

CHAPTER 24  
ADULT DAY SERVICES PROGRAMS

**321—24.1(231D) Definitions.**

“*Accredited*” means that the program has received accreditation from the entity named in subrule 24.14(1).

“*Adult*” means a person 18 years of age or older.

“*Adult day services,*” “*adult day services program*” or “*program*” means an organized program providing a variety of health, social, and related support services for 16 hours or less in a 24-hour period to two or more persons with a functional impairment on a regularly scheduled, contractual basis.

“*Adult with functional impairments*” means an adult who has a psychological, cognitive or physical impairment that creates an inability to perform personal and instrumental activities of daily living and associated tasks and that necessitates some form of supervision or assistance or both.

“*Allied health care professional*” means a person licensed through the Iowa department of public health, other than a physician, physician assistant, registered nurse or advanced registered nurse practitioner, who provides health services to the participant.

“*Assistance*” means aid to a participant who self-directs or participates in a task or activity or who retains the mental or physical ability, or both, to participate in a task or activity. Cueing of the participant regarding a particular task or activity shall not be construed to mean the participant has not participated in the task or activity.

“*CARF*” means the Rehabilitation Accreditation Commission.

“*Cognitive disorder*” means a disorder characterized by cognitive dysfunction presumed to be the result of illness that does not meet criteria for dementia, delirium, or amnesic disorder.

“*Contractual agreement*” means written agreement between the program and the participant or legal representative.

“*Dementia*” means an illness characterized by multiple cognitive deficits which represent a decline from previous levels of functioning and include memory impairment and one or more of the following cognitive disturbances: aphasia, apraxia, agnosia, and disturbance in executive functioning.

“*Dementia-specific adult day services program*” means a program certified under this chapter that either serves five or more participants with dementia between stages four and seven on the Global Deterioration Scale or holds itself out as providing specialized care for persons with a cognitive disorder or dementia, such as Alzheimer’s disease, in a dedicated setting.

“*Department*” means the department of elder affairs.

“*DIA*” means the department of inspections and appeals.

“*Functional impairment*” means a psychological, cognitive, or physical impairment that creates an inability to perform personal and instrumental activities of daily living and associated tasks and that necessitates some form of supervision or assistance or both.

“*Global Deterioration Scale*” means the seven-stage scale for assessment of primary degenerative dementia developed by Dr. Barry Reisberg.

“*Health care*” means services provided by a health care professional, allied health care professional or supervised designated health care giver on a part-time or intermittent basis.

“*Health care professional*” means a physician, physician assistant, registered nurse or advanced registered nurse practitioner licensed through the department of public health.

“*Human service professional*” means an individual with at least a bachelor’s degree in a human service field including human services, gerontology, social work, sociology, psychology, and family science. Experience in a human service field may be substituted for up to two years of required education.

“*In the proximate area*” means located within a less-than-five-minute response time.

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

“*Modification*” means any addition to or change in dimensions or structure except as incidental to the customary maintenance of the program structure.

*“Nonaccredited”* means that the program has been certified under the provisions of this chapter but has not received accreditation from the entity named in subrule 24.14(1).

*“Nurse-delegated assistance”* means those delegated tasks or activities for which a professional nurse has assumed responsibility for assessing, planning, implementing, or evaluating, and for which the nurse remains legally accountable.

*“Participant”* means an adult with a functional impairment who meets eligibility requirements for the program and who has a contractual agreement with the program.

*“Part-time or intermittent health-related care”* means licensed nursing services and professional therapies, in combination with nurse-delegated assistance, which are provided to a participant not to exceed a total of three hours per day.

*“Program”* shall have one of the following meanings, determined by the context of the particular rule under consideration:

1. A person. Unless otherwise provided by law, “person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

2. A physical facility, structure or building utilized in an adult day services program.

3. Adult day services provided to persons eligible for an adult day program as defined in this chapter.

*“Qualified professional”* means a facility plant engineer familiar with the type of program being provided, or a licensed plumbing, heating, cooling or electrical contractor who furnishes regular service to such equipment.

*“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.

*“Remodeling”* means modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

*“Routine”* means regular, customary or not occasional or intermittent.

*“Self-administration”* means a participant’s taking personal responsibility for all medication needs, including ordering, refilling, remembering dosing schedule, and self-administering medications.

*“Service plan”* means the document that defines the services to meet the needs and preferences of a participant.

*“Supervision of self-administration”* means a staff person’s activities such as routine prompting and reminding, opening of containers or packaging at the direction of the participant, or reading instructions or other label information in order for a participant to self-administer a medication.

*“Unmanageable incontinence”* means a condition that requires staff provision of total care for an incontinent participant who lacks the ability to assist in bladder or bowel continence care.

*“Visiting day(s)”* means up to 16 hours in a two-day period during which a person may visit a program prior to admission for the purpose of assessing program eligibility and personal satisfaction. A written explanation of the expectations for the visiting day shall be provided.

**321—24.2(231D) Program certification.** New programs and existing accredited programs shall be certified and operated in accordance with Iowa Code Supplement chapter 231D and all applicable administrative rules. Programs not accredited by a recognized accrediting entity shall become certified by meeting all of the requirements set forth in 24.3(231D) and all requirements imposed by Iowa Code Supplement chapter 231D and this chapter. For the purpose of these rules, certification is equivalent to licensure. A current certificate shall be visibly displayed within the designated area of the operation of the program.

**321—24.3(231D) Certification of a nonaccredited program.**

**24.3(1)** The applicant shall complete an approved application packet obtained from the department of inspections and appeals (DIA). Application materials may be obtained on the health facilities division Web site at [www.dia-hfd.state.ia.us](http://www.dia-hfd.state.ia.us); by mail from the Department of Inspections and Appeals, Adult

Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

**24.3(2)** The applicant shall submit one copy of the completed application and all supporting documentation to DIA at the above address. The time frame for submission of the application shall be as follows:

- a. For a new operation, at least 60 calendar days prior to the expected date of beginning operation;
- b. For a program in operation on or before May 19, 2004, within 30 calendar days following compliance with structural and life safety requirements pursuant to 24.19(231D) and 24.41(231D).

**24.3(3)** The appropriate fees, as stated in 321—Chapter 27, shall accompany each application and are payable by check or money order to the Department of Inspections and Appeals. The fees are nonrefundable.

**24.3(4)** No application shall be considered by DIA until it is received with all supporting documents and fees.

**321—24.4(231D) Nonaccredited program application content.** An application for certification or recertification of a nonaccredited program shall include the following:

**24.4(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in the program. The program shall notify DIA of any changes in the list within ten working days of the changes.

**24.4(2)** A statement affirming that the individuals listed in 24.4(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

**24.4(3)** A statement disclosing whether any of the individuals listed in 24.4(1) have or have had an ownership interest in an adult day services program, assisted living program, elder group home, home health agency, or licensed health care facility as defined under Iowa Code Supplement section 135C.1 or a licensed hospital as defined under Iowa Code section 135B.1 which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

**24.4(4)** A copy of the current policy and procedure for evaluation of each participant, which includes a copy of the evaluation tool or tools to be used to identify the functional, cognitive and health status of each participant.

**24.4(5)** Identification of target population.

**24.4(6)** A copy of the current service plan format.

**24.4(7)** If the program contracts for personal care or health-related care services from a certified home health agency, mental health center or a licensed health care facility, a copy of that entity's current license or certification.

**24.4(8)** A copy of the current policy and procedure for addressing medication needs of participants.

**24.4(9)** A copy of the current policy and procedure describing accident and emergency response procedures.

**24.4(10)** A copy of the current participant contractual agreement.

**24.4(11)** A copy of the current policy and procedure for managing risk and upholding participant autonomy when participant decision making may result in poor outcomes for the participant or others.

**24.4(12)** A copy of the current state license(s) for the entity providing food service, whether it is the program or an outside entity or a combination of both.

**24.4(13)** A copy of the written policies and procedures for food service that includes staffing, nutrition, menu planning, therapeutic diets, preparation, service and storage.

**321—24.5(231D) Initial certification process for nonaccredited program.**

**24.5(1)** DIA shall determine whether or not the proposed adult day services program meets applicable requirements contained in Iowa Code Supplement chapter 231D and this chapter upon receipt

of all completed documentation, including state fire marshal approval and structural and evacuation review approval.

**24.5(2)** DIA shall notify the applicant within five working days of any preliminary determination.

*a.* If the determination is to certify, DIA shall issue a conditional certification not to exceed one year.

*b.* If the determination is to deny certification, DIA shall provide the applicant the opportunity for hearing in accordance with 321—26.4(17A,231C,231D).

**24.5(3)** The conditional certification shall allow the applicant to begin operation and accept participants into the program.

**24.5(4)** Within 90 calendar days following issuance of conditional certification, DIA shall conduct an on-site monitoring evaluation to determine compliance with the provisions of Iowa Code Supplement chapter 231D and this chapter.

**24.5(5)** If regulatory insufficiencies are identified as a result of the monitoring evaluation, DIA shall issue a report of the findings to the program by certified mail within 20 working days following the monitoring evaluation. The program shall be required to submit a plan of correction to DIA within ten working days following receipt of the report.

**24.5(6)** DIA shall make a final certification decision based on the results of the monitoring evaluation and review of an acceptable plan of correction.

**24.5(7)** DIA shall notify the program of a final certification decision within 10 working days following the finalization of the on-site monitoring evaluation report or receipt of an acceptable plan of correction, whichever is applicable.

**24.5(8)** If the decision is to continue certification, DIA shall issue a full two-year certification effective from the date of the original conditional certification.

**24.5(9)** If the decision is to discontinue certification through denial, DIA shall provide the program the opportunity for a hearing under 321—26.4(17A,231C,231D).

#### **321—24.6(231D) Recertification of nonaccredited program.**

**24.6(1)** Certification of a program, unless conditionally issued, suspended or revoked, shall expire at the end of the time period specified on the certificate.

**24.6(2)** DIA shall send recertification application materials to each program at least 120 calendar days prior to expiration of its certification.

**321—24.7(231D) Recertification process for nonaccredited program.** To obtain recertification, a program shall:

**24.7(1)** Submit one copy of the completed application, associated documentation and the recertification fee as listed in 321—Chapter 27 to DIA at the address stated in 24.3(1) at least 90 calendar days prior to the expiration of the program's certification.

**24.7(2)** Submit additional documentation that the following systems have been inspected by a qualified professional and are found to be maintained in conformance with manufacturer's recommendations and nationally recognized standards: heating, cooling, water heater, electricity, plumbing, sewage, artificial light, and ventilation; and, if located on site, garbage disposal, cooking area, laundry, and elevators.

#### **321—24.8(231D) Notification of recertification.**

**24.8(1)** DIA shall review the application and associated documentation and fees for completion and notify the program of application status within 10 working days of receipt of the required application materials.

**24.8(2)** DIA shall conduct an on-site monitoring evaluation of the program between 60 and 90 days prior to expiration of the program's certification.

**24.8(3)** If regulatory insufficiencies are identified as a result of the monitoring evaluation, DIA shall issue a report of the findings to the program by certified mail within 20 working days following the monitoring evaluation. The program shall be required to submit a plan of correction to DIA within 10

working days following receipt of the report. Within 10 working days of receiving all documentation, including state fire marshal approval and an acceptable plan of correction, DIA shall determine the program's compliance with applicable requirements contained in Iowa Code Supplement chapter 231D and this chapter and make a recertification decision.

**24.8(4)** If no regulatory insufficiencies are identified as a result of the monitoring evaluation, DIA shall issue a report of the findings with the final recertification decision. Within 15 working days of receiving all finalized documentation, including state fire marshal approval, DIA shall determine the program's compliance with applicable requirements contained in Iowa Code Supplement chapter 231D and this chapter and make a recertification decision.

**24.8(5)** If the decision is to recertify, DIA shall issue the program a two-year certification effective from the date of the expiration of the previous certification.

**24.8(6)** If the decision is to deny recertification, DIA shall provide the program the opportunity for a hearing under 321—26.4(17A,231C,231D).

**24.8(7)** If DIA is unable to recertify a program through no fault of the program, DIA shall issue a time-limited extension to the program.

**321—24.9(231D) Certification and recertification process for an accredited program.**

**24.9(1)** An applicant program accredited by a recognized accrediting entity shall:

*a.* Submit a completed application packet obtained from DIA. Application materials may be obtained from the health facilities division Web site at [www.dia-hfd.state.ia.us](http://www.dia-hfd.state.ia.us); by mail from the Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083; or by telephone at (515)281-6325.

*b.* Submit a copy of the current accreditation outcome from a recognized accrediting entity.

*c.* Apply for certification within 30 calendar days following compliance with life safety requirements pursuant to this chapter for a program in operation on or before May 19, 2004.

*d.* Apply for recertification within 60 calendar days following verification of compliance with life safety requirements pursuant to this chapter.

*e.* Maintain compliance with life safety requirements pursuant to this chapter.

**24.9(2)** DIA shall not consider an application until it is completed and received with all supporting documentation.

**321—24.10(231D) Accredited program certification or recertification application content.** An application for certification or recertification of a program shall include the following:

**24.10(1)** A list that includes the names, addresses and percentage of stock, shares, partnership or other equity interest of all officers, members of the board of directors, and trustees and of the designated manager, as well as stockholders, partners or any individuals who have greater than a 10 percent equity interest in the program. The program shall notify DIA of any changes in the list within ten working days of the change.

**24.10(2)** A statement affirming that the individuals listed in 24.10(1) have not been convicted of a felony or serious misdemeanor or found in violation of the dependent adult abuse code in any state.

**24.10(3)** A statement disclosing whether any of the individuals listed in 24.10(1) have or have had an ownership interest in a program, assisted living program, elder group home, home health agency, or licensed health care facility as defined under Iowa Code Supplement section 135C.1 or licensed hospital under Iowa Code section 135B.1 which has been closed in any state due to removal of program, agency, or facility licensure or certification or due to involuntary termination from participation in either the Medicaid or Medicare program; or have been found to have failed to provide adequate protection or services for participants to prevent abuse or neglect.

**24.10(4)** Identification of target population.

**24.10(5)** A copy of the current accreditation outcome from the recognized accrediting entity.

**321—24.11(231D) Initial certification process for accredited program.**

**24.11(1)** DIA shall determine whether or not the accredited program meets applicable requirements contained in these rules and Iowa Code Supplement chapter 231D within 20 working days of receiving all finalized documentation, including state fire marshal approval.

**24.11(2)** DIA shall notify the accredited program within 10 working days of the final certification decision.

*a.* If the decision is to certify, a full certification shall be issued for the term of the accreditation, not to exceed three years, unless conditionally issued, suspended or revoked by either DIA or the recognized accrediting entity.

*b.* If the determination is to deny certification, DIA shall provide the applicant the opportunity for hearing in accordance with 321—26.4(17A,231C,231D).

*c.* Certification for a program, unless conditionally issued, suspended or revoked, shall expire at the end of the time period specified on the certificate.

**321—24.12(231D) Recertification for accredited program.**

**24.12(1)** DIA shall send recertification application materials to each program at least 90 calendar days prior to expiration of its certification.

**24.12(2)** To obtain recertification, an accredited program shall submit one copy of the completed application and associated documentation to DIA at the address stated in 24.9(1) at least 60 calendar days prior to the expiration of the program's certification.

**24.12(3)** Within 20 working days of receiving all finalized documentation, including state fire marshal approval, DIA shall determine the program's compliance with applicable requirements contained in these rules and make a recertification decision.

**24.12(4)** DIA shall notify the accredited program within 10 working days of the final recertification decision.

*a.* If the decision is to recertify, a full certification will be issued for the term of the accreditation not to exceed three years, unless conditionally issued, suspended or revoked either by DIA or the recognized accrediting entity.

*b.* If the determination is to deny recertification of the program, DIA shall provide the applicant the opportunity for hearing in accordance with 321—26.4(17A,231C,231D).

**24.12(5)** If DIA is unable to recertify a program through no fault of the program, DIA shall issue a time-limited extension to the program.

**321—24.13(231D) Duration of certification for all programs.**

**24.13(1)** Certification as a nonaccredited program by DIA will be applicable for two years, unless conditionally issued, suspended or revoked.

**24.13(2)** Certification as an accredited program by DIA will be applicable for the term of the accreditation, not to exceed three years, unless conditionally issued, suspended or revoked either by DIA or the recognized accrediting entity. DIA shall maintain a list of all certified programs. The list shall be readily available from DIA upon request.

**321—24.14(231D) Recognized accrediting entity.**

**24.14(1)** The department designates CARF as a recognized accrediting entity for programs.

**24.14(2)** To apply for designation by the department as a recognized accrediting entity for programs, an accrediting organization shall submit a letter of request and meet the requirements found in this rule.

**24.14(3)** The designation shall remain in effect for as long as the accreditation standards continue to meet the minimum requirements of Iowa Code Supplement chapter 231D and this chapter.

**24.14(4)** The accrediting entity shall annually provide DIA and the department, at no cost, a current edition of the applicable standards manual and survey preparation guide, and training thereon, within 20 working days after the publication is released.

**321—24.15(231D) Requirements for accredited adult day services programs.** Each accredited program shall:

**24.15(1)** Provide DIA a copy of the survey reports including outcomes, quality improvement plans and annual conformance to quality reports generated or received, as applicable, within ten working days of receipt of the reports.

**24.15(2)** Notify DIA by the most expeditious means possible of any credible report of alleged improper or inappropriate conduct or conditions and any actions taken by the accrediting entity with respect thereto.

**24.15(3)** Notify DIA within two working days of the expiration, suspension, revocation or other loss of a program's accreditation.

**321—24.16(231D) Maintenance of program accreditation.**

**24.16(1)** An accredited program shall continue to be recognized for certification by DIA if both of the following requirements are met:

*a.* The program complies with the requirements outlined in 24.15(231D).

*b.* The program maintains voluntary accreditation for the duration of the time-limited certification period.

**24.16(2)** A program that does not maintain its voluntary accreditation status must become certified by DIA prior to any lapse in accreditation.

**24.16(3)** A program that does not maintain its voluntary accreditation status and is not certified by DIA prior to any lapse in voluntary accreditation shall be considered an uncertified program.

**321—24.17(231D) Transfer of certification.**

**24.17(1)** A certificate, unless conditionally issued, suspended or revoked, may be transferable to a new owner/sponsor of a program.

**24.17(2)** The new owner/sponsor is required to notify DIA in writing within 30 calendar days prior to the change in ownership. The notice shall include assurance that the new owner meets all requirements of Iowa Code Supplement chapter 231D and this chapter.

**24.17(3)** DIA may conduct an on-site monitoring evaluation within 90 days following a change in ownership or management corporation to ensure that the program complies with requirements and shall take any necessary enforcement action authorized by Iowa Code Supplement chapter 231D and this chapter.

**321—24.18(231D) Structural and life safety reviews for a new program.**

**24.18(1)** Prior to construction or remodeling of a building for use in a new program, DIA shall review blueprints for compliance with requirements pursuant to 24.41(231D). Construction and remodeling shall include new construction, modification of any part of an existing building, addition of a new wing or floor to an existing building, or conversion of an existing building.

**24.18(2)** A program applicant shall submit to DIA blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in 321—Chapter 27 at Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0038.

**24.18(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in the delay of the blueprint plan review until the fee is received.

**24.18(4)** DIA shall review the blueprints and notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

**24.18(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to DIA to state how any noncompliance with requirements will be resolved.

**24.18(6)** Upon final notification by DIA that the blueprints meet structural and life safety requirements, construction or remodeling of the program may commence.

**24.18(7)** DIA shall schedule an on-site visit of the program with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the construction or remodeling process to ensure compliance

with the approved blueprints. Any noncompliance with requirements must be resolved prior to approval for certification.

**321—24.19(231D) Structural and life safety reviews for existing programs.**

**24.19(1)** In lieu of a blueprint review, DIA shall conduct an on-site visit of the structure for a program in operation on or before May 19, 2004, for compliance with structural requirements pursuant to this chapter.

**24.19(2)** DIA shall notify the program applicant in writing of the status of compliance with requirements within ten working days following the on-site visit.

**24.19(3)** The program applicant shall resolve any noncompliance with requirements prior to approval for certification.

**24.19(4)** The program applicant shall submit with the application the preliminary plan review fee stated in 321—Chapter 27.

**24.19(5)** Failure to submit the preliminary plan review fee with the application shall result in the delay of review of the application for certification until the fee is received.

**321—24.20(231D) Structural and life safety review prior to the remodeling of a building for certified programs.**

**24.20(1)** Prior to the remodeling of a building for a program, DIA shall review the blueprints for compliance with requirements pursuant to 24.41(231D).

**24.20(2)** A certified program shall submit blueprints wet-sealed by an Iowa-licensed architect or Iowa-licensed engineer and the blueprint plan review fee as stated in 321—Chapter 27 to DIA at Department of Inspections and Appeals, Adult Services Bureau, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0083.

**24.20(3)** Failure to submit the blueprint plan review fee with the blueprints shall result in delay of the blueprint plan review until the fee is received.

**24.20(4)** DIA shall review the blueprints within 20 working days of receipt and immediately notify the Iowa-licensed architect or Iowa-licensed engineer in writing regarding the status of compliance with requirements.

**24.20(5)** The Iowa-licensed architect or Iowa-licensed engineer shall respond to DIA within 20 working days to state how any noncompliance with requirements will be resolved.

**24.20(6)** Upon final notification by DIA that the blueprints meet structural and life safety requirements, remodeling of the program may commence.

**24.20(7)** DIA shall schedule an on-site visit of the program with the contractor, or Iowa-licensed architect or Iowa-licensed engineer, during the remodeling process to ensure compliance with the approved blueprints. Any noncompliance with requirements must be resolved prior to approval for continued certification or recertification.

**321—24.21(231D) Emergency response policies and procedures review.** A program applicant or certified program shall submit emergency response policies and procedures with the application to DIA at the address stated in 24.3(1). Failure to submit the emergency policies and procedures with the application shall delay the review of the application for certification until receipt of the information. The emergency response policies and procedures shall comply with the requirements pursuant to this chapter.

**321—24.22(231D) Program alteration.** A program shall notify DIA within ten working days of any operational changes that are a deviation from the most current certification or recertification application and associated documentation.

**321—24.23(231D) Cessation of program operation.**

**24.23(1)** If a certified program ceases operation at any time prior to expiration of the program's certification, the program shall submit the certificate and written notice to DIA at least 90 days in advance of closure unless there is some type of emergency.

**24.23(2)** If a certified program plans to cease operation at the time the program's certification expires, the program shall provide written notice of this fact to DIA and the department at least 90 calendar days prior to expiration of the certification.

**24.23(3)** At the time the program decides to cease operations, the program shall submit plans to DIA and make arrangements for the safe and orderly transfer of all participants within the 90-day period specified by subrule 24.23(2).

**24.23(4)** DIA or another appropriate agency shall do on-site monitoring during the 90-day period to ensure the safety of participants during the transfer process.

**24.23(5)** DIA may conduct an on-site visit to verify that the program has ceased operation in accordance with the notice provided by the program.

**321—24.24(231D) Contractual agreement.**

**24.24(1)** At the time of a participant's admission, the participant and the program shall enter into a contractual agreement that clearly describes the rights and responsibilities of the participant and of the program.

**24.24(2)** The contractual agreement shall be in 12-point type or larger and be written in language using plain, commonly understood terms and, to the extent possible, be easy to understand by the participant or the participant's legal representative.

**24.24(3)** The contractual agreement shall state current certification status of the program and contain language stating that the program complies with all state and federal codes, administrative rules and federal regulations applicable to adult day services.

**24.24(4)** Upon admission, each participant or legal representative, if applicable, shall sign a contractual agreement and a managed risk policy disclosure statement.

**24.24(5)** The written contractual agreement shall include, but not be limited to, the following:

- a. A description of all fees, scheduled days, transportation agreements, charges and rates;
- b. A statement regarding the impact of the fee structure on third-party payments and whether third-party payments and resources will be accepted by the program;
- c. The procedure to be followed if a participant fails to make payment;
- d. Identification of the party responsible for payment of fees;
- e. A statement that the program will give written notification to the participant at least 30 days in advance of any changes to the contractual agreement;
- f. A statement that all participant information will be maintained in a confidential manner to the extent allowable under state and federal law;
- g. The toll-free number for the dependent adult abuse hotline;
- h. The telephone number for filing a complaint with DIA.

**24.24(6)** The program shall maintain written documentation of the participant's or legal representative's receipt of the following:

- a. A copy of admission and transfer criteria;
- b. A copy of the internal appeal process for involuntary transfer;
- c. A copy of the emergency response policy;
- d. A copy of the staffing policy which identifies how staffing will be adapted to changing participant needs;
- e. A copy of the services and programming provided to meet the life skills and social activity needs of participants;
- f. A procedure for filing a complaint with DIA, including contact information;
- g. A copy of the program's statement on participants' rights.

**24.24(7)** A participant who is subject to an involuntary transfer initiated solely by the program and not as a result of a monitoring evaluation or complaint investigation by DIA shall not be transferred until an internal appeal process is completed if one is requested by the participant or legal representative.

**24.24(8)** A copy of the contract shall be provided to the participant or legal representative, if any, and the program shall keep a copy.

**24.24(9)** The contractual agreement shall be reviewed and updated as necessary to reflect the changes in the services and financial arrangements.

**24.24(10)** A copy of the contractual agreement form shall be made available to the general public upon request. The basic marketing material shall include a statement that the contractual agreement is available to all persons upon request.

**321—24.25(231D) Admission to and transfer from a program.**

**24.25(1)** *Evaluation prior to admission or transfer.* A program shall, upon a participant's admission or transfer, evaluate each proposed participant's functional, cognitive and health status and abilities to determine the participant's eligibility for the program, including whether needed services can be provided. The evaluation shall be conducted by a health care professional or a human service professional.

**24.25(2)** *Evaluation within 30 days of admission or transfer.* After the participant's initial evaluation, a program shall evaluate each participant's functional, cognitive and health status and abilities within 30 days and then at least annually or more often as needed, to determine the participant's continued eligibility for the program and to determine any modifications to needed services. The evaluation shall be conducted by a health care professional or a human service professional.

**24.25(3)** *Criteria for exclusion of participants.* A program shall not knowingly admit or retain a participant who:

- a. Is bed-bound; or
- b. Requires routine three-person assistance with standing, transfer or evacuation; or
- c. Is dangerous to self or others, including but not limited to a participant who:
  - (1) Despite intervention, chronically wanders into danger, is sexually or physically aggressive or abusive, or displays unmanageable verbal abuse or aggression; or
  - (2) Displays behavior that places another participant at risk; or
- d. Is in an acute stage of alcoholism, drug addiction, or uncontrolled mental illness; or
- e. Is under age 18; or
- f. Requires more than part-time or intermittent health-related care; or
- g. On a routine basis has unmanageable incontinence.

**24.25(4)** *Disclosure of additional admission or transfer criteria.* A program may have additional admission or transfer criteria if disclosed in the written contractual agreement prior to admission.

**24.25(5)** *Assistance with transfer.* A program shall provide assistance to a participant and legal representative, if applicable, to ensure a safe and orderly transfer when the participant meets program transfer requirements.

**24.25(6)** *Appeal of an involuntary transfer.* Under contractual agreement, each participant shall have the right to an internal appeal of an involuntary transfer.

**24.25(7)** *Visiting days.* A program may choose to allow a visiting day(s) prior to admission.

**321—24.26(231D) Waiver of admission and retention criteria.**

**24.26(1)** Upon receipt of a waiver petition submitted by a program, DIA may grant a waiver of the admission and retention criteria under 24.27(231D) for an individual participant on a time-limited basis.

**24.26(2)** Waiver procedures. The following procedures shall be used to request and to receive approval of a waiver from the admission and retention criteria:

- a. A program shall submit a request on a form and in a manner designated by DIA for a waiver from the admission and retention criteria for an individual participant as soon as it becomes apparent that a participant meets the transfer criteria;
- b. DIA shall respond in writing to a request within two working days of receipt of required documentation;
- c. The program shall notify DIA within five working days of any changes in the condition of the participant as described in the approved waiver request.

**321—24.27(231D) Criteria for granting admission and retention waivers.** DIA shall use the following criteria in granting a waiver:

1. It is the informed choice of the participant or legal representative, if applicable, to remain in the program; and
2. The program is able to obtain the staff necessary to meet the participant's service needs in addition to the service needs of the other participants; and
3. The waiver shall not jeopardize the health, safety, security or welfare of the party for whom the waiver is being requested or other program participants or program staff.

**321—24.28(231D) Participant documents.**

**24.28(1)** A file for each participant shall be maintained at the program and shall contain:

- a. Admission record, including participant's name, birth date, and home address; identification numbers; date of admission; name, address and telephone number of health professional(s); diagnosis; and names, addresses and telephone numbers of family members, friends or other designated people to contact in the event of illness or an emergency;
- b. Application forms;
- c. Initial evaluations and updates;
- d. Nutritional assessment as necessary;
- e. Initial individual service plan and updates;
- f. Signed authorizations for permission to release medical information, photos, or other media information as necessary;
- g. Signed authorization for the participant to receive emergency medical care if necessary;
- h. When appropriate, medical information sheet, documentation of health professional, treatment, therapy, medication and service notes;
- i. Advance health care directives as applicable;
- j. A complete copy of the participant's contractual agreement including any updates;
- k. Written acknowledgment that the participant or the participant's legal representative, if applicable, has been fully informed of the participant's rights;
- l. Copy of guardianship, power of attorney, conservatorship or other documentation of a legal representative as necessary.

**24.28(2)** The program records relating to a participant shall be retained for a minimum of three years after the transfer or death of the participant before the records are destroyed.

**24.28(3)** All records shall be protected from loss, damage and unauthorized use.

**321—24.29(231D) Service plan.**

**24.29(1)** A service plan shall be developed for each participant based on the evaluation conducted under 24.25(1) and 24.25(2) and designed to meet the specific service needs of the individual participant.

**24.29(2)** Upon admission of a participant, an initial service plan shall be developed by a health care professional or human service professional in consultation with the participant and, if applicable, with the legal representative. All persons who develop the plan and the participant or legal representative shall sign the plan.

**24.29(3)** The service plan shall be updated within 30 days of the participant's admission and shall subsequently be updated at least annually and whenever changes are needed. The service plan shall be updated in consultation with a multidisciplinary team that consists of at least three individuals, including a health care professional and other staff as appropriate to meet the needs of the participant, in consultation with the participant and, at the participant's request, with other individuals identified by the participant, and, if applicable, with the participant's legal representative.

**24.29(4)** The service plan shall be individualized and shall indicate, at a minimum:

- a. The participant's identified needs and participant's requests for assistance and expected outcomes;
- b. Any services and care to be provided pursuant to the occupancy agreement with the participant;
- c. The provider(s) if other than the program; and

*d.* For participants who are unable to plan their own activities, including participants with dementia, planned and spontaneous activities based on the participant's abilities and personal interests.

**321—24.30(231D) Medications.**

**24.30(1)** Each program shall have a written medication policy that includes the following:

*a.* Participants shall self-administer medications unless:

(1) The prescription states that the participant is not to self-administer the medication; or

(2) The participant or, if applicable, the legal representative, delegates administration to the program by contractual agreement or signed service plan. The program shall not prohibit a participant from self-administering medications.

*b.* Participants shall keep their own medications in their possession unless:

(1) The prescription states that the medication is to be stored by the program; or

(2) The participant or, if applicable, the legal representative delegates partial or complete control of medications to the program by contractual agreement or signed service plan.

*c.* The program shall list in the participant's record any medications to be stored or administered by the program.

*d.* When partial or complete control of medication is delegated to the program by the participant, appropriate staff may transfer medication from the original prescription containers into medication reminder boxes or medication cups in the participant's presence.

**24.30(2)** When the medications are administered or stored by the program, the following requirements shall apply:

*a.* The administration of medications shall be provided by an Iowa-licensed registered nurse or advanced registered nurse practitioner registered in Iowa or the authorized agent in accordance with 655—subrule 6.2(5) and 655—subrule 6.3(1) and Iowa Code chapter 155A.

*b.* The program shall document any medication the program has agreed to administer or store.

*c.* The medications shall be kept in a locked place or container that is not accessible to persons other than employees responsible for the administration or storage of such medications.

*d.* The medications shall be labeled and maintained in compliance with label instructions and state and federal laws.

*e.* No person other than the dispensing pharmacist shall alter a prescription label.

*f.* The program shall follow a written policy that complies with federal and state codes and administrative rules regarding controlled substances.

*g.* The program shall follow written policies and procedures for narcotic medications in accordance with Iowa Code chapter 155A.

**321—24.31(231D) Nurse review.** A program that administers prescription medications or provides health care professional-directed or health-related care shall provide for a registered nurse to:

**24.31(1)** Monitor, at least every 90 days, each participant receiving program-administered prescription medications for adverse reactions to program-administered medications and make appropriate interventions or referral, and ensure that the prescription medication orders are current and that the prescription medications are administered consistent with such orders at least every 90 days or after a change in health status; and

**24.31(2)** Ensure that health professionals' orders for participants receiving health care professional-directed care from the program are current; and

**24.31(3)** Assess and document the health status of each participant, make recommendations and referrals as appropriate, and monitor progress on previous recommendations at least every 90 days or if there are changes in health status; and

**24.31(4)** Provide the program with written documentation of the activities, as set forth in 24.31(1) through 24.31(3), showing the date, time and signature.

**321—24.32(231D) Nursing assistant work credit.**

**24.32(1)** A person certified as a nursing assistant who is supervised by a licensed nurse in the program may submit information to DIA to obtain credit toward maintaining certification for working in the program.

**24.32(2)** The program shall complete and submit to DIA an Iowa Nurse Aide Registry Application for each nursing assistant working in the program. The application may be obtained by telephone at (515)281-4077 or via the health facilities division Web site at <http://www.dia-hfd.state.ia.us/nurseaides/> under the “Resource” tab.

**24.32(3)** The program shall complete and submit to DIA an Iowa Nurse Aide Registry Quarterly Employment Report whenever a change in employment for a certified nursing assistant occurs. The report may be obtained by telephone at (515)281-4077 or via the health facilities division Web site at <http://www.dia-hfd.state.ia.us/nurseaides/> under the “Resource” tab.

**321—24.33(231D) Food service.**

**24.33(1)** The program shall have the capacity to provide hot or other appropriate meals and snacks or coordinate with other community providers to make arrangements for the availability of meals and snacks. A period of no more than four hours shall lapse between the service of meals and of snacks.

**24.33(2)** Meals and snacks provided by the program but not prepared on site shall be obtained from or provided by an entity that meets the standards of state and local health laws and ordinances concerning the preparation and serving of food.

**24.33(3)** Menus shall be planned to provide the following percentage of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences based on the number of meals provided by the program:

- a. A minimum of 33 1/3 percent if the program provides one meal per day;
- b. A minimum of 66 2/3 percent if the program provides two meals per day; and
- c. One hundred percent if the program provides three meals per day.

**24.33(4)** Therapeutic diets are not required but may be provided by a program. If therapeutic diets are provided, they shall be prescribed by a physician, physician assistant, or advanced registered nurse practitioner. A current copy of the Iowa Simplified Diet Manual, Iowa State Press, shall be available and used in the planning and serving of therapeutic diets. A licensed dietitian shall be responsible for writing and approving the therapeutic menu and reviewing procedures for preparation and service of food for therapeutic diets.

**24.33(5)** Personnel who are employed by or contracting with the program and who are responsible for preparing or serving food, or both preparing and serving food, shall have an orientation on sanitation and safe food handling prior to handling food and annual in-service training on food protection. At a minimum, one person directly responsible for food preparation shall have successfully completed a state-approved food protection program.

**24.33(6)** Programs engaged in the preparation and serving of meals and snacks shall meet the standards of state and local health laws and ordinances pertaining to the preparation and serving of food, including the requirements imposed under Iowa Code chapter 137F.

**321—24.34(231D) Staffing.**

**24.34(1)** Sufficient trained staff shall be available at all times to fully meet participants’ identified needs. No fewer than two staff persons who monitor participants as indicated in each participant’s service plan shall be awake and on duty during all hours of operations when two or more participants are present.

**24.34(2)** A program that serves one or more participants with cognitive disorder or dementia shall follow written procedures that address how the program will respond to the emergency needs of the participant(s).

**24.34(3)** The owner or management corporation of the program is responsible for ensuring that all personnel employed by or contracting with the program receive training appropriate to assigned tasks and the target population.

**24.34(4)** Any nursing services shall be available in accordance with Iowa Code chapter 152 and 655—Chapter 6.

**24.34(5)** The program shall have a training and staffing plan on file and shall maintain documentation of training received by program personnel.

**24.34(6)** All personnel of a program shall be able to implement the program's accident, fire safety and emergency procedures.

**321—24.35(231D) Dementia-specific education for personnel.**

**24.35(1)** All personnel employed by or contracting with a dementia-specific program shall receive a minimum of six hours of dementia-specific education and training prior to or within 90 days of employment or the beginning date of the contract.

**24.35(2)** The dementia-specific education or training shall include, at a minimum, the following:

- a. An explanation of Alzheimer's disease and related disorders;
- b. The program's specialized dementia care philosophy and program;
- c. Skills for communicating with persons with dementia;
- d. Skills for communicating with family and friends of persons with dementia;
- e. An explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the care-giving role, and family dynamics;
- f. The importance of planned and spontaneous activities;
- g. Skills in providing assistance with activities of daily living;
- h. The importance of the care plan and social history information;
- i. Skills in working with challenging participants;
- j. Techniques for simplifying, cueing, and redirecting; and
- k. Staff support and stress reduction.

**24.35(3)** All personnel employed by or contracting with a dementia-specific program shall receive a minimum of two hours of dementia-specific continuing education annually. Direct-contact personnel shall receive a minimum of six hours of dementia-specific continuing education annually.

**321—24.36(231D) Another business or activity in an adult day services program.**

**24.36(1)** A business or activity serving persons other than participants is allowed in a designated part of the physical structure in which the program is provided, if the other business or activity meets the requirements of the applicable state and federal codes, administrative rules, and federal regulations.

**24.36(2)** A business or activity conducted in the designated part of the physical structure in which the program is provided shall not interfere with the use of the program by participants, or interfere with services provided to participants or be disturbing to participants.

**24.36(3)** A business or activity conducted in the designated part of the physical structure in which the program is provided shall not reduce space, services or staff available to participants or necessary to meet the needs of the participants.

**321—24.37(231D) Managed risk statement.** The program shall have a managed risk statement which includes the participant's or, if applicable, the legal representative's signed acknowledgment of the shared responsibility for identifying and meeting needs of the participant and the process for managing risk and upholding participant autonomy when participant decision making may result in poor outcomes for the participant or others.

**321—24.38(231D) Life safety—emergency policies and procedures and structural safety requirements.**

**24.38(1)** The program shall have and follow written emergency policies and procedures, which include the following elements:

- a. Emergency plan (identify where located for easy reference);
- b. Fire safety procedures;
- c. Other general or personal emergency procedures;

- d. Provisions for amending or revising the emergency plan;
- e. Provisions for periodic training of all employees;
- f. Fire drill procedures;
- g. Regulations about smoking;
- h. Interior and exterior maintenance of buildings and grounds;
- i. Furnishings;
- j. Monitoring and testing of smoke-control systems;
- k. Evacuation of participants; and
- l. Procedures for reporting and documentation.

**24.38(2)** A program that serves persons with cognitive impairment or dementia, whether in a general or dementia-specific setting, shall also include written procedures regarding appropriate staff response if a participant with cognitive impairment or dementia is missing.

**24.38(3)** The program's structure and procedures and the facility in which a program is located shall meet the requirements adopted for adult day services programs in administrative rules promulgated by the state fire marshal. Approval of the state fire marshal indicating that the facility is in compliance with these requirements is necessary for certification of a program.

**321—24.39(231D) Transportation.** When transportation services are provided directly or under contract with the program:

1. The vehicle shall be accessible and appropriate to the participants using it, with consideration for any physical disabilities and impairments.
2. Every participant who is being transported shall have a seat in the vehicle, except those participants who remain in their wheelchairs.
3. Wheelchairs shall be secured when the vehicle is in motion.
4. Vehicles shall have adequate seat belts and securing devices for ambulatory and wheelchair-bound passengers.
5. During loading and unloading of a participant, the driver shall be in the proximate area of the other participants in a vehicle.
6. Assistance, if needed, shall be provided from the ground floor of the participant's residence to the ground floor of the facility.
7. The driver shall have a valid and appropriate Iowa driver's license or commercial driver's license as required by law for the vehicle being utilized for transport. The driver shall meet any state and federal requirements for licensure or certification for the vehicle operated.
8. Each vehicle shall have a first-aid kit, fire extinguisher, safety triangles and a device for two-way communication.

**321—24.40(231D) Activities.**

**24.40(1)** The program shall provide appropriate activities for each program participant. The type of activities shall reflect a participant's preferences, abilities, desires, history, family system, ethnic and cultural experiences, faith community, personal beliefs and values by providing a variety of opportunities and experiences that have meaning and purpose for the program participant.

**24.40(2)** Activities shall be planned to support the participant's service plan and shall be consistent with the program statement and admission policies.

**24.40(3)** A written schedule of activities shall be developed at least monthly and made available to participants or their legal representatives.

**24.40(4)** Participants shall be given the opportunity to select the degree to which they choose to participate in all activities offered in the program.

**24.40(5)** Appropriate activities shall be offered at all times when participants are present.

**321—24.41(231D) Structural requirements.**

**24.41(1)** The structure, equipment and physical environment of the program shall be designed and operated to meet the needs of the participants. The building, grounds and equipment shall be well-maintained, clean, safe and sanitary.

**24.41(2)** There shall be at least one toilet for every ten participants and staff members.

**24.41(3)** Toilets and bathing and toileting appliances shall be equipped for use by participants with multiple disabilities.

**24.41(4)** There shall be a ratio of at least one hand-washing sink for every two toilets. The sink(s) shall be proximate to the toilets. Hand-washing facilities shall be readily accessible to participants and staff.

**24.41(5)** Shower and tub areas, if provided, shall be equipped with grab bars and slip-resistant surfaces.

**24.41(6)** Signaling emergency call devices shall be installed or placed in all bathroom areas, restroom stalls and showers, if any.

**24.41(7)** A telephone shall be available to participants to make and receive calls in a private manner and for emergency purposes.

**24.41(8)** Program supplies and participants' possessions shall be stored in such a manner that, when not in use, will prevent personal injury to participants and staff.

**24.41(9)** The program shall provide a separate area to permit privacy for evaluations and to isolate participants who become ill.

**24.41(10)** The program shall meet other building and public safety codes, including:

- a. Americans with Disabilities Act.
- b. Applicable regulations of the Occupational Safety and Health Administration.
- c. Rules pertaining to accessibility contained in the Iowa state building code, administration section, division 7, and provisions of the Iowa state building code relating to persons with disabilities.
- d. Other applicable provisions of the Iowa state building code and local building codes.

**24.41(11)** The program shall have the means to control the maximum temperature of water at sources accessible by a participant to prevent scalding and shall do so for participants with cognitive impairment or dementia or at the request of a participant.

**321—24.42(231D) Interpretive guidelines.** The department shall develop interpretive guidelines as situations arise requiring them.

These rules are intended to implement Iowa Code Supplement chapter 231D.

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