

902 KAR 20:066. Operation and services; adult day health care programs.

RELATES TO: KRS 216B.010-216B.130, 216B.0441, 216B.0443(1), 216B.990

STATUTORY AUTHORITY: KRS 216B.042, 216B.0441, 216B.0443(1), 216B.105

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 and 216B.105 mandate that the Kentucky Cabinet for Health Services regulate health facilities and health services. KRS 216B.0441 and 216B.0443(1) mandate that the Cabinet for Health Services establish licensure requirements for adult day health care programs. This administrative regulation provides for the licensure requirements for the operation of adult day health care programs and the services to be provided by adult day health care programs.

Section 1. Definitions. (1) "Administrator" means a person who:

(a) Has a minimum of two (2) years college, or equivalent training with at least two (2) years of clinical experience, a degree, or a license in a health related profession; or

(b) Is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Licensed practical nurse" means a person who is licensed pursuant to KRS 314.011(9).

(3) "Nursing services" means the delivery of medication, or treatment by a registered nurse or a licensed practical nurse supervised by a registered nurse, consistent with KRS Chapter 314 scope of practice provisions and the Kentucky Board of Nursing scope of practice determination guidelines.

(4) "Occupational therapist" means a person who is currently licensed pursuant to KRS Chapter 319A.

(5) "Personal care services" means services to help patients achieve and maintain good personal hygiene including assistance with:

(a) Bathing;

(b) Shaving;

(c) Cleaning and trimming of fingernails and toenails;

(d) Cleaning of the mouth and teeth; and

(e) Washing, grooming, and cutting of hair.

(6) "Program" means an adult day health care program as established in KRS 216B.0441(1).

(7) "Physical therapist" means a person who is currently licensed by the Kentucky Board of Physical Therapy.

(8) "Registered nurse" means a person who is currently licensed pursuant to KRS 314.011(5).

(9) "Speech-language pathologist" means a person who is currently licensed by the Kentucky Board of Speech-Language Pathology and Audiology.

Section 2. Administration and Operation. (1) Licensee.

(a) The licensee shall be legally responsible for the operation of the program and for compliance with federal, state, and local laws pertaining to the operation of the program.

(b) The licensee shall ensure policies, consistent with state or local laws, for the administration and operation of the program are established in writing and enforced including:

1. A description of services provided by the program;

2. A procedure for providing first aid and making arrangements for medical care with a physician or hospital in case of accidents or medical emergencies;

3. A procedure for transporting patients to a physician or hospital in case of an accident or a medical emergency;

4. Procedures for admission, evaluation of patient's needs, and discharge;

5. A procedure which assures the reporting of abuse, neglect, or exploitation of adults and children to the Cabinet for Families and Children pursuant to KRS Chapters 209 and 620;

6. A policy to ensure that a patient of the program is protected and accounted for while in the care of the program;

7. An infection control policy, which is consistent with the Centers for Disease Control guidelines, to include policies which address the prevention of disease transmission to and from patients, visitors, and employees including:

- a. Blood and body fluid precautions;
- b. Precautions for infections which can be transmitted by the airborne route; and
- c. Work restrictions for employees with infectious diseases;

8. Guidelines for the storage and administration of medications that include:

a. A provision to ensure that medicines kept by the program shall be labeled with the patient's name, name of the drug, strength of the drug, name of the dispensing pharmacy, prescription number, date, physician's name, caution statements, and directions for use;

b. A provision to ensure that medicines requiring refrigeration are kept in a refrigerator;

c. A provision that medications kept by the program are kept under lock;

d. A provision to ensure that controlled substances are kept under double lock (e.g., a locked box in a locked cabinet); and

e. A provision to ensure that there is a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining, and method of administration of controlled substances; the name of the physician who prescribed the controlled substance; and the name of the nurse who administered the controlled substance, or staff who supervised the self-administration of the controlled substance;

9. A program providing nursing services pursuant to Section 4 of this administrative regulation shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035; and

10. A written policy to ensure that a child who attends the program:

a. Is free from physical, verbal, and sexual abuse and neglect;

b. Has age appropriate programming and activities; and

c. Is kept segregated from adult patients except for meals and special events.

(2) Administrator. A program shall have an administrator who shall be responsible for the operation of the facility and shall delegate such responsibility in his absence.

(3) A patient shall be evaluated upon admission to determine his program needs. A care plan shall be developed for the patient.

(4) Personnel.

(a) The program shall employ or have access to a sufficient number of qualified personnel as may be required to provide the services required by this administrative regulation and indicated by the need of the program's patients.

(b) Written job descriptions and standards of qualifications shall be developed for each category of personnel. Job descriptions shall include necessary qualifications, lines of authority, and specific duty assignments. Job descriptions shall be reviewed annually and revised as necessary.

(c) Current employee records shall be maintained and shall include a resume of an employee's training and experience, evidence of current licensure or registration if required by law, health records and evaluation of performance, along with an employee's name, address, and Social Security number.

(d) Supportive personnel, assistants and volunteers shall be supervised and shall function within the policies and procedures of the program.

(e) An employee shall have a test for tuberculosis prior to or within the first week of employment and annually thereafter. An employee contracting an infectious disease shall not appear at work until the infectious disease can no longer be transmitted.

(f) The program shall conduct an orientation for new employees.

(g) A planned in-service training program shall be provided to employees covering policies and procedures pertinent to their roles within the program.

(h) The administrator shall attend educational programs appropriate to the responsibilities of the position and arrange for other professional personnel to attend appropriate educational programs on supervision and subjects related to personal care, activities, nutrition, and other pertinent subjects.

(i) Staffing. The administrator shall designate the person who shall be primarily responsible for the coordination and provision of a dietary and activity service.

(j) An employee of the program who has direct patient care responsibilities shall have current cardiopulmonary resuscitation (CPR) certification from either the American Heart Association or the American Red Cross.

(5) Patient's records.

(a) The facility shall maintain an individual record for a patient and shall develop a system of identification and filing to ensure prompt location of the patient's record. Records shall be treated with confidentiality, shall be in ink or typed, and shall be legible. The record shall include the:

1. Patient's name, address, and Social Security number (if available);
2. Name, address, and telephone number of a referral agency;
3. Name and telephone number of personal physician;
4. Patient's history and physical examination report;
5. Patient's medication and food allergies;
6. Name, telephone number, and address of next of kin or other responsible person; and
7. Date of admission and discharge.

(b) A progress record shall be maintained stating goals for a patient and shall indicate changes in the patient's condition, behavior, responses, attitude, appetite, and other changes as noted by staff, and shall include a discharge summary. An entry in the record shall be signed and dated.

(c) If the patient has been referred on orders of a physician, the record shall contain a dated and signed medical summary and care plan including orders for special diet, contraindications for specific types of activities, and other special procedures required for the safety and well-being of the patient.

(d) A consultant involved in the program shall make a written report of his findings and recommendations at the time of his visit to be included in the patient's record.

(e) If a medication shall be administered to a patient during the period of time he is in the program, a medication sheet shall be maintained which contains the date, time given, name of medication, dosage, name of prescribing physician, and by whom administered.

(f) A full written report of an incident or accident involving a patient or employee shall be made and signed by the administrator or his designee and shall include the names of any witnesses.

(g) A record shall be retained for a minimum of five (5) years or, in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

(h) A telephone order from a physician or another individual acting within his scope of practice shall be countersigned within thirty (30) days.

(i) If nursing services are provided pursuant to Section 4 of this administrative regulation, the record shall indicate a description of the nursing service provided, the date the service was provided, and pertinent information relating to the delivery of the service.

(6) Registry. The program shall maintain a permanent, chronological patient registry book showing date of admission, name of patient, and date of discharge.

(7) Equipment and supplies. The program shall have equipment and supplies of sufficient quality and quantity to meet patients' needs.

Section 3. Health services. (1) Health care services shall include:

- (a) Supervision and monitoring of the patients to assure that health care needs are being met including supervision of self-administration of medications;
 - (b) Providing first aid and making arrangements for medical care with a physician or hospital in case of accidents or medical emergencies; and
 - (c) Arranging for the transportation of a patient to a physician's office or hospital in case of accidents or medical emergencies.
- (2) Medical therapeutic services such as physical therapy or speech therapy shall be administered upon written order of the physician and shall be provided by a physical therapist or a speech-language pathologist or under the supervision of a physical therapist or a speech-language pathologist.
- (3) Occupational therapy shall be provided by an occupational therapist or under the supervision of an occupational therapist.
- (4) A patient receiving medical therapeutic services or occupational therapy shall be ensured privacy and dignity.

Section 4. Nursing Services. (1) A program that provides nursing services shall obtain a license to provide nursing services pursuant to subsection (5) of this section.

(2) Nursing services administered to patients by a registered nurse or licensed practical nurse supervised by a registered nurse shall be ordered in writing by the patient's physician or another licensed professional acting within his scope of practice.

(3) If an order for treatment or medication is received by telephone it shall be given to a registered nurse or licensed practical nurse and immediately reduced to writing.

(4) Nursing services, other than the delivery of oral medications, shall be provided in a treatment room.

(5) Special licensing provisions for a program providing nursing services:

(a) A program currently licensed by the cabinet may complete a revised form OIG 144 indicating that nursing services shall be provided.

(b) The Office of the Inspector General may conduct a survey as defined in 902 KAR 20:008 to ensure the requirements for providing nursing services are met.

(c) The program shall be issued an amended license reflecting the authority to provide nursing services.

(d) A program that is applying for an initial license shall indicate on the form OIG 144 that nursing services shall be provided and the initial license issued by the Office of the Inspector General shall reflect the authority to provide nursing services.

(6) A program licensed as of September 1, 2000 that applies for an amended license to provide nursing services shall not be required to comply with Section 6(10) or (11) of this administrative regulation, prior to September 1, 2001.

Section 5. Other Services. (1) Self-care training. The program shall provide a training program for self-care to assist a patient to gain independent living status.

(2) Personal care. Personal care services shall be provided.

(3) Activity program.

(a) The program shall include a balanced activity program for all ages served. A patient shall choose and plan, if feasible, a variety of activities that the patient desires, and the involvement of the staff shall be advisory. There shall be a written activity program with activities planned to fill patient needs with a sufficient variety for choice including:

1. Recreation and physical exercise;
2. Diversion, games, music, and crafts;
3. Intellectual and educational stimulation, current events, and educational films; and

4. Participation in planning menus and preparation of food.

(b) Activities shall be group or individually oriented aimed at participation at all levels of capability.

(c) A specific period of the day shall be set aside for rest. There shall be appropriate accommodations for rest.

(4) Transportation. If transportation of the patient to or from the program is provided by the program:

(a) A special provision shall be made for a patient who uses a wheelchair; and

(b) An escort or assistant to the driver shall be provided if necessary.

(5) Dietary services.

(a) Food service and preparation.

1. The program shall offer one (1) or more hot meals providing no less than one-third (1/3) of the daily nutritional requirements per meal.

2. Foods shall be prepared by appropriate methods to conserve their nutritive value and enhance their flavor and appearance.

3. Nutritional needs shall be met in accordance with the current Recommended Dietary Allowance of the Food and Nutrition Board of the National Research Council, adjusted for age, sex, and activity and in accordance with physician's orders.

4. Food shall be cut, chopped, or ground to meet individual needs.

5. Effective equipment shall be provided and procedures established to maintain food at proper temperature during service.

6. A patient requiring help in eating shall be assisted.

7. Adaptive self-help devices shall be provided if required in such a manner as to contribute to the patient's independence in eating.

(b) Maintenance of sanitary condition.

1. The dietary department shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005. If the program contracts for food service, the catering service shall comply with the applicable requirements of 902 KAR 45:005 and the applicable requirements of this administrative regulation.

2. Perishable foods shall be refrigerated at the appropriate temperature and in an orderly and sanitary manner. Leftover food items shall be covered and dated if refrigerated.

Section 6. Facility Requirements. (1) The facility shall be maintained in a safe and clean manner, free from offensive odors, safety hazards, and accumulations of dirt, rubbish and dust.

(2) A deodorizer shall not be used to conceal an odor caused by unsanitary conditions or poor housekeeping practices.

(3) The grounds shall be kept free from refuse and litter. Areas around buildings, sidewalks, gardens, and patios shall be kept clear of dense undergrowth.

(4) The facility shall be maintained free from insects and rodents.

(5) Open windows and doors shall be screened.

(6) Nests and entrances for insects and rodents shall be eliminated.

(7) Waste disposal.

(a) Sharp waste.

1. Sharp waste, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other waste and placed in puncture resistant containers immediately after use.

2. A needle or other contaminated sharp instrument shall not be purposely bent, broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Occupational Safety and Health Administration guidelines established in 29 CFR 1910.1030(d)(2)(vii).

3. The containers of sharp waste shall be incinerated on or off site, or be rendered nonhazard-

ous.

(b) Disposable waste.

1. Disposable waste shall be placed in suitable bags or closed containers to prevent leakage or spillage, and shall be handled, stored, and disposed of minimizing direct exposure of personnel to waste materials.

2. The program shall establish specific written policies regarding handling and disposal of waste.

3. The following waste shall be disposed of by incineration, or be autoclaved before disposal, or be carefully poured down a drain connected to a sanitary sewer:

- a. Blood;
- b. Blood specimens;
- c. Blood products; or
- d. Used blood tubes.

(8) There shall be adequate space in the facility to provide for patient needs and comfort.

(9) The facility shall have space to allow a patient who has become ill to rest in comfort and privacy.

(10) A program that provides nursing services shall have a treatment room.

(a) The treatment room shall have a minimum floor area of 120 square feet.

(b) The treatment room shall contain:

1. A lavatory or sink equipped for hand washing;
2. A work counter;
3. Storage facilities for storage and distribution of clean and sterile supplies; and
4. Adequate furnishings to safely and comfortably provide nursing services.

(11) A program that provides nursing services shall have a workroom or closet that contains:

- (a) A sink equipped for hand washing;
- (b) A waste receptacle; and
- (c) A linen receptacle for the collection of soiled linen.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Kentucky Board of Nursing Scope of Practice Determination Guidelines, April 1995 edition; and

(b) Form OIG 144, Application for a License to Operate a Health Facility or Service, February 2001 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the Inspector General, 275 East Main Street, Fifth Floor East, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. (8 Ky.R. 240; eff. 11-5-1981; 11 Ky.R. 476; eff. 10-9-1984; 18 Ky.R. 1233; eff. 11-25-1991; 27 Ky.R. 2905; eff. 6-8-2001; Crt eff. 4-30-2019.)