unless otherwise specified in this section.

2. Participant records shall be retained for 7 years following the date of a participant's final discharge.

3. Employee records shall be retained for 3 years following a caregiver's separation from employment at the ADCC.

(3) PERSONNEL.

(a) *Operator.*

1. 'Qualifications.' An operator shall be at least 21 years old and meet the caregiver background requirements under s. 50.065, Stats., and ch. DHS 12.

2. 'Responsibilities.' An operator shall:

a. Ensure the ADCC and its operation comply with all laws governing the ADCC.

b. Comply with the requirements set by the Federal 1991 Americans with Disabilities Act, and by the occupation, safety and health administration.

c. Develop and implement a procedure for standard precautions.

d. Develop and implement written policies and procedures to investigate allegations of abuse, neglect, and misappropriation of property and injuries of unknown source as described in sub. (2), par. (m) of this section.

e. Report any change in participant group in writing to the department at least 30 days in advance of the anticipated change. The ADCC shall not implement the change until the operator receives written approval from the department.

f. Report any change in the ADCC's capacity in writing to the department. The operator shall not implement the change in capacity until the operator receives written approval from the department.

g. Provide to each participant, the participant's legal representative, or third party payer, a 30 day written notice of any change in the ADCC's capacity or client group.

h. Post the ADCC certification, any statement of deficiency, notice of revocation and any other notice of enforcement action in a public area that is visually and physically accessible. A statement of deficiency shall remain posted for 90 days following receipt. Notices of revocation or suspension of certification shall remain posted until a final determination is made.

i. Prohibit the existence or continuation of any condition which creates or may create a substantial risk to the health, safety, well-being or welfare of any participant.

j. Ensure that the presence of other occupants does not adversely affect the health, safety, well-being or welfare of a participant.

(b) *Program director.*

1. 'Qualifications.' The program director of an ADCC shall be at least 21 years of age and have the capacity to respond to the needs of each participant and manage the day to day operations of the ADCC. The program director shall have at least one of the following qualifications:

a. An associate degree or higher from an accredited college in a health care related field.

b. At least 2 years' experience working in a health care related field which served a population similar to the participant group at the ADCC.

2. 'Responsibilities.' The program director shall:

a. Supervise the daily operation of the ADCC, including participant care and services, personnel, finances, and physical plant.

b. Provide the supervision necessary to ensure that each participant receive proper care and treatment, that their health and safety are protected and promoted, and that their rights are respected.

c. Be responsible for the training and competency of each caregiver.

3. 'Exemptions.' The qualified program director of record at the ADCC, at the time this rule becomes effective, shall be exempt from the qualification requirements as specified in subd.1. of this paragraph.

4. 'Program director absence.' A qualified caregiver who is at least 18 years old shall be designated as in charge whenever the program director is absent from the ADCC.

(c) *Caregiver.* Each caregiver shall be at least 16 years old and have the skills, education, experience and ability to fulfill the caregiver's job requirements.

(d) *Hiring and employment.*

1. 'Caregiver background checks.' The ADCC shall obtain a background check pursuant to s. 50.065, Stats., and ch. DHS 12, for any person who is, or is expected to be, an employee or contractor of the ADCC, who is or is expected to be under the control of the ADCC, and who has, or is expected to have, regular, direct contact with participants.

2. 'Employee health communicable disease control.'

a. The ADCC shall obtain documentation from a physician, physician assistant, clinical nurse practitioner, or a licensed registered nurse indicating all employees have been screened for clinically apparent communicable diseases including tuberculosis. Screening for tuberculosis shall be conducted in accordance with current standards of practice. The screening and documentation shall be completed within 90 days before the start of employment or before assumption of duties in which the caregiver will have direct contact with any participant. The ADCC shall keep screening documentation confidential, except the department shall have access to the screening documentation for verification purposes.

b. Employees shall be re-screened for clinically apparent communicable diseases as described in par. (d), subd.2. of this subsection based on the likelihood of exposure to communicable diseases, including tuberculosis.

c. A person who has a communicable disease shall not be permitted to work or be present in the ADCC if the disease would present a risk to the health or safety of any participant.

(e) *Employee records.*

1. A separate record for each employee shall be maintained and kept current. Employee records shall include, at minimum, all of the following information:

- a. Beginning date of employment.
- b. Educational qualifications for a program director.
- c. A completed caregiver background check following procedures under s. 50.065, Stats. and ch. DHS 12.
- d. Documentation of orientation and training.

2. Employee records shall be available upon request at the ADCC for review by the department.

#### (4) ORIENTATION AND TRAINING.

(a) *Orientation.* Before performing any job duties, all employees shall receive appropriate orientation to their job responsibilities and to the ADCC and its policies, including emergency and evacuation procedures, participant rights, and prevention and reporting any allegation of participant abuse, neglect, and misappropriation of participant property.

##### (b) *Training.*

1. Within 90 days of employment, the ADCC shall provide, obtain or otherwise ensure each caregiver receives training in all the following areas:

- a. Meeting the physical, social and mental health needs of each participant group served by an ADCC. Specific training shall include, as applicable, activities, safety risks, managing and responding to challenging behaviors, environmental considerations, disease processes, communication skills, and nutritional needs.
- b. Recognizing and responding to changes in condition including first-aid.
- c. Use of a fire extinguisher.

2. The ADCC shall provide, obtain, or otherwise ensure each caregiver receives and successfully completes specific task training prior to assuming these job duties, including all of the following:

- a. Personal care training for all caregivers who provide assistance with activities of daily living. Training shall be appropriate to the care and services provided. Specific training topics may include toileting and incontinence care, mobility and transferring, eating, bathing, and dressing.
- b. Standard precaution training for all caregivers who may be exposed to blood, body fluids or other moist body substances, including mucous membranes, non-intact skin, secretions, and excretions except sweat, whether or not they contain visible blood.
- c. Medication administration and management training for all caregivers who manage, administer, or assist participants with prescribed or over-the-counter medications.

(c) *Caregiver supervision.* Until a caregiver has completed all required training, the caregiver shall be directly supervised by the program director or by a qualified caregiver.

(d) *Continuing education.* The program director and every caregiver shall receive at least 10 hours per calendar year of continuing education beginning with the first full calendar year of employment.



Continuing education shall be relevant to the job responsibilities and shall include, at a minimum, all of the following:

1. Standard precautions.
2. Participant rights.
3. Prevention and reporting of abuse, neglect and misappropriation.
4. Emergency and evacuation procedures.

(e) *Documentation.*

1. The ADCC shall maintain documentation of orientation and all the applicable training under sub. (4), pars. (a), (b) and (d) of this section. Documentation shall include the name of the employee, the name of the instructor, the dates of training, a description of the course content, and the length of the training.

2. Orientation, training, and hours of continuing education shall be documented in the employee's file.

(5) PARTICIPANT ENROLLMENT, RETENTION, AND DISCHARGE.

(a) *Limitations on enrollment and retention.*

1. No ADCC may serve more participants than the maximum participant capacity on its certification at any time during hours of operation.

2. No person under the age of 18 years may be enrolled as an ADCC participant, unless approved for enrollment by the department. Requests for approval to enroll a person under the age of 18 years shall be made in writing and shall include all of the following:

- a. A statement from the referring physician stating the services required by the minor.
- b. A statement from the program director certifying that the required services can be provided.
- c. A statement from the persons or agencies assuming financial responsibility.
- d. Evidence of guardianship and legal representative, if any.

(b) *Enrollment procedures.*

1. The ADCC shall assess each participant before enrollment as required under sub. (7), par. (a) of this section.

2. Upon acceptance into the program, the ADCC shall obtain and document all of the following information:

- a. The participant's full name, address, telephone number, date of birth and living arrangement.
- b. The name, address and telephone number of the participant's designated contact person, and legal representative, if any.
- c. The name, address and telephone number of the participant's primary physician.

d. Name and address of the referring or coordinating agency and case manager, if applicable.

e. Any of the participant's advance directives, such as a power of attorney for health care, or a do-not-resuscitate order.

3. An enrollment agreement shall be signed by the participant or legal representative, if applicable, that includes a written description of the services to be provided, the cost of those services, and a statement that the participant's rights have been received.

4. Within 90 days before or 7 days after enrollment, a physician, physician assistant, clinical nurse practitioner, or a licensed registered nurse shall screen each participant for clinically apparent communicable diseases, including tuberculosis, and document the results of the screening. All screenings and immunizations shall be conducted in accordance with current standards of practice. The ADCC shall maintain the screening documentation in each participant's record.

*(c) Discharge.*

1. The ADCC shall develop criteria for voluntary and involuntary discharge of a participant from the program and a procedure for appeal of an involuntary discharge by the participant or legal representative.

2. The ADCC may not involuntarily discharge a participant unless any of the following occurs:

a. Nonpayment of charges, following reasonable opportunity to pay.

b. The participant requires care that is beyond the ADCC's certification.

c. The participant requires care that is inconsistent with the ADCC's program description and beyond that which the ADCC is required to provide under the terms of the enrollment agreement and this section.

d. The participant requires medical care that the ADCC cannot provide.

e. There is imminent risk of serious harm to the health or safety of the participant, other participants, or employees, as documented in the participant's record.

f. As otherwise permitted by law.

3. At least 30 days before involuntary discharge, the ADCC shall provide written notice of involuntary discharge to the participant or legal representative. If the continued presence of the participant endangers the health, safety or welfare of the participant or any other participant, the 30-day notice requirements of this subdivision do not apply.

**(6) PARTICIPANT RIGHTS.**

*(a) Prohibitions.* Any form of coercion to discourage or prevent a participant or the participant's legal representative from exercising any of the rights under this subsection is prohibited. Any form of retaliation against a participant or the participant's legal representative for exercising any of the rights in this subsection, or against a caregiver or any other person who assists a participant or the participant's legal representative in the exercise of any of the participant rights in this subsection, is prohibited.

*(b) Participant rights.* Each participant shall have all of the following:

1. The right to be treated with respect and dignity.

2. The right to be free from physical, sexual, mental abuse and neglect, and from misappropriation of personal property.
3. The right to participate in the development of one's service plan, with support from a caregiver or legal representative, if needed.
4. The right to refuse to participate in an activity.
5. The right to privacy and confidentiality.
6. The right to be fully informed of all the services provided and the charge for each of those services.
7. The right to be informed of the reason for discharge and the procedure for appealing that decision.
8. The right to initiate a grievance and be informed of the grievance procedure.
9. The right to be free from physical restraints, except upon prior review and approval by the department with written authorization from the participant's primary physician, physician assistant, or advanced practice nurse prescriber as defined in s. N 8.02 (2). The department may place conditions on the use of a restraint to protect the health, safety, welfare, well-being and rights of the participant.
10. The right to be free from seclusion.
11. The right to be free from all chemical restraints.
12. The right to not be recorded, filmed or photographed without prior written informed consent by the participant or participant's legal representative. The ADCC may take a photograph for identification purposes. The department may photograph, record or film a participant pursuant to an inspection or investigation under s. 49.45 (2) (a) 11., Stats. without their written informed consent.

(7) PARTICIPANT CARE AND SERVICES.

(a) *Assessment of participant's needs.*

1. Assessments shall be conducted by staff members having the expertise, experience, or training pertinent to the participant population served by the program. The assessment identifying the participant's needs shall be completed prior to enrollment. For emergency enrollments, the program will complete an assessment within 5 days.
2. A comprehensive written assessment of the participant's needs, at a minimum, shall include the areas of physical health to include physical disabilities and mobility status, mental and emotional health, nursing care, medications to include allergies, nutritional needs including risks for choking, emergency evacuation capabilities, preferences and interests and any other information helpful to developing the service plan.

(b) *Individual service plan.*

1. Within 30 days of enrollment and based on the assessment completed under par. (a) of this subsection, the ADCC shall develop and implement a service plan to identify the services and activities the program will provide in order to meet the individual needs and personal interests of the participant. The service plan shall be developed by staff members with experience, or training pertinent to the participant population served by the program.

2. The service plan will be reviewed and revised every 6 months or when necessary due to changes in the participant's functioning, health condition, or preferences. Changes shall be documented in the participant's record.

3. All caregivers who provide participant care and supervision shall have continual access to the participant's service plan.

*(c) Caregiver staffing requirements.*

1. In this paragraph, "severely impaired" means any impairment leading to a participant's inability at the program to perform any 3 or more ADLs. A severely impaired participant demonstrates an inability to perform these ADLs at the ADCC unless assistance, supervision or prompting is provided.

2. At least one qualified caregiver shall be on the premises at all times when one or more participant are present.

3. The ADCC shall provide sufficient caregiver staff at all times to implement the program goals and participant service plans based on a comprehensive assessment of each participant's needs, including physical health, physical disabilities and mobility status, mental and emotional health, emergency evacuation capabilities, and participant's preferences and interests.

4. There shall be a minimum of 1 caregiver for every 8 non-severely impaired participants at the ADCC.

5. There shall be a minimum of 1 caregiver for every 4 severely impaired participants at the ADCC.

6. The ADCC shall maintain a current written schedule for every caregiver at the ADCC. The schedule shall include each caregiver's full name, job assignment, and time worked.

7. A volunteer who meets the same standards, requirements, and training as a caregiver and who have signed a written job description may be counted as a caregiver to meet staffing requirements.

*(d) Medication administration.*

1. The ADCC shall have a written policy for medication management and shall designate which caregivers are authorized and trained to administer medications. The caregiver administering medications shall be 18 years of age or older. The policy shall indicate the program's role in the supervision of self-administered medications and caregiver administered medications.

2. Self-administered medications may be supervised by a caregiver who may prompt the participant and observe the participant taking the medication. To self-administer medications, the participant shall have the physical and mental capacity to obtain, dispense, and ensure the correct medications are taken in the prescribed dosages. When medications are self-administered, the medication list shall be reviewed and updated annually by the prescribing practitioner, physician, physician's assistant, or nurse practitioner.

3. Caregiver administered medications shall be stored, obtained, and assembled for the participant. The caregiver is responsible for ensuring the correct medication, in the correct dose, at the correct time is administered to the correct participant. Medications administered by a caregiver shall meet all of the following conditions:

a. A written order from the prescribing practitioner shall be in the participant's record.

b. A listing of current medications with the dosage, frequency, and route of administration shall be in the participant's record.

c. Over-the-counter and prescription medications shall remain in the original labeled containers and be stored in a locked, safe place.

d. Non-licensed caregivers shall consult with the prescribing practitioner or pharmacist about each medication to be administered.

e. Written information describing side effects and adverse reactions of each medication shall be kept in the participant's record.

f. The administration of medications shall be documented in the participant's permanent record to include the name of the medication, dosage, method of administration, date and time administered, and name of the caregiver who administered the medication.

g. Medication administration by routes to include: injectable, nebulizers, stomal and enteral medications, and medications, treatments or preparations delivered vaginally or rectally shall be administered by a registered nurse or by a licensed practical nurse within the scope of their license, or may be delegated to a non-licensed caregiver pursuant to s. N 6.03 (3).

(e) *Program services.* Based on the written description of the program, the ADCC shall provide or arrange for services to meet the needs of each participant in all of the following areas:

1. 'Leisure activities.' The ADCC shall provide programming for individual and group activities that encourage creativity, social interaction, and physical exercise. Activities shall include outings to points of interest and involvement in the general community which take into consideration individual functional abilities, needs, and interests of each participant.

2. 'Personal care.' The ADCC shall provide assistance to meet a participant's assessed needs for ADLs.

3. 'Supervision.' The ADCC shall provide supervision appropriate to the participant's needs.

4. 'Communication skills.' The ADCC shall provide services to meet the participant's communication needs.

5. 'Health monitoring.' The ADCC shall monitor the health of a participant by observing and documenting changes in each participant's health and referring a participant to health care providers when necessary. At a minimum, a quarterly note shall document how a participant is responding to the service plan. The ADCC shall immediately notify the participant's legal representative and the participant's residential provider, if any, when there is a significant change in a participant's physical or mental condition.

6. 'Behavior management.' The ADCC shall provide services to manage a participant's behaviors that may be harmful to themselves or others.

7. 'Transportation.' An ADCC program providing transportation for any participant shall carry liability insurance and ensure the vehicle is safe and well-maintained.

(f) *Food services.*

1. 'General requirements.' The ADCC shall obtain food from acceptable sources that meets the dietary needs of each participant.

2. 'Equipment and utensils.' The ADCC shall store equipment and utensils in a clean manner and shall maintain all utensils and equipment in good repair. Single-use utensils may not be reused.

3. 'Dishwashing.'

a. Whether washed by hand or mechanical means, all equipment and utensils shall be cleaned using separate steps for pre-washing, washing, rinsing, and sanitizing.

b. Mechanical washing of dishes and utensils in a residential type dishwasher will have a temperature setting of at least 120 degrees Fahrenheit. Upon removal from a residential-type dishwasher, a separate process must be completed for sanitization of all items that is in accordance with current standards of practice.

c. Mechanical washing of dishes and utensils in a commercial type dishwasher will be in accordance with manufacturer's recommendations.

d. Dishes and utensils shall be air dried, unless a dishwasher, which performs this function, is used.

Note: Wisconsin Food Code and Food Code Fact Sheets can be found at [https://datcp.wi.gov/Pages/Programs\\_Services/FoodCode.aspx](https://datcp.wi.gov/Pages/Programs_Services/FoodCode.aspx).

4. 'Nutrition.'

a. The ADCC shall arrange for or provide a meal to each participant who is at the ADCC for 5 or more hours. Meals shall provide at least one-third of an adult's daily nutritional requirements.

b. The ADCC shall document the food served at each meal and maintain the documentation on file for at least six months.

c. A nutritious snack shall be made available consistent with each participant's dietary needs.

5. 'Sanitation.'

a. Each caregiver who prepares or serves food shall be free from open, infected wounds and from communicable disease and shall maintain clean and safe work habits.

b. The ADCC shall provide hand-washing facilities in the kitchen for use by food handlers. Use of a common towel is prohibited.

c. Any participant who assists in preparing food shall adhere to the same food safety requirements as ADCC staff and be directly supervised by a caregiver.

6. 'Food safety.' Whether food is prepared at the ADCC or off-site, the ADCC shall store, prepare, distribute, and serve food in accordance with professional standards for food service safety. The ADCC shall do all of the following:

a. Refrigerate and store all foods requiring refrigeration at or below 41 degrees Fahrenheit. Food items not in their original containers shall be covered, labeled and dated.

b. Maintain freezing units at 0 degrees Fahrenheit or below. Frozen foods shall be packaged, labeled, and dated.

c. Hold hot foods at 135 degrees Fahrenheit or above and cold foods at 41 degrees Fahrenheit or below until served.

d. Ensure that each refrigerator and freezer has an accurate thermometer inside the unit.

e. Keep food storage areas clean and dry and store food at least six inches off the floor.

(8) PHYSICAL ENVIRONMENT.

(a) *Facility requirements.*

1. If required by the department of safety and professional services or local municipality, the ADCC shall have on file an inspection report signed by an authorized agent demonstrating that the ADCC including remodeling, has met applicable building codes.

2. The ADCC shall provide at least 50 square feet of usable floor space for each participant exclusive of passageways, bathrooms, lockers, office, storage areas, staff room, furnace rooms, and parts of rooms occupied by stationary equipment.

3. The ADCC shall be designed in such a way that it is accessible and functional in meeting the identified needs of the participant group it serves.

4. The ADCC shall have a telephone on the premises, which is immediately accessible during hours of operation.

5. Temperature at the ADCC shall be maintained at no less than 70 degrees Fahrenheit.

6. Toilets and fixtures shall function properly and shall be maintained in a sanitary condition.

7. The premises shall be clean, comfortable, and in good repair.

8. Pets kept on the premises shall be vaccinated against diseases including rabies.

(b) *Water supply.*

1. A supply of safe drinking water shall be available to any participant at all times.

2. If well water is used, wells shall be approved by the department of natural resources and water samples shall be tested annually at a state approved laboratory. Documentation of test results shall be kept on file at the ADCC.

3. The ADCC shall set the temperature of all water heaters connected to sinks, showers and tubs used by residents at a temperature of at least 140 degrees Fahrenheit. The temperature of hot water at plumbing fixtures used by residents may not exceed the range of 110 to 115 degrees Fahrenheit.

(c) *Furnishings.*

1. The center shall provide sufficient furniture and equipment for use by every participant that provides comfort, safety, and is appropriate for every participant.

2. The furnishings shall be clean, safe, and in good repair.

(d) *Exits.* Stairs, walkways, and ramps shall be maintained in a safe condition. All exits, sidewalks, and driveways used for exiting shall be kept free of ice, snow, and obstructions.

(e) *Delayed egress locks.* Delayed egress door locks are permitted with Department approval only in an ADCC with a supervised automatic fire sprinkler system and a supervised interconnected automatic fire detection system and shall comply with all of the following:

1. No more than one device shall be present in a means of egress.
2. A sign shall be posted adjacent to the locking device indicating how the door may be opened.
3. The doors shall unlock upon activation of the sprinkler system or fire detection system. The doors shall unlock upon loss of power controlling the lock or locking mechanism.
4. The door locks shall have the capability of being unlocked by a signal from the ADCC's fire command center.
5. An irreversible process will occur which will release the latch in not more than 15 seconds when a force of no more than 15 pounds is applied for 3 seconds to the release device. Initiation of the irreversible process shall activate an audible signal in the vicinity of the door. Once the door lock has been released by the application of force to the releasing device, re-locking shall be by manual means only.
6. To obtain department approval for a delayed egress lock, the ADCC shall:
  - a. Demonstrate the delayed egress lock is necessary to ensure the safety of every participant served by the ADCC, specifically persons at risk of elopement due to behavioral concerns, cognitive impairments or dementia, including Alzheimer's disease.
  - b. Obtain documentation from the local municipality that the delayed egress door lock system complies with the requirements under sub. (8), par. (e) of this section and applicable building codes.
7. Upon installation of the approved delayed egress lock system, the operator shall obtain documentation from the installer that the system has been installed, tested, and is fully operational as designed and approved. The ADCC shall submit the documentation to the department within 10 days of completion of the installation.

(9) SAFETY.

(a) *Emergency plan.* Each ADCC shall have a written plan for responding to fires, tornadoes, any missing participant, injuries, staff absenteeism, and other emergencies which includes:

1. Posting an evacuation plan.
2. Informing all staff members of their duties during an emergency.
3. Practicing and documenting annual tornado drills.

(b) *Fire safety.* Each ADCC shall:

1. Maintain written reports of fire safety inspections as well as any other inspection reports required by local authorities.
2. Install and maintain at least one 2A, 10-B-C fire extinguisher per 1,500 square feet of space. If only one extinguisher is necessary in the building, it is to be located near the cooking area.
3. Ensure fire extinguishers are operable at all times, inspected once a year by a qualified person, and shall bear a label indicating its condition and date of the last inspection.



4. Install and maintain smoke detectors in each activity room and hallways, unless the fire department indicates otherwise in writing. Each smoke detector shall be tested monthly.

5. Conduct and document quarterly fire drills.

(10) REQUIREMENTS FOR MULTI-USE FACILITIES. An ADCC located in a multi-use facility shall ensure the setting, programs, and physical environment will enhance the dignity and individual respect of every participant.

(a) *Nursing homes, community-based residential facilities, residential care apartment complexes and pre-vocational programs.*

1. *Exterior.*

a. Access to the ADCC shall be distinct and have separate entrance and exit doors so each participant and staff are not walking through the living or program areas of others. A multi-use facility may have a shared lobby leading to a distinct entrance door for the ADCC.

b. The ADCC shall have a separate door to the outside so each participant and staff are not walking through the living or program areas of others.

2. *Interior.*

a. The ADCC shall be separate from living areas, shall be in addition to space required for other programs, and shall meet the requirements of sub. (8), par. (a), subd. 2. of this section.

b. Spaces designated for program activities, dining, toileting, exercise and ambulation are distinctly part of the adult day care area and limited to use by an ADCC participant. An ADCC participant may be provided personal care or therapy in space also used by residents or attendees of a multi-use facility provided that the ADCC services are scheduled at different times from any other occupants.

3. *Staffing.* The ADCC shall have distinct and separate caregivers. No caregiver may be concurrently assigned to the ADCC and another program. All staff assigned to the ADCC shall meet requirements for orientation and training under sub. (4) of this section.

4. *Activities.* The ADCC activity program shall be programmatically distinct from the weekly or monthly calendar of activities planned for residents or attendees of a multi-use facility, but may include special events provided on a non-routine basis.

(b) *Private family home.* If ADCC participants and other occupants are intermixed in a private family home and the common dining and living space is available to ADCC participants and other occupants, the common dining and living space shall be determined by the total capacity of the building as described in sub. (8), par. (a), subd. 2. of this section.

(11) ANNUAL PROGRAM REVIEW.

(a) An ADCC shall develop and implement an annual plan to evaluate and improve the effectiveness of the program's operation and services to ensure continuous improvement in service delivery. The evaluation process shall include:

1. A review of the existing program to identify quality of care issues.

2. The opportunity for each participant or their legal representative to complete a satisfaction survey regarding the services provided at the ADCC.

3. The development and implementation of plans of action to correct identified quality of care deficiencies as identified in an ADCC's internal review and the satisfaction survey.

4. A process for monitoring the effectiveness of the corrective actions taken by an ADCC.

(b) The department may not require disclosure of the records of the quality assessment process completed during the annual program review except to determine compliance with requirements of this subsection.

**SECTION 2. EFFECTIVE DATE.** This rule takes effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.