

## CHAPTER 231D

## ADULT DAY SERVICES

Referred to in §105.11, 231B.16, 231C.17, 235E.2, 483A.24

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**231D.1 Definitions.**

For the purposes of [this chapter](#), unless the context otherwise requires:

1. “*Adult day services*”, “*adult day services program*”, or “*program*” means an organized program providing a variety of health-related care, social services, and other related support services for sixteen hours or less in a twenty-four-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.

2. “*Contractual agreement*” means a written agreement entered into between an adult day services program and a participant that clearly describes the rights and responsibilities of the adult day services program and the participant, and other information required by rule.

3. “*Department*” means the department of inspections and appeals.

4. “*Functional impairment*” means a psychological, cognitive, or physical impairment creating the inability to perform personal and instrumental activities of daily living and associated tasks necessitating some form of supervision or assistance or both.

5. “*Governmental unit*” means the state, or any county, municipality, or other political subdivision or any department, division, board, or other agency of any of these entities.

6. “*Health-related care*” means services provided by a registered nurse or a licensed practical nurse, on a part-time or intermittent basis, and services provided by other licensed health care professionals, on a part-time or intermittent basis.

7. “*Medication setup*” means assistance with various steps of medication administration to support a participant’s autonomy, which may include but is not limited to routine prompting, cueing and reminding, opening containers or packaging at the direction of the participant, reading instructions or other label information, or transferring medications from the original container into suitable medication dispensing containers, reminder containers, or medication cups.

8. “*Participant*” means an individual who is the recipient of services provided by an adult day services program.

9. “*Participant’s legal representative*” means a person appointed by the court to act on behalf of a participant, or a person acting pursuant to a power of attorney.

10. “*Personal care*” means assistance with the essential activities of daily living which may include but are not limited to transferring, bathing, personal hygiene, dressing, grooming, and housekeeping that are essential to the health and welfare of a participant.

11. “*Recognized accrediting entity*” means a nationally recognized accrediting entity that the department recognizes as having specific adult day services program standards equivalent to the standards established by the department for adult day services.

12. “*Social services*” means services relating to the psychological and social needs of the

individual in adjusting to participating in an adult day services program, and minimizing the stress arising from that circumstance.

13. “Supervision” means direct oversight and inspection of the act of accomplishing a function or activity.

[2003 Acts, ch 165, §1](#); [2005 Acts, ch 61, §1, 17](#); [2007 Acts, ch 215, §184](#)

Referred to in [§135C.1](#), [142D.2](#), [144C.2](#), [231C.2](#), [231D.3A](#), [235E.1](#)

### **231D.2 Purpose — rules.**

1. The purpose of [this chapter](#) is to promote and encourage adequate and safe care for adults with functional impairments.

2. The department shall establish, by rule in accordance with [chapter 17A](#), a program for certification and monitoring of and complaint investigations related to adult day services programs. The department, in establishing minimum standards for adult day services programs, may adopt by rule in accordance with [chapter 17A](#), nationally recognized standards for adult day services programs. The rules shall include specification of recognized accrediting entities. The rules shall include a requirement that sufficient staffing be available at all times to fully meet a participant’s identified needs. The rules shall include a requirement that no fewer than two staff persons who monitor participants as indicated in each participant’s service plan shall be awake and on duty during the hours of operation when two or more participants are present. The rules and minimum standards adopted shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups and shall be designed to accomplish the purpose of [this chapter](#).

3. The department may establish by administrative rule, in accordance with [chapter 17A](#), specific rules related to minimum standards for dementia-specific adult day services programs. The rules shall be formulated in consultation with affected state agencies and affected industry, professional, and consumer groups.

[2003 Acts, ch 165, §2](#); [2005 Acts, ch 61, §2, 17](#); [2007 Acts, ch 215, §185, 186](#)

### **231D.3 Certification required.**

1. A person or governmental unit acting severally or jointly with any other person or governmental unit shall not establish or operate an adult day services program and shall not represent an adult day services program to the public as certified unless and until the program is certified pursuant to [this chapter](#). If an adult day services program is voluntarily accredited by a recognized accrediting entity with specific adult day services standards, the department shall accept voluntary accreditation as the basis for certification by the department. The owner or manager of a certified adult day services program shall comply with the rules adopted by the department for an adult day services program.

2. An adult day services program may provide any type of adult day services for which the program is certified. An adult day services program shall provide services and supervision commensurate with the needs of the participants. An adult day services program shall not provide services to individuals requiring a level or type of services for which the program is not certified and services provided shall not exceed the level or type of services for which the program is certified.

3. An adult day services program that has been certified by the department shall not alter the program, operation, or adult day services for which the program is certified in a manner that affects continuing certification without prior approval of the department. The department shall specify, by rule, alterations that are subject to prior approval.

4. A department, agency, or officer of this state or of any governmental unit shall not pay or approve for payment from public funds any amount to an adult day services program for an actual or prospective participant, unless the program holds a current certificate issued by the department and meets all current requirements for certification.

5. The department shall adopt rules regarding the conducting or operating of another business or activity in the distinct part of the physical structure in which the adult day services program is provided, if the business or activity serves persons who are not participants. The rules shall be developed in consultation with affected state agencies and affected industry, professional, and consumer groups.

6. The department shall conduct training sessions for personnel responsible for conducting monitoring evaluations and complaint investigations of adult day services programs.

7. Beginning January 1, 2013, certification of an adult day services program shall be for three years unless revoked for good cause by the department.

2003 Acts, ch 165, §3; 2005 Acts, ch 61, §3, 4, 17; 2007 Acts, ch 215, §187; 2013 Acts, ch 55, §1, 3, 4

2013 amendment to subsection 7 takes effect April 24, 2013, and applies retroactively to January 1, 2013; any initial certification or recertification issued on or after January 1, 2013, and prior to April 24, 2013, shall be extended to reflect a three-year period; 2013 Acts, ch 55, §3, 4

#### **231D.3A Exception.**

An entity certified by the centers for Medicare and Medicaid services of the United States department of health and human services as a federal program of all-inclusive care for the elderly shall not be required to be certified as an adult day services program under [this chapter](#). A program of all-inclusive care for the elderly, as used in [this section](#), shall not identify itself or hold itself out to be an adult day services program as defined in [section 231D.1](#).

2012 Acts, ch 1035, §1; 2013 Acts, ch 30, §44

#### **231D.4 Application and fees.**

1. Certificates for adult day services programs shall be obtained from the department. Applications shall be upon such forms and shall include such information as the department may reasonably require, which may include affirmative evidence of compliance with applicable statutes and local ordinances. Each application for certification shall be accompanied by the appropriate fee.

2. a. The department shall collect adult day services certification fees. The fees shall be deposited in the general fund of the state.

b. The following certification and related fees shall apply to adult day services programs:

(1) Beginning January 1, 2013, for a three-year initial certification, seven hundred fifty dollars.

(2) Beginning January 1, 2013, for a three-year recertification, one thousand dollars.

(3) For a blueprint review, nine hundred dollars.

(4) For an optional preliminary plan review, five hundred dollars.

(5) For certification via a national body of accreditation, one hundred twenty-five dollars.

2003 Acts, ch 165, §4; 2005 Acts, ch 61, §5, 17; 2007 Acts, ch 215, §188, 189; 2013 Acts, ch 55, §2, 3, 4

2013 amendments to subsection 2, paragraph b, subparagraphs (1) and (2), take effect April 24, 2013, and apply retroactively to January 1, 2013; any initial certification or recertification issued on or after January 1, 2013, and prior to April 24, 2013, shall be extended to reflect a three-year period; 2013 Acts, ch 55, §3, 4

#### **231D.5 Denial, suspension, or revocation.**

1. The department may deny, suspend, or revoke certification if the department finds that there has been a substantial or repeated failure on the part of the adult day services program to comply with [this chapter](#) or the rules or minimum standards adopted pursuant to [this chapter](#), or for any of the following reasons:

a. Appropriation or conversion of the property of a participant without the participant's written consent or the written consent of the participant's legal representative.

b. Permitting, aiding, or abetting the commission of any illegal act in the adult day services program.

c. Obtaining or attempting to obtain or retain certification by fraudulent means, misrepresentation, or by submitting false information.

d. Habitual intoxication or addiction to the use of drugs by the applicant, owner, manager, or supervisor of the adult day services program.

e. Securing the devise or bequest of the property of a participant by undue influence.

f. Failure or neglect to maintain a required continuing education and training program for all personnel employed in the adult day services program.

g. Founded dependent adult abuse as defined in [section 235E.1](#).

h. In the case of any officer, member of the board of directors, trustee, or designated manager of the program or any stockholder, partner, or individual who has greater than a five percent equity interest in the program, having or having had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, residential care facility, or licensed nursing facility in any state which has been closed due to removal of program, agency, or facility licensure or certification or involuntary termination from participation in either the medical assistance or Medicare programs, or having been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

i. In the case of a certificate applicant or an existing certified owner or operator who is an entity other than an individual, the person is in a position of control or is an officer of the entity and engages in any act or omission proscribed by [this chapter](#).

j. In the case of an application by an existing certificate holder for a new or newly acquired adult day services program, the department may deny certification on the basis of continuing or repeated failure of the certificate holder to operate any previously certified adult day services program in compliance with [this chapter](#) or of the rules adopted pursuant to [this chapter](#).

k. In the case of an application for a new or newly acquired adult day services program, continuing or repeated failure of the certificate holder to operate any previously certified adult day services program or programs in compliance with the provisions of [this chapter](#), the rules adopted pursuant to [this chapter](#), or equivalent provisions that the adult day services program is subject to in this state or any other state.

l. Intentionally preventing or interfering with or attempting to prevent or interfere in any way with the performance by any duly authorized representative of the department of the lawful enforcement of [this chapter](#) or of the rules adopted pursuant to [this chapter](#). As used in this paragraph, “lawful enforcement” includes but is not limited to the following:

(1) Contacting or interviewing any participant of an adult day services program in private at any reasonable hour and without advance notice.

(2) Examining any relevant books or records of an adult day services program unless otherwise protected from disclosure by operation of law.

(3) Preserving evidence of any violation of [this chapter](#) or of the rules adopted pursuant to [this chapter](#).

m. For any other reason as provided by law or administrative rule.

2. In the case of a certificate applicant or existing certificate holder which is an entity other than an individual, the department may deny, suspend, or revoke a certificate if any individual who is in a position of control or is an officer of the entity engages in any act or omission proscribed by [this section](#).

[2003 Acts, ch 165, §5; 2005 Acts, ch 61, §6, 17; 2006 Acts, ch 1030, §25; 2007 Acts, ch 215, §190, 191; 2008 Acts, ch 1031, §41; 2008 Acts, ch 1032, §37; 2014 Acts, ch 1040, §24; 2015 Acts, ch 80, §13](#)

Referred to in [§231D.7](#)

### **231D.6 Notice — appeal — emergency provisions.**

1. The denial, suspension, or revocation of a certificate shall be effected by delivering to the applicant or certificate holder by restricted certified mail or by personal service a notice setting forth the particular reasons for the action. The denial, suspension, or revocation shall become effective thirty days after the mailing or service of the notice, unless the applicant or certificate holder, within the thirty-day period, requests a hearing, in writing, of the department, in which case the notice shall be deemed to be suspended.

2. The denial, suspension, or revocation of a certificate may be appealed in accordance with rules adopted by the department in accordance with [chapter 17A](#).

3. When the department finds that an immediate danger to the health or safety of participants in an adult day services program exists which requires action on an emergency basis, the department may direct the removal of all participants in the adult day services program and suspend the certificate prior to a hearing.

[2003 Acts, ch 165, §6; 2005 Acts, ch 61, §7, 17; 2007 Acts, ch 215, §192](#)

**231D.7 Conditional operation.**

The department may, as an alternative to denial, suspension, or revocation of certification under [section 231D.5](#), conditionally issue or continue certification dependent upon the performance by the adult day services program of reasonable conditions within a reasonable period of time as prescribed by the department so as to permit the program to commence or continue the operation of the program pending full compliance with [this chapter](#) or the rules adopted pursuant to [this chapter](#). If the adult day services program does not make diligent efforts to comply with the conditions prescribed, the department may, under the proceedings prescribed by [this chapter](#), suspend or revoke the certificate. An adult day services program shall not be operated under conditional certification for more than one year.

[2003 Acts, ch 165, §7](#); [2007 Acts, ch 215, §193](#)

**231D.8 Department notified of casualties.**

The department shall be notified within twenty-four hours, by the most expeditious means available, of any accident causing substantial injury or death, and any substantial fire or natural or other disaster occurring at or near an adult day services program.

[2003 Acts, ch 165, §8](#); [2007 Acts, ch 215, §194](#)

**231D.9 Complaints and confidentiality.**

1. A person with concerns regarding the operations or service delivery of an adult day services program may file a complaint with the department. The name of the person who files a complaint with the department and any personal identifying information of the person or any participant identified in the complaint shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than employees of the department involved in the investigation of the complaint.

2. The department shall establish procedures for the disposition of complaints received in accordance with [this section](#).

[2003 Acts, ch 165, §9](#); [2005 Acts, ch 61, §8, 17](#); [2007 Acts, ch 215, §195](#)

Referred to in [§231D.12](#)

**231D.9A Exit interview — issuance of findings.**

1. The department shall provide an adult day services program an exit interview at the conclusion of a monitoring evaluation or a complaint investigation, and the department shall inform the program's representative of all issues and areas of concern related to the insufficient practices. The department may conduct the exit interview in person or by telephone, and the department shall provide a second exit interview if any additional issues or areas of concern are identified. The program shall have two working days from the date of the exit interview to submit additional or rebuttal information to the department.

2. The department shall issue the final findings of a monitoring evaluation or complaint investigation within ten working days after completion of the on-site monitoring evaluation or complaint investigation. The final findings shall be served upon the program personally, by electronic mail, or by certified mail.

[2005 Acts, ch 61, §9, 17](#); [2007 Acts, ch 215, §196](#); [2014 Acts, ch 1040, §25, 28](#)

2014 amendment to section takes effect July 1, 2014, and applies to an adult day services program desiring to request an informal conference under chapter 231D on or after January 1, 2015; [2014 Acts, ch 1040, §28](#)

**231D.10 Disclosure of findings.**

Upon completion of a monitoring evaluation or complaint investigation of an adult day services program by the department pursuant to [this chapter](#), the department's final findings with respect to compliance by the adult day services program with requirements for certification shall be made available to the public in a readily available form and place. Other information relating to an adult day services program that is obtained by the department which does not constitute the department's final findings from a monitoring evaluation or complaint investigation of the adult day services program shall not be made available to the

public except in proceedings involving the assessment of a civil penalty pursuant to [section 231D.11](#) or the denial, suspension, or revocation of a certificate under [this chapter](#).

2003 Acts, ch 165, §10; 2005 Acts, ch 61, §10, 17; 2007 Acts, ch 215, §197; 2008 Acts, ch 1048, §3, 4; 2014 Acts, ch 1040, §26, 28; 2015 Acts, ch 80, §14

2014 amendment to section takes effect July 1, 2014, and applies to an adult day services program desiring to request an informal conference under chapter 231D on or after January 1, 2015; 2014 Acts, ch 1040, §28

#### **231D.10A Informal conference — formal contest — judicial review.**

1. Within twenty business days after issuance of the final findings, the adult day services program shall notify the director if the program desires to contest the findings and do either of the following:

a. Request an informal conference with an independent reviewer pursuant to [subsection 2](#). Upon the conclusion of an informal conference, if the adult day services program desires to further contest an affirmed or modified regulatory insufficiency, it may do so by giving notice of intent to formally contest the regulatory insufficiency, in writing, to the department within five days after receipt of the written decision of the independent reviewer.

b. Request a contested case hearing in the manner provided by [chapter 17A](#) for contested cases. The formal hearing shall be conducted in accordance with [chapter 17A](#) and rules adopted by the department.

2. a. The department shall provide an independent reviewer to hold an informal conference with an adult day services program within ten working days after receiving a request from the program pursuant to [subsection 1](#), paragraph “a”. At the conclusion of the informal conference, the independent reviewer may affirm, modify, or dismiss a contested regulatory insufficiency. The independent reviewer shall state in writing the specific reasons for the affirmation, modification, or dismissal and immediately transmit copies of the statement to the department and to the program.

b. An independent reviewer shall be licensed as an attorney in the state of Iowa and shall not be employed or have been employed by the department in the past eight years or have appeared in front of the department on behalf of an adult day services program in the past eight years. Preference shall be given to an attorney with background knowledge, experience, or training in long-term care. The department may issue a request for proposals to enter into a contract for the purpose of providing one or more independent reviewers for informal conferences.

3. An adult day services program that has exhausted all adequate administrative remedies and is aggrieved by the final action of the department may petition for judicial review in the manner provided by [chapter 17A](#).

2014 Acts, ch 1040, §27, 28; 2015 Acts, ch 80, §15

Section takes effect July 1, 2014, and applies to an adult day services program desiring to request an informal conference under chapter 231D on or after January 1, 2015; 2014 Acts, ch 1040, §28

#### **231D.11 Penalties.**

1. A person establishing, conducting, managing, or operating an adult day services program without a certificate is guilty of a serious misdemeanor. Each day of continuing violation after conviction or notice from the department by certified mail of a violation shall be considered a separate offense or chargeable offense. A person establishing, conducting, managing, or operating an adult day services program without a certificate may be temporarily or permanently restrained by a court of competent jurisdiction from such activity in an action brought by the state.

2. A civil penalty, as established by rule, may apply in any of the following situations:

a. Program noncompliance with one or more regulatory requirements has caused or is likely to cause harm, serious injury, threat, or death to a participant.

b. Program failure or refusal to comply with regulatory requirements within prescribed time frames.

c. Preventing or interfering with or attempting to impede in any way any duly authorized representative of the department in the lawful enforcement of [this chapter](#) or of the rules adopted pursuant to [this chapter](#). As used in this paragraph, “*lawful enforcement*” includes but is not limited to:

(1) Contacting or interviewing any participant in an adult day services program in private at any reasonable hour and without advance notice.

(2) Examining any relevant records of an adult day services program.

(3) Preserving evidence of any violation of [this chapter](#) or of the rules adopted pursuant to [this chapter](#).

[2003 Acts, ch 165, §11](#); [2005 Acts, ch 61, §11, 17](#); [2007 Acts, ch 215, §198, 199](#)

Referred to in [§231D.10](#)

#### **231D.12 Retaliation by adult day services program prohibited.**

1. An adult day services program shall not discriminate or retaliate in any way against a participant, participant's family, or an employee of the program who has initiated or participated in any proceeding authorized by [this chapter](#). An adult day services program that violates [this section](#) is subject to a penalty as established by administrative rule, to be assessed and collected by the department, paid into the state treasury, and credited to the general fund of the state.

2. Any attempt to discharge a participant from an adult day services program by whom or upon whose behalf a complaint has been submitted to the department under [section 231D.9](#), within ninety days after the filing of the complaint or the conclusion of any proceeding resulting from the complaint, shall raise a rebuttable presumption that the action was taken by the program in retaliation for the filing of the complaint, except in situations in which the participant is discharged due to changes in health status which exceed the level of care offered by the adult day services program or in other situations as specified by rule.

[2003 Acts, ch 165, §12](#); [2005 Acts, ch 61, §12, 17](#); [2006 Acts, ch 1010, §74](#); [2007 Acts, ch 215, §200](#)

Referred to in [§231D.17](#)

#### **231D.13 Nursing assistant and medication aide — certification.**

The department, in cooperation with other appropriate agencies, shall establish a procedure to allow nursing assistants or medication aides to claim work within adult day services programs as credit toward sustaining the nursing assistant's or medication aide's certification.

[2003 Acts, ch 165, §13](#); [2007 Acts, ch 215, §201](#)

#### **231D.13A Medication setup — administration and storage of medications.**

1. An adult day services program may provide for medication setup if requested by a participant or the participant's legal representative. If medication setup is provided following such request, the program shall be responsible for the specific task requested and the participant shall retain responsibility for those tasks not requested to be provided.

2. If medications are administered or stored by an adult day services program, or if the adult day services program provides for medication setup, all of the following shall apply:

a. If administration of medications is delegated to the program by the participant or the participant's legal representative, the medications shall be administered by a registered nurse, licensed practical nurse, advanced registered nurse practitioner licensed in Iowa, or by the individual to whom such licensed individuals may properly delegate administration of medications.

b. Medications, other than those self-administered by the participant or provided through medication setup, shall be stored in locked storage that is not accessible to persons other than employees responsible for administration or storage of medications.

c. Medications shall be labeled and maintained in compliance with label instructions and state and federal law.

d. A person, other than a person authorized to prescribe prescription drugs under state and federal law, shall not alter the prescription of a participant.

e. Medications shall be stored in their originally received containers.

f. If medication setup is provided by the program at the request of the participant or the participant's legal representative, or if medication administration is delegated to the program by the participant or the participant's legal representative, appropriate staff of the program

may transfer the medications in the participant's presence from the original prescription container to medication dispensing containers, reminder containers, or medication cups.

g. Program assistance with medication administration as specified in the contractual agreement shall not require the program to provide assistance with the storage of medications.

2005 Acts, ch 61, §13, 17; 2015 Acts, ch 56, §20

#### **231D.14 Criminal records investigation check.**

An adult day services program shall comply with [section 135C.33](#).

2003 Acts, ch 165, §14

#### **231D.15 Fire and safety standards.**

The state fire marshal shall adopt rules, in coordination with the department, relating to the certification and monitoring of the fire and safety standards of adult day services programs.

2003 Acts, ch 165, §15; 2007 Acts, ch 215, §202

#### **231D.16 Transition provision.**

1. Adult day services programs that are serving at least two but not more than five persons and that are not voluntarily accredited by a recognized accrediting entity shall comply with [this chapter](#).

2. A hospital licensed pursuant to [chapter 135B](#), a health care facility licensed pursuant to [chapter 135C](#), or an assisted living program certified pursuant to [chapter 231C](#) may operate an adult day services program if the adult day services program is certified pursuant to [this chapter](#).

3. A certified adult day services program that complies with the requirements of [this chapter](#) shall not be required to be licensed or certified as another type of facility, unless the facility is represented to the public as another type of facility.

2003 Acts, ch 165, §16; 2005 Acts, ch 61, §14, 17; 2015 Acts, ch 30, §74

#### **231D.17 Written contractual agreement required.**

1. An adult day services program shall not operate in this state unless a written contractual agreement is executed between the adult day services program and each participant or the participant's legal representative prior to the participant's admission to the program, and unless the adult day services program operates in accordance with the terms of the written contractual agreement. The adult day services program shall deliver to the participant or the participant's legal representative a complete copy of the written contractual agreement and all supporting documents and attachments, prior to the participant's admission to the program, and shall also deliver a written copy of changes to the written contractual agreement, if any changes to the copy originally delivered are subsequently made, at least thirty days prior to any changes, unless otherwise provided in [this section](#).

2. An adult day services program written contractual agreement shall clearly describe the rights and responsibilities of the participant and the program. The written contractual agreement shall also include but is not limited to inclusion of all of the following information in the body of the agreement or in the supporting documents and attachments:

a. A description of all fees, charges, and rates describing admission and basic services covered, and any additional and optional services and their related costs.

b. A statement regarding the impact of the fee structure on third-party payments, and whether third-party payments and resources are accepted by the adult day services program.

c. The procedure followed for nonpayment of fees.

d. Identification of the party responsible for payment of fees and identification of the participant's legal representative, if any.

e. The term of the written contractual agreement.

f. A statement that the adult day services program shall notify the participant or the participant's legal representative, as applicable, in writing at least thirty days prior to any change being made in the written contractual agreement, with the following exceptions:

(1) When the participant's health status or behavior constitutes a substantial threat to



the health or safety of the participant, other participants, or others, including when the participant refuses to consent to discharge.

(2) When an emergency or a significant change in the participant's condition results in the need for the provision of services that exceed the type or level of services included in the written contractual agreement and the necessary services cannot be safely provided by the adult day services program.

g. A statement that all participant information shall be maintained in a confidential manner to the extent required under state and federal law.

h. Discharge, involuntary transfer, and transfer criteria and procedures, which ensure a safe and orderly transfer.

i. The internal appeals process provided relative to an involuntary transfer.

j. The program's policies and procedures for addressing grievances between the adult day services program and the participants, including grievances relating to transfer and occupancy.

k. A statement of the prohibition against retaliation as prescribed in [section 231D.12](#).

l. The emergency response policy.

m. The staffing policy which specifies staff is available during all times of program operation, if nurse delegation will be used, and how staffing will be adapted to meet changing participant needs.

n. In dementia-specific adult day services programs, a description of the services and programming provided to meet the life skills and social activities of participants.

o. The refund policy.

p. A statement regarding billing and payment procedures.

3. Written contractual agreements and related documents executed by each participant or participant's legal representative shall be maintained by the adult day services program in program files from the date of execution until three years from the date the written contractual agreement is terminated. A copy of the most current written contractual agreement shall be provided to members of the general public, upon request. Written contractual agreements and related documents shall be made available for on-site inspection to the department upon request and at reasonable times.

[2005 Acts, ch 61, §15, 17; 2007 Acts, ch 215, §203](#)

#### **231D.18 Involuntary transfer.**

1. If an adult day services program initiates the involuntary transfer of a participant and the action is not a result of a monitoring evaluation or complaint investigation by the department, and if the participant or participant's legal representative contests the transfer, the following procedure shall apply:

a. The adult day services program shall notify the participant or participant's legal representative, in accordance with the written contractual agreement, of the need to transfer and the reason for the transfer.

b. If, following the internal appeals process, the adult day services program upholds the transfer decision, the participant or participant's legal representative may utilize other remedies authorized by law to contest the transfer.

2. The department, in consultation with affected state agencies and affected industry, professional, and consumer groups, shall establish by rule, in accordance with [chapter 17A](#), procedures to be followed, including the opportunity for hearing, when the transfer of a participant results from a monitoring evaluation or complaint investigation conducted by the department.

[2005 Acts, ch 61, §16, 17; 2007 Acts, ch 215, §204, 205](#)

#### **231D.19 Limitations on admission and retention of participants.**

An adult day services program shall not knowingly admit or retain a participant who meets any of the following criteria:

1. Is under the age of eighteen.

2. Requires routine three-person assistance with standing, transfer, or evacuation.

3. Poses a danger to the participant, other participants, or the adult day services program staff. *Pose a danger* may include but is not limited to the following situations:

- a. The participant chronically elopes despite intervention.
- b. The participant is sexually or physically aggressive or abusive.
- c. The participant's verbal abuse is unmanageable by staff.
- d. The participant is in the acute stage of alcoholism, drug addiction, or mental illness.

[2014 Acts, ch 1009, §1](#)