

# TEXAS

<b>Overview</b>			
<p>The Texas Department of Aging and Disability Services (DADS) licenses and surveys adult day care and day activity and health services (DAHS) facilities to ensure compliance with state and federal laws and regulations. The <i>Texas Administrative Code</i> provides licensing procedures and establishes standards for quality adult day care for both adult day care and DAHS programs. DAHS is provided to eligible clients through Community Care for Aged and Disabled, a Medicaid state plan program, and facilities contracted to provide Medicaid services must meet additional program requirements.</p>			
<b>Licensure and Certification Requirements</b>			
<b>Licensure Only</b> <input checked="" type="checkbox"/>	<b>Certification Only</b> <input type="checkbox"/>	<b>Both Required</b> <input type="checkbox"/>	<b>Other</b> <input type="checkbox"/>
<b>Definitions</b>			
<p>An <b>adult day care facility</b> provides services under an adult day care program on a daily or regular basis, but not overnight, to four or more elderly or handicapped persons who are not related by blood, marriage, or adoption to the owner of the facility.</p> <p>An <b>adult day care program</b> is a structured, comprehensive program that is designed to meet the needs of adults with functional impairments through an individual plan of care by providing health, social, and related support services in a protective setting.</p> <p><b>Day activity and health services</b> are provided under a contract with DADS to clients residing in the community.</p> <p><b>Health services</b> means personal care, nursing, or therapy services.</p>			
<b>Parameters for Who Can Be Served</b>			
None identified			
<b>Inspection and Monitoring</b>			
<b>Yes</b> <input checked="" type="checkbox"/>		<b>No</b> <input type="checkbox"/>	
<p>DADS may enter the premises of a facility at reasonable times and make an inspection necessary to issue a license or renew a license. DADS inspection and survey personnel will perform inspections and surveys, follow-up visits, complaint investigations, investigations of abuse or neglect, and other contact visits as required for carrying out the responsibilities of licensing. Generally, all such visits, whether routine or nonroutine, will be unannounced and any exceptions must be justified.</p>			

Required and Optional Services		
	Adult Day Care	
	Required	Optional
Activities of Daily Living (ADL) Assistance	X	
Health Education and Counseling	X	
Health Monitoring/Health-Related Services	X	
Medication Administration	X	
Nursing Services	X	
Physical Therapy, Occupational Therapy, or Speech Therapy	X	
Skilled Nursing Services	X	
Social Services	X	
Transportation		X
Provisions Regarding Medications		
<p>Clients who choose not to or cannot self-administer medications must have their medications administered by a person who holds a current license under state law which authorizes medications. All medications prescribed to clients must be dispensed through a pharmacy or by the client's treating physician or dentist. Assistance with self-administration of client's medication regimen may be provided to clients who are incapable of self-administering without assistance.</p> <p>Assistance with self-medication includes, and is limited to, reminders to take their medications at the prescribed time; opening containers or packages and replacing lids; pouring prescribed dosage according to medication profile record; returning medications to proper locked areas; obtaining medications from a pharmacy; listing on an individual client's medication profile record the medication name, strength, dosage, amount received, directions for use, route of administration, prescription number, pharmacy name, and the date each medication was issued by the pharmacy.</p>		
Provisions for Groups with Special Needs		
Dementia <input type="checkbox"/>	Mental Retardation/ Developmental Disabilities <input type="checkbox"/>	Other <input type="checkbox"/>
Staffing Requirements		
<p><b>Type of staff.</b> The <i>director</i> is responsible for the overall operation of the facility and may be a registered nurse with 1 year of experience in a human service or medically related program. The <i>activities director</i> may fulfill the function of facility director if he/she meets the qualifications for facility director. The <i>facility nurse</i> must be a registered nurse (RN) or a licensed vocational nurse (LVN). If a nurse serving as director leaves the facility to perform other duties related to the provisions of the day care program, an LVN or another RN must fulfill the duties of the facility nurse. One person may not serve as facility nurse, activities director, and facility director, regardless of qualifications. A professional staff person must remain at the facility when clients are present.</p> <p><b>Staffing ratios.</b> The facility must ensure that the ratio of direct service staff to clients is at least one-to-eight during the provision of all covered services except during facility-provided transportation.</p>		
Training Requirements		
<p>The director must show evidence of 12 contact hours of annual continuing education in at least two of the following areas: (1) individual and provider rights and responsibilities, abuse, neglect, and confidentiality; (2) basic principles of supervision; (3) skills for working with individuals, families, and</p>		

other professional service providers; (4) individual characteristics and needs; (5) community resources; (6) basic emergency first aid, such as cardiopulmonary resuscitation (CPR) or choking; or (7) federal laws, such as Americans with Disabilities Act, Civil Rights Act of 1991, the Rehabilitation Act of 1993, and the Family and Medical Leave Act of 1993.

### **Relevant Medicaid Contracting Requirements for Adult Day Services Providers**

Day Activity and Health Services (DAHS) facilities provide services to clients residing in the community to prevent premature or unnecessarily prolonged placement in institutions. Services are designed to address the physical, mental, medical, and social needs of clients through the provision of rehabilitative/restorative nursing and social services which improve or maintain a person's level of functioning. These services are currently provided by licensed adult day care facilities. The facilities are licensed by DADS. Except for holidays, these facilities must have services available at least 10 hours a day, Monday through Friday. In addition, a DAHS facility must participate in the Child and Adult Care Food Program and submit documentation of participation to DADS.

**Admission/discharge.** A DAHS facility must serve clients deemed eligible by DADS unless the facility is at licensed capacity. Eligible clients means a person that has a medical diagnosis, a related functional disability, and physician's orders requiring care, monitoring, or intervention by a licensed vocational nurse or a registered nurse. If, after assessing a client, the facility determines they cannot meet the needs of the client, they must discuss the client's needs with the case manager to determine if DAHS is an appropriate service for the client. The facility must suspend services if the client threatens the health and safety of himself or others.

**Monitoring.** The facility's operations are monitored for compliance with federal and state laws and regulations, departmental policies and procedures, and contract/program compliance with the terms of the contract. For DAHS clients, an initial 30-day monitoring contact is required to assess how the client is using the number of units authorized. Thereafter, contact with the client is required by the last day of the sixth month from the previous contact.

**Services.** Day activity and health services include skilled nursing and personal care services, health education and counseling, health monitoring and health-related services, medication administration, physical rehabilitative services, nutrition services, transportation services, and other supportive services.

**Provisions regarding medications.** Clients who choose not to or cannot self-administer their medications must have their medications administered by a person who holds a current license under state law which authorizes the licensee to administer medications. Clients who self-administer their own medications must be counseled at least once a month by licensed nursing staff to ascertain if the clients continue to be capable of self-administering their medications and/or treatments. All medication prescribed to clients must be dispensed through a pharmacy or by the client's treating physician or dentist.

**Type of staff.** The facility director works a minimum of 40 hours per week performing duties relating to the provision of adult day care services. More than one part-time director may fulfill the 40-hours-per-week requirement. The activities director works 40 hours a week and may fulfill the functions of facility director if so qualified. At a minimum, one RN or LVN must be working on site, 8 hours per day. Sufficient licensed nursing staff must be on site to meet the nursing needs of the clients. The RN or LVN may fulfill the functions of facility director if so qualified.

Counseling for clients who self-medicate is considered a skilled nursing procedure under the regulations for DAHS and should be done by a nurse.

In facilities where the nurse is an LVN, an *RN consultant* must provide on-site consultation 4 hours per week during the time when clients are present in the facility. The RN consultant may provide the following types of assistance: (1) reviewing plans of care and suggesting changes, if appropriate; (2) assessing clients' health conditions; (3) consulting with the LVN in solving problems involving client

care and service planning; (4) counseling clients on their health needs; (5) training, consulting, and assisting the LVN in maintaining proper medical records; and (6) in-service training for direct service staff.

A *dietitian consultant* is required for all facilities, even those that have their meals delivered from another facility with its own dietitian consultant. A consultant may provide consultation to several facilities as long as each facility receives at least 4 hours a month. The 4 hours cannot be “shared” by several facilities.

**Staffing ratios.** The facility must ensure that the ratio of direct service staff to clients is at least one-to-eight, which must be maintained during provision of all covered services except during facility-provided transportation.

**Training.** The facility must: (1) provide all staff with training in the fire, disaster, and evacuation procedures within 3 workdays of employment and (2) provide direct delivery staff a minimum of 18 hours of training during the first 3 months of employment. Training must include any nationally or locally recognized adult cardiopulmonary resuscitation (CPR) course/certification; first aid or orientation to health care delivery; and identification and reporting of abuse, neglect, or exploitation.

Staff employed as substitutes on an infrequent and irregular basis are not required to have 18 hours of initial training. Substitute and consultant staff must receive a minimum of 3 hours of orientation. Substitutes for direct service staff used by a facility on a regular basis must meet all training requirements as specified.

The facility must provide a minimum of 3 hours of ongoing training to direct service staff quarterly. The facility must ensure that direct delivery staff maintains current certification in CPR.

#### Location of Licensing, Certification, or Other Requirements

1. <http://www.dads.state.tx.us/handbooks/ccad/4000/4200.htm>
2. <http://www.dads.state.tx.us/handbooks/dahs/index.htm>
3. [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.ViewTAC?tac\\_view=4&ti=40&pt=1&ch=98](http://info.sos.state.tx.us/pls/pub/readtac$ext.ViewTAC?tac_view=4&ti=40&pt=1&ch=98)

#### Citations

1. *Community Care for Aged and Disabled Handbook*, Department of Aging and Disability Services. [Effective 11/7/03]
2. *Day Activity and Health Services Provider Manual*, Department of Aging and Disability Services. [Effective: some parts revised 2/28/05]
3. *Texas Administrative Code* (Title 40--Social Services and Assistance, Part 1, Department of Aging and Disability Services, Chapter 98--Adult Day Care and Day Activity and Health Services Requirements). [Effective: various dates, the latest being 8/31/2004]

#### Additional Information

DAHS facilities can have Saturday as an additional regular day of operation or schedule the Saturday as a day for a field trip or special event. However, facilities should not arbitrarily open on a Saturday just to make up for billing opportunities lost on holidays.

Licensed facilities that do not have a DAHS contract, but have a Special Services to Persons with Disabilities contract, are not required to have a registered nurse on duty, as long as the client receiving services has no medical needs and is able to self medicate.

Clients in the following waiver programs can access DAHS if they meet the DAHS eligibility criteria: Home and Community-Based Services (HCS), Medically Dependent Children Program (MDCP), Community Living Assistance and Support Services (CLASS), Deaf-Blind with Multiple Disabilities (DBMD), and Community Based Alternatives (CBA).

# REGULATORY REVIEW OF ADULT DAY SERVICES: Final Report

## PDF Files Available for This Report

Cover, Table of Contents, Acknowledgments and Introduction

<http://aspe.hhs.gov/daltcp/reports/adultday.pdf>

SECTION 1. Overview of Adult Day Services Regulations

<http://aspe.hhs.gov/daltcp/reports/adultday1.pdf>

SECTION 2. State Regulatory Profiles

<http://aspe.hhs.gov/daltcp/reports/adultday2.pdf>

Each state can also be viewed separately at:

Alabama <http://aspe.hhs.gov/daltcp/reports/adultdayAL.pdf>

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