HAWAII ADMINISTRATIVE RULES

TITLE 11

DEPARTMENT OF HEALTH

CHAPTER 96

FREESTANDING ADULT DAY HEALTH CENTERS

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§11-96-1 Purpose. The purpose of this chapter is to establish minimum requirements for the protection of health, welfare, and safety of clients and the public in adult day health centers.
[Eff NOV 22 1991] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-96-2 Definitions. As used in this chapter:

"Activity coordinator" means a person having responsibility for developing and implementing an activity program in an adult day health center who:

(1) Has two years of experience in a social, recreational, or educational program, one year of which was full-time employment in a client activities program in a health care setting, mental health setting, or setting for the care of the handicapped; or

(2) Is an occupational therapist, occupational therapy assistant or recreational therapist.

"Administrator" means the person having responsibility for the operation of an adult day health center.

"Adult day health care" means an organized day program of therapeutic, social, and health services provided to adults with physical, or mental impairments, or both, which require nursing oversight or care, for the purpose of restoring or maintaining, to the fullest extent possible, their capacity for remaining in the community.

"Adult day health center" means a facility which provides adult day health care.

"Authorized representative" means a person authorized by law, by court order, or by written consent of the client to act on behalf of the client.

"Cardiopulmonary resuscitation" or "CPR" means an emergency first-aid procedure that consists of opening and maintaining a client's airway, providing artificial ventilation by means of rescue breathing, and providing artificial circulation by means of external cardiac compression.

"Center" means adult day health center.

"Client" means any adult who has been admitted and participates in the services offered by an adult day health center.

"Consultant" means a qualified person who gives professional advice or service, with or without remuneration.

"Controlled drugs" has the same meaning as defined in chapter 329, Hawaii Revised Statutes.

"Dentist" means any person holding a valid license to practice dentistry in the State of Hawaii, pursuant to chapter 448, Hawaii Revised Statutes.

"Department" means the State of Hawaii, Department of Health.

"Designated representative" means the authorized representative of the director of health.

"Dietitian" means a person who is registered by the Commission on Dietetics Registration or is eligible for such registration.

"Direct supervision" means that the supervisor shall be present in the same building as the person being supervised and available for consultation and assistance.

"Director" means the director of health, State of Hawaii.

"Drug administration" means the act in which a single dose of a prescribed drug or biological substance is given to a client by an authorized person in accordance with all existing laws and rules governing these acts. The entire act of administration entails removing an individual dose from a previously dispensed, properly labeled container (unit dose included), verifying the dosage with the physician's orders, giving the specified dose to the proper client and properly recording the time and dose given to the client and signing the record. Only a licensed nurse or a physician may administer medications.

"Drug dispensing" means the act which involves the interpretation of the physician's order and pursuant to that order, the proper selection,

measuring, packaging, labeling, and issuance of the drug or biological substance for a client.

"Governing body" means the policy making authority, whether an individual or a group, which has overall authority over the affairs of a center and establishes policies concerning its operation and the welfare of the individuals it serves.

"Immediate supervision" means that the supervisor shall be physically present while a task is being performed.

"Individualized plan of care" means a written plan of treatment and services provided to a client of an adult day health center in accordance with the documented assessed needs of the client.

"Legal guardian" means a person appointed by a court to care for another person or that person's property, or both.

"Licensed capacity" means the maximum number of clients authorized to receive services at any one time in an adult day health center as specified on the license.

"Licensee" means an individual or organization within the State to whom a license to operate an adult day health center has been issued and who is responsible for the administration and operation of the adult day health center.

"Licensed nurse" means a person currently licensed by the State of Hawaii as a licensed practical nurse or a registered nurse.

"Licensed practical nurse" means a nurse currently licensed as such, pursuant to chapter 457, Hawaii Revised Statutes.

"Maintenance" means the upkeep of a building and equipment to preserve the original functional and operational state.

"Medication" means any chemical compound, remedy, or non-infectious biological substance, the action of which is not solely mechanical, which may be administered to clients by any route as an aid in the diagnosis, treatment or prevention of disease or other condition, for relief of pain or suffering, or to control or improve any mental, physiological or pathological condition.

"Mobile person" means a person who is capable of moving about without human assistance and has the physical ability to leave a building without the assistance or supervision of any other person.

"Multidisciplinary team" means a group within the adult day health center that conducts assessments and makes decisions regarding individual admission plans, treatment services, and discharge of clients; may include but is not limited to, a staff or attending physician, a registered nurse, a social worker, an occupational therapist, and a physical therapist as appropriate to the case.

"Non-ambulatory person" means any person requiring human assistance or supervision to leave a building under any circumstances.

"Nurse's aide" means a person who has successfully completed a nurse aide training course and works under the supervision of a licensed nurse.

"Occupational therapist" means a person currently registered or eligible for registration by the American Occupational Therapy Association.

"Occupational therapy aide" means a person who, under the supervision of a registered occupational therapist, assists with occupational therapy services.

"Occupational therapy assistant" means a person who is currently registered or eligible for registration by the American Occupational Therapy Association as an occupational therapy assistant.

"Pharmacist" means a person who is currently licensed as a pharmacist, pursuant to chapter 461, Hawaii Revised Statutes.

"Physical therapist" means a person who is licensed to practice physical therapy, pursuant to chapter 461J, Hawaii Revised Statutes.

"Physical therapy assistant" means a person who has graduated from a two year college level program approved by the Section on Education of the American Physical Therapy Association.

"Physical therapy aide" means a person who, under the immediate supervision of a registered physical therapist, assists with physical therapy care.

"Physician" means any person holding a valid license to practice medicine and surgery or osteopathy issued by the State of Hawaii, pursuant to chapter 453 or 460, Hawaii Revised Statutes.

"Program director" means that person having on-site responsibility for direction and coordination of the various programs at the adult day health center.

"Provisional license" means a license issued for a specified period of time (no longer than one year) at the discretion of the director in order to allow the licensee additional time to correct deficiencies. No more than two consecutive provisional licenses shall be issued to a center.

"Psychiatrist" means a person licensed to practice medicine in the State of Hawaii and who is certified or is eligible to be certified in psychiatry by the American Board of Psychiatry or Neurology.

"Psychiatric nurse" means a person who:

(1) Is a registered nurse with a graduate degree in psychiatric nursing and one year of psychiatric nursing experience within the past five years; or

(2) Is a registered nurse with one year of psychiatric nursing experience in an acute psychiatric setting or in a psychiatric health facility.

"Psychologist" means a person who is licensed in the practice of psychology pursuant to chapter 465 Hawaii Revised Statutes.

"Registered nurse" means a person who is currently licensed as a registered nurse, pursuant to chapter 457, Hawaii Revised Statutes.

"Social worker" means a person who has a master's degree from a school of social work accredited by the Council on Social Work Education or has a bachelor's degree from an accredited school of social work, plus two year's experience in a nursing facility, or some other health care agency.

"Social work assistant" means a staff person with on the job training who is supervised by means of consultation with a qualified social worker.

"Speech therapist" means a person who is currently licensed in the State of Hawaii as a speech pathologist or audiologist, pursuant to chapter 468E, Hawaii Revised Statutes.

"Supervision of employee" means to instruct an employee or subordinate in the employee's duties and to oversee or direct the employee's work, but does not necessarily require the immediate presence of the supervisor.

"Waiver" means an exemption from a specific rule or regulation, which may be granted to a center for a

specified period of time at the discretion of the director. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-3 Licensing. (a) No person, firm, corporation, institution, association, organization, or any other entity, non-profit or for profit, may operate a freestanding adult day health center unless it is licensed by the department.

(b) Any person, firm, corporation, institution, association, organization, or any other entity, desiring to operate a freestanding adult day health center shall apply to the department for a license on forms prescribed by the department.

(c) The director shall prescribe the content and form of the license.

(d) The department shall issue a license if the proposed facility meets all of the requirements under this chapter and all of the requirements for licensure under state and county laws, including but not limited to, the certificate of need law, and fire, zoning, and building codes. The director, in his discretion, may authorize a waiver from a particular rule of this chapter provided that the health and safety of the clients would not be affected. The applicant shall be responsible for securing written evidence of compliance with the state and county laws.

(e) A license, when granted, shall be effective for one year, or a shorter duration of time as may be decided by the director, unless it is suspended or revoked by the department.

(f) If written application for renewal of a license is not filed with the department before the expiration of the license, the license shall automatically expire as of the expiration date specified on the license.

(g) Each license shall be issued to a person, group of persons, firm, corporation, institution, association, organization, or other entities, by name and by the address of a specific physical facility. The license may not be transferred from one licensee, or from one physical location, to another.

(h) A provisional license may be issued for a specified period of time at the discretion of the department for the purpose of giving a center

additional time to correct deficiencies, or comply with regulations. Not more than two consecutive provisional licenses may be issued to a center.

(i) The director or his authorized representative shall inspect each licensed freestanding adult day health center at least once annually. Notice of the approximate time for the annual inspection visits may be given to the center. In addition to annual inspection visits, the director or his authorized representative, without prior notice, may enter the center at any reasonable time for the purposes of confirming correction of deficiencies, or investigation of complaints, or both.

(j) Following the annual inspection, a list of deficiencies, if any, shall be presented to the facility. The facility shall return a plan of correction of the deficiencies to the department within ten days. Facilities shall be allowed a reasonable time to implement the plan of correction. A follow-up survey shall be made by the department to determine the progress in the plan of correction. If there has not been substantial progress in carrying out the plan of correction, the license shall not be renewed.

(k) The director may suspend, revoke, or refuse to issue a license for failure to comply with the requirements of this chapter, or for any cause deemed a hazard to the health and safety of the clients, employees, or the general public. Any person, firm, corporation, institution, association, or organization, or other entity affected by the director's final decision of denial, suspension, or revocation may appeal in accordance with chapter 91, Hawaii Revised Statutes.

(l) Penalties, hearings and appeals. In addition to any other appropriate action to enforce this chapter, the director may initiate procedures for invoking fines as provided in §321-20, Hawaii Revised Statutes, and to withdraw the license after hearings held in accordance with chapter 91, Hawaii Revised Statutes.

(m) All centers shall post its current license in a conspicuous place at the center.

(n) No center licensed under the provisions of this chapter may deny admission to any individual on account of race, religion, sex, ancestry, or national

origin.

(o) All centers shall keep reports of all annual licensing inspections at the center.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-4 Administrator. (a) Each center shall have an administrator. The administrator shall have the responsibility and authority to carry out the policies of the center. The center shall notify the Department in writing within fourteen working days following a change of administrator.

(b) The administrator shall make provision for continuity of operations, and for assumption of the administrator's responsibilities during the administrator's absence.

(c) Centers with a capacity of fifty or more clients shall have both an administrator and a full-time program director.

(d) The administrator of two or more licensed facilities shall not serve as a program director.

(e) An individual may be an administrator of no more than three centers. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-5 Admission requirements. (a) Requirements for admission to an adult day health center shall include:

(1) Referral from a community or health agency, physician, or hospital; and

(2) Need for the health, nursing, therapeutic, or social services provided by the adult day health center in order to reach or maintain the highest degree of functional status practicable for the client.

(b) All clients prior to admission, shall provide the center with the following:

(1) Their physician's full name, address, and emergency phone numbers; and

(2) A written order from the physician specifying therapeutic procedures or programs to be provided by the center as delineated in §11-96-31.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-6 Arrangements for services. Where the center does not employ a qualified person to render a required or necessary service, it shall have a written agreement or contract with an outside person or provider to provide the needed service. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-7 Basic program requirements. The configuration of services available to clients will be appropriate to the assessed needs of the clients. Basic program requirements of an adult day health center shall include provisions for medical services, nursing services, dietetic services and planned therapeutic and social activities, and, if required by clients, social services, speech therapy, physical therapy, occupational therapy, psychiatric or psychological services. Services provided may include transportation. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-8 Client care management. (a) Each center shall make available a multidisciplinary team, either through regular staff or contracted arrangement, for the purpose of client assessment and development of the plan of care.

(b) A written individualized plan of care shall be developed to meet the needs of each client and shall include but not be limited to:

(1) Days of attendance;
(2) Medical diagnosis, including general functional capacity;
(3) Prescribed medications;
(4) Specific types of services needed based on functional capacity;
(5) Individualized objectives and therapeutic goals;
(6) An individualized activity plan designed to meet the needs of the client for social and therapeutic recreation activities;
(7) Participation in specific group activities;

(8) Transportation;
(9) Therapeutic diet requirements, if any;
(10) A plan to arrange for any services needed which are not routinely available at the center;
(11) Anticipated date of discharge when appropriate, and projected services and support needs after discharge from the program; and
(12) The signature of each member of the multidisciplinary team, including the physician. [Eff NOV 22 1991]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-9 Client's rights. (a) Written policies regarding the rights and responsibilities of clients during their stay in the center shall be established and shall be made available to the client, to any guardian, next of kin, sponsoring agency or representative payee, and to the public. The center's policies and procedures shall provide that each individual admitted to the center shall:

(1) Be fully informed, as evidenced by the client's written signed acknowledgement prior to or at the time of admission, of these rights and of all rules governing client conduct;
(2) Be fully informed, prior to or at the time of admission and during stay, of services available in or through the center and of related charges, including any charge for services not covered by the center's basic per diem rate;
(3) Be advised that clients have a right to have their medical condition and treatment discussed with them by a physician of their choice, and to be afforded the opportunity to participate in the planning of their medical treatment and to refuse to participate in experimental research;
(4) Have the right to refuse treatment after being informed of the medical benefits of treatment, the consequences of refusal, and the medical alternatives;
(5) Be encouraged and assisted throughout their period of stay to exercise their rights as

clients, and to this extent to have grievances and to recommend changes in policies and services to the center's staff and outside representative of their choice free from restraint, interference, coercion, discrimination, or reprisal;

(6) Not be humiliated, harassed, injured, or intimidated and shall be free from chemical and physical restraints. Physical restraints may be used only in an emergency when necessary to protect the client from injury to the client or others. In such an event, the client's physician shall be notified as soon as possible and further orders obtained; as provided in section 11-96-35;

(7) Be entitled to have their personal and health records kept confidential and subject to release only as provided in section 11-96-24;

(8) Be treated with consideration, respect, and in full recognition of their dignity and individuality, including privacy in treatment and in care as appropriate;

(9) Not be required to perform services for the center that are not included for therapeutic purposes in their plan of care;

(10) Have reasonable access to telephones, both to make and receive confidential calls, or to have such calls made for the client, if necessary;

(11) Be allowed to end participation at the adult day health center at any time; and

(12) Be discharged only for medical reasons, or for the client's welfare or that of other clients, or for non-payment for services, and be given reasonable advance notice to ensure orderly discharge. Such actions shall be documented in the client's record.

(b) Each center shall have a formal fair hearing written procedure for any alleged client's rights infractions.

(c) Each adult day health center shall post a list of client's rights in a prominent place in the center.

(d) The center shall provide for and encourage each employee to report observations or evidence of

abuse. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-10 Dietetic services. (a) Meals served in the center shall meet the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, and be adjusted for age, sex, activity and disability.

(b) A minimum of one meal per day shall be provided in accordance with the following requirements stated.

(1) Each client who is in the center for four hours or more shall be served a meal that will supply at least one-third of the National Research Council recommended dietary allowances;

(2) Each client who is in the center for eight hours or more shall be served a meal and between meal nourishments that will supply at least half of the National Research Council recommended dietary allowances;

(3) Each client who is in the center for periods longer than ten hours shall be served at least two meals and between meal nourishments that will supply at least two-thirds of the National Research Council recommended dietary allowances; and

(4) Any client accepted at 7:00 a.m. or earlier shall be served a breakfast, unless it has been determined that the client has received a meal prior to arrival.

(c) All diets shall be:

(1) Prescribed by the client's physician with a record of the diet as ordered kept on file;

(2) Planned, prepared, and served by personnel using the current Hawaii Dietetic Association manual; and

(3) Reviewed and adjusted as needed by the dietitian.

(d) Therapeutic diets shall be planned by a qualified dietitian, as prescribed by the client's physician.

(e) A nutritional assessment and diet plan for each client shall be completed and recorded in the health record by the physician or dietitian. The plan should be incorporated in the overall plan of

care and reviewed as necessary.

(f) Menus shall be written at least one week in advance and posted in the kitchen.

(1) Menus shall provide a sufficient variety of foods served in adequate amounts at each meal, and adjusted for seasonal changes along with clients preferences as much as possible; and

(2) A different menu shall be followed for each day of the week. If a cycle menu is used, the cycle menu shall cover a minimum of two weeks.

(g) All food shall be procured, stored, prepared, distributed, and served under sanitary conditions.

(1) Dry or staple food items shall be stored above the floor in a ventilated room not subject to seepage or waste-water back flow, or contamination by condensation, leakages, rodents, or vermin; and

(2) Perishable foods shall be stored at the proper temperature to conserve nutritive values and prevent spoilage.

(h) Food shall be served under sanitary conditions, and shall be in a form consistent with the needs of the client and the client's ability to consume it.

(1) Food shall be served in a form consistent with the appropriate utensils;

(2) Effective procedures to promptly and consistently clean all equipment and work areas shall be enforced;

(3) All personnel handling food shall be trained in and observe appropriate personal hygiene practices;

(4) Hand washing facilities, including hot and cold water, soap, and paper towels adjacent to the work areas shall be provided;

(5) Individuals needing special equipment, implements, or utensils to assist them when eating shall have such items provided by the center;

(6) There shall be a sufficient number of competent personnel to fulfill the food and nutrition needs of clients;

(7) If the food service is directed by a person other than a qualified dietitian, there

shall be consultation by a dietitian;

(8) Dietary consultation, training and inservice education shall be appropriate to staff and client needs and shall be documented; and

(9) Provision may be made for food service by contract with an outside supplier. The method of transport, storage, preparation, and serving of such food as well as the method of providing prompt appropriate replacement foods in therapeutic diets shall be approved by the director prior to initiating such a service.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-11 Discharge planning. (a) A plan for discharge of each client shall be based on the assessment of the client by the multidisciplinary team and shall be reviewed and updated at the time of each reassessment if discharge planning is appropriate.

(b) As appropriate, each client's health record shall include documentation of the plan for discharge which shall be completed within fourteen days of the first assessment.

(c) Referral of clients shall be made to outside resources by the multidisciplinary team or by an individual team member. Each referral shall be recorded in the client's health record.

(d) Consultation shall be made available to a client's family prior to any discharge.

(e) If a client decides to terminate participation in an adult day health center program prior to the date recommended by the multidisciplinary team, the center staff shall, when appropriate, discuss the consequences of such action with the client, the client's physician, and the client's authorized representative, if any, and center staff shall document the discussion in the client's health record. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-12 Disaster plan. (a) Each center shall have a written plan for a fire or disaster occurring

within the center, or a natural disaster occurring in the community.

(b) The disaster plan shall be in writing and shall include:

(1) Designation of administrative authority and employee assignments; and

(2) A plan for evacuation or relocation of clients, if this is appropriate, including:

(A) Means and routes of evacuation;

(B) Transportation of clients when necessary;

(C) Supervision of clients after evacuation or relocation;

(D) Means for contacting local service agencies, such as fire department, law enforcement agencies and other disaster authorities of local government; and

(E) Posting of evacuation routes.

(c) Each employee shall be instructed in assigned duties. Instruction shall include employee and client practice sessions. New employees shall be informed immediately of their disaster duties, as required in the plan. Records of all training shall be kept on file in the center.

(d) Facilities licensed under this chapter shall be inspected at least annually by appropriate fire authorities for compliance with state and county fire and life safety rules and ordinances.

(e) Smoking rules shall be adopted.

(f) Fire drills shall include the transmission of a fire alarm signal and be held at least quarterly. Records of all fire drills shall be filed in the center. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-13 Emergency care of clients. The provider shall establish emergency procedures in writing. These procedures shall include the following:

(1) An easily located file on each client listing the name and telephone number of the client's physician, treatments or medications for a client's special disabilities, and the name and telephone number of a family member, sponsor, or

friend, or case manager, to be notified in case of emergency;
(2) Emergency measures to take in care of the client, as appropriate;
(3) Procedures to obtain emergency transportation for treatment and other appropriate emergency services;
(4) Provision and maintenance of first aid equipment and supplies; and
(5) At least one staff person shall be present at all times, who is trained and certified in CPR and basic first aid.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-14 Employee records. (a) Each center shall maintain an employee record which shall be available for review by the director or designated representative.

(b) Each employee record shall contain at least the following:
(1) Full name;
(2) Date of employment;
(3) Credentials and pertinent experience; and
(4) A health record containing a report of the following:
(A) Tuberculosis clearance pursuant to section 11-96-19; and
(B) Health examination signed by the examining physician or person lawfully authorized to perform such examinations which indicates the employee is free from any infectious or communicable disease.

(c) The center shall have a written policy providing for the health screening of volunteers, including screening for tuberculosis.

(d) All records shall be retained for three years following termination of employment.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-15 Employee requirements. (a) Employees shall be sufficient in numbers, qualified, and competent to provide the services for which the

center is licensed.

(b) Each supervisor shall be at least eighteen years of age.

(c) Each employee shall have either training or related experience in the job assigned.

(d) A planned in service education program, including orientation, skill training, and continuing education shall be provided for employees.

(e) Each employee shall be in good mental and physical health and capable of performing assigned tasks.

(f) No client shall be used as a substitute for required employees, but may assist employees as part of the client's program of rehabilitation or training. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-16 Equipment and supplies. Medical equipment and supplies in each center shall be of the quality and in the quantity necessary for care of clients as ordered or indicated in the plans of care, and shall include standard first aid supplies. These shall be provided and properly maintained at all times. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-17 Finances. No adult day health center shall assume responsibility for the funds of its clients. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-18 General policies and procedures. (a) There shall be written policies and procedures available to staff, clients and the public which govern:

(1) All services provided by the center; and

(2) Admission and discharge of clients.

(b) These policies shall insure that:

(1) The center shall not deny admission to any individual on account of race, sex, religion, color, ancestry, or national origin;

(2) Only those clients are accepted whose needs can be met by the center directly or in

cooperation with community resources or other providers of care with which it has affiliated or has contracts; and

(3) As changes occur in a clients' physical or mental condition necessitating a different type of service or care which cannot be adequately provided by the center, it shall be recommended that clients be referred to a facility or service capable of providing an appropriate level of care.

[Eff NOV 22 1991] (Auth: HRS § 321-11) (Imp: HRS §321-11)

§11-96-19 Governing body and management. (a) Each licensee shall be responsible for the operation of the center.

(b) The licensee shall exercise general supervision over the center, shall establish written policies concerning the center's operation, and shall make available these written policies for inspection by the director.

(c) Each licensee shall have written personnel policies and procedures which are available to all employees.

(1) There shall be written job descriptions for each position. Each employee shall be informed of their duties and responsibilities at the time of employment and through inservice training sessions thereafter;

(2) All professional employees shall have appropriate current licenses as required by law;

(3) Ethical standards of professional conduct shall apply to all parts of the program;

(4) Written policy shall prohibit misconduct, neglect, or abuse of clients and shall include procedures for investigating and reporting any such incidence to the State and governing body; and

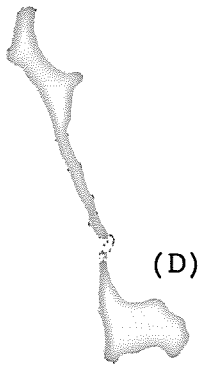
(5) There shall be documented evidence that every employee has a pre-employment and an annual health evaluation by a physician. These evaluations shall be specifically oriented to determine the presence of any infectious disease liable to harm a client.

Each health evaluation shall include a tuberculin skin test or a chest x-ray;

(A) Skin lesions or diarrhea shall be considered presumptive evidence of infectious disease. Any employee who develops evidence of an infection must be immediately excluded from any duties relating to food handling or direct client contact until such time as a physician certifies it is safe for the employee to resume such duties;

(B) If the tuberculin skin test is positive, a standard chest x-ray with appropriate medical follow-up must be obtained, as well as three subsequent yearly chest x-rays. If all three chest x-rays are negative, no further tuberculin tests shall be required, except that additional chest x-rays may be required at the discretion of the director;

(C) If the tuberculin skin test is negative, a second skin test shall be done after one week, but not later than three weeks after the first test. The results of the second test shall be considered the baseline test and used to determine appropriate treatment and follow-up. That is, if the second skin test is positive, then proceed, as in section 11-96-19(c)(5)(B). If the skin test is negative, a single skin test shall be repeated yearly; and



(D) When a known negative tuberculin skin test on a particular employee or client converts to a positive test, it shall be considered a new case of tuberculosis infection and shall be reported to the department as required in Chapter 11-164.

[Eff. NOV 22 1991]
(Auth: HRS §§321-9, 321-11)
(Imp: HRS §§321-9, 321-11)

§11-96-20 Housekeeping and maintenance. (a) Each center shall be kept clean, safe, and in good repair at all times.

(b) There shall be records that document that inspection of all devices essential to health and safety of clients and personnel shall be carried out daily or at sufficiently frequent intervals to ensure operational performance. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-21 Infection control. (a) There shall be appropriate policies and procedures written and implemented for the prevention and control of infectious diseases and management and disposal of infectious waste.

(b) Efforts shall be made to promptly return to their homes those clients who have infectious conditions. [Eff. NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-22 Inservice education. (a) There shall be a staff inservice education program that includes:

(1) Orientation for all new employees to acquaint them with the philosophy, organization, program, policies and procedures, practices, and goals of the center;

(2) Training for employees who have not achieved the desired level of competence, and continuing inservice education to update and improve the skills and competencies of all employees; and

(3) Annual, or more frequent, training which shall include, but not be limited to, prevention and control of infections, fire prevention and safety, accident prevention, clients' rights, and problems and needs of the aged, ill, and disabled. Provision shall be made for training appropriate personnel in cardiopulmonary resuscitation and appropriate first aid techniques.

(b) Records shall be maintained for all orientation and staff development programs. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-23 Laundry. (a) Where laundry service is provided, daily clothing and linen needs shall be met without delay.

(b) Provisions shall be made for the proper handling, storage, and transportation of soiled and clean laundry and for satisfactory cleaning procedures. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-24 Health record system. (a) There shall be available appropriately qualified staff to facilitate the accurate processing, checking, indexing, filing, and prompt retrieval of records and record data.

(b) The following information shall be obtained and entered in the clients' record at the time of admission to the center:

(1) Identifying information such as: date of admission, date of birth, marital status, social security number or an admission number which can be used to identify the client without use of name when the latter is desirable;

(2) Name and address of next of kin or legal guardian or care taker;

(3) Sex, height, weight, race, language spoken and understood; and

(4) Admission diagnosis, summary of prior medical care, recent physical examination,to include functional, cognitive, tuberculosis status, and physician's orders as described in section 11-96-5.

(c) Records during stay shall also include:

(1) Appropriate authorization and consents for medical procedures;

(2) Records of all periods of restraints with justification and authorization for each;

(3) Copies of initial and periodic examinations and evaluations, as well as progress notes at appropriate intervals;

(4) Annual review of an overall plan of care setting forth goals to be accomplished through individually designed activities, therapies, and treatments, and indicating which professional service or individual is

responsible for providing the care or service;

(5) Entries describing treatments, medications, tests, ancillary services rendered; and

(6) Documentation of any injuries or accidents;

(d) When a client is discharged, there shall be a discharge summary which shall include:

(1) The reason for discharge;

(2) Except in an emergency, documentation to indicate that the client understood the reason for discharge, or that the guardian and family were notified; and

(3) A summary of current status and care, final diagnosis, and prognosis.

(e) There shall be a master alphabetical index of all clients admitted to the center.

(f) All entries in the clients' record shall be:

(1) Legible, typed, or written in ink;

(2) Dated; and

(3) Authenticated by signature and title of the individual making the entry.

(g) All information contained in a client's record, including any information contained in an automated data bank, shall be considered confidential.

(h) The record shall be the property of the center, whose responsibility shall be to secure the information against loss, destruction, defacement, tampering, or use by unauthorized persons.

(i) There shall be written policies governing access to, duplication of, and dissemination of information from the record. Written consent of the client, if competent, or the guardian if the client is not competent, shall be required for the release of information to persons not otherwise authorized to receive it. Consent forms shall include:

(1) Use for which requested information is to be used;

(2) Sections or elements of information to be released and specific periods of time during which the information is to be released; and

(3) Consent of client, or legal guardians, for release of specific health record information.

(j) Records shall be readily accessible and

available to authorized department personnel for the purpose of determining compliance with this chapter.

(k) If a client has been absent for thirty days or more because of illness, there must be a written statement by a physician that the client is well enough to be readmitted to the program.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11).

§11-96-25 Nursing service. (a) Each program shall have nursing staff sufficient in number and qualifications to meet the needs of the clients.

(b) Nursing services shall be under the supervision of a registered nurse.

(c) If there are clients admitted who require skilled nursing, the services will be provided by a registered nurse or under the direct supervision of a registered nurse.

(d) Nursing services shall include, but not be limited to the following:

(1) Nursing assessment of each client and development of an appropriate plan of care by a registered nurse;

(2) Nursing observations and summaries of the client's status recorded monthly, or more frequently if appropriate, by a licensed nurse;

(3) Completion of all physician's orders with proper documentation;

(4) Supportive services for all clients to encourage them to participate in appropriate daily activities;

(5) Physical care to keep clients well-groomed, clean, comfortable, and protected from accidents and infections;

(6) Proper care to prevent decubiti, contractures or deformities;

(7) Coordination of an overall plan of care for each client, consistent with the physician's medical care plan and developed by the various disciplines involved;

(8) Frequent physical checks to insure that all clients are present and accounted for;

(9) Restorative and preventive nursing care including client and family education as appropriate for each client;

(10) Weighing each client at least monthly;
(11) Provision of emergency care, including arrangements for transportation;
(12) Notification of the physician of any marked changes in the client's condition; and
(13) Administration of medications or monitoring of self-administration of medication by clients.

(e) Nursing service space and beds shall be provided for the treatment of clients.
[Eff NOV 22 1991] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-96-26 Occupational therapy services. (a) Occupational therapy services which utilize purposeful activity shall be made available in each center as necessary, and be provided under a physician's order, and shall include, but not be limited to, the following:
(1) Assessment of the client and formation of an individual plan of care in conjunction with the multidisciplinary team; and
(2) Progress notes written at least quarterly in the clients' health record and signed by the occupational therapist.

(b) The occupational therapy services shall be under the supervision of an occupational therapist.
(1) An occupational therapy assistant shall work only under the supervision of an occupational therapist; and
(2) An occupational therapy aide shall work only under the immediate supervision of an occupational therapist or an occupational therapy assistant.

(c) Adequate space shall be provided for occupational therapy services and for storage of equipment. [Eff NOV 22 1991]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-27 Physical therapy services. (a) Physical therapy services shall be made available in each center as necessary, and be provided under a physician's order, and shall include, but not be limited to, the following:
(1) Provide initial and continuing assessment

of the client by the physical therapist in the formation of an individual plan of care in conjunction with the multidisciplinary team;

(2) Progress notes written at least quarterly in the client's health record and signed by the physical therapist; and

(3) Treatment of clients to achieve and maintain maximum performance using physical means such as exercises, massage, heat, sound, or water.

(b) Physical therapy services shall be under the supervision of a physical therapist.

(1) A physical therapy assistant shall work only under the supervision of a physical therapist; and

(2) A physical therapy aide shall work only under the immediate supervision of a physical therapist or a physical therapy assistant.

(c) Adequate space shall be provided for treating the clients and for storage of equipment. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-28 Ownership and financial capability. (a) The center shall provide to the director current information in regard to:

(1) The name of each person owning 10 percent or more of the business, either directly or indirectly;

(2) If a corporation, the names of the officers and directors;

(3) If a partnership, the names of each partner; and

(4) The names of each person who is the owner (in whole or in part) of any mortgage, deed or trust, note or other obligation recurred (in whole or in part) by the center.

(b) The financial resources of the owner shall be sufficient to operate and maintain the program according to the standards set forth in the chapter. The owner shall provide upon request, such evidence as deemed necessary by the director to establish that fact. [Eff NOV 22 1991] (Auth: HRS §321-11)

(Imp: HRS §321-11)

§11-96-29 Pharmaceutical services. (a) The center shall consult with a licensed pharmacist on methods and procedures for storage, administration, disposal, and record keeping of drugs and biological substances.

(b) A pharmacy policy manual shall be developed and kept current by the licensed nursing staff, consultant pharmacist or a licensed physician which:

(1) Contains appropriate policies and procedures and defines the functions and responsibilities relating to pharmacy services;

(2) Is revised as necessary to keep up to date with development in overall drug usage;

(3) Specifies the safe administration and handling of all drugs; and

(4) Includes policies regarding self-administration of drugs.

(c) Medications administered to a client shall be ordered by the attending physician in writing.

(1) Where physicians' verbal orders are directed to the center, only the facility's licensed medical or nursing staff shall receive such orders; and

(2) Any verbal or telephone medication orders shall be recorded and signed by the person receiving them and must be verified in writing by the attending physician within four days.

(d) Each drug shall be rechecked and identified prior to administration.

(e) No medication shall be administered to a client by center personnel unless the name, dosage, and frequency of administration of the drug and the name of the prescribing physician are recorded in the client's record.

(f) Only appropriately licensed and trained staff shall be allowed to administer drugs and shall be responsible for proper recording of the medication including the route of administration. Medication errors and drug reactions shall be recorded in the client's health record, reported immediately to the prescribing physician and an incident report prepared. All incident reports shall be kept

available for inspection by the director for a period of three years.

(g) Drugs shall be stored under proper conditions of sanitation, temperature, light, moisture, ventilation, segregation, and security when placed in the care of the center.

(1) All drugs shall be kept under lock and key except when authorized personnel are in attendance;

(2) Poisons, drugs used externally, and drugs taken internally shall be stored in locked, well marked separate cabinets, at all locations;

(3) Medications that are stored in a refrigerator containing things other than drugs shall be kept apart and in a locked container;

(4) Discontinued and out dated drugs,drugs left by clients who have expired or who have not visited the center for thirty days, containers with worn, illegible, or missing labels, shall be returned to the client's family or responsible party for proper disposition. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-30 Physical plant construction requirements. (a) The center shall be fully accessible to and functional for physically handicapped clients, personnel, and the public.

(b) Each center shall comply with state and local building requirements.

(c) Each center shall have a working, listed telephone on the premises.

(d) Temperature and humidity shall be maintained within a normal comfort range.

(e) There shall be provisions within the center for one or more areas for dining, social activities, secluded areas, and therapy areas.

(1) The center shall be equipped with adequate natural and artificial lighting, tables, chairs, or their equivalent, for the use and comfort of the client;

(2) Dining areas shall be equipped with tables and chairs. A sufficient number of tables shall be of proper height to accommodate

wheelchair clients;

(3) If a multi-purpose room is used for dining and recreational activities, there shall be sufficient space to accommodate all activities; and

(4) A secluded area shall be set aside for clients who require bed rest during the day;

(A) The secluded area shall have chaise lounges or beds in the number necessary to meet the needs of the clients under written order of the staff or attending physician; and

(B) Space around sleeping accommodations shall permit easy passage.

(f) Total area for recreational and dining activities shall be not less than fifty square feet per client.

(g) Activity, dining and service areas shall be accessible to all clients.

(1) There shall be adequate space to allow free movement of clients using wheelchairs, walkers, canes, and crutches to bed, bathroom, closet, and common hallway areas; and

(2) Areas used for cooking, storage, bathrooms, laundry, and other areas not suitable for sleeping shall not be used as rest or sleep areas.

(h) There shall be one toilet room for every twelve clients.

(1) The toilet room shall contain a toilet and lavatory;

(2) Appropriately placed grab bars shall be provided in designated toilets, bathtubs, and shower enclosures;

(3) Curtains or doors to ensure privacy shall be provided;

(4) An adequate supply of hot and cold potable running water must be provided at all times. Temperatures of hot water at plumbing fixture used by clients shall be automatically regulated and shall be maintained at a level between 100° to 110°F;

(5) Each toilet and bath center shall have an auditory call system which permits the

client to signal staff in an emergency;

(6) There shall be at least one bathtub or shower available; and

(7) Separate toilet facilities shall be provided for the use of personnel.

(i) Ramps must be designed to permit use by clients in wheelchairs. Ramps shall meet the provisions of the 1987 Uniform Building Code.

(j) Walls and floors of rooms used by clients shall be made of materials which shall permit washing or cleaning.

(k) Where appropriate, screening of doors and windows shall be provided, using screening having sixteen meshes per inch.

(l) Double acting doors shall be provided with vision panels of sufficient height to permit use by walkers as well as wheelchair riders.

(m) The minimum clear width of a corridor shall be thirty-six inches except that corridors serving one or more clients who require the use of a wheel chair or walking aids shall be not less than forty-four inches. Stationary handrails shall be installed at least along one side of corridors.

(n) Locked storage space shall be provided for janitors' supplies and equipment. Storage space, conveniently located, for general and specialized equipment shall be provided.

(o) The water supply shall be in accordance with Chapter 340E, Hawaii Revised Statutes.

(p) Chapter 11-39 relating to air conditioning and ventilation, shall be followed.

(q) Flashlights shall be in readiness and functional at all times.

(r) Open flame types of light shall not be used.

(s) Space for outdoor activities shall be easily accessible to all clients and protected from traffic.

(t) Facilities shall be maintained in accordance with provisions of state and county fire safety, sanitation laws and ordinances.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-31 Physicians services. (a) All clients admitted to a center shall be under the care of a

physician selected by the client.

(b) The physician shall authorize the client's initial individualized plan of care and major revisions thereafter. The plan of care shall be reviewed at least annually.

(c) There shall be a statement from the physician as to the medical condition and functional status of the client, prescribed therapies, and any special care or observations which is required at least annually, with updates whenever there are changes which significantly alter the client's medical or functional status.

(d) There shall be a statement from the physician that the client does not have active tuberculosis.

(e) There shall be directions from the physician as to the procedures to be followed if the physician is not immediately available in the event of an emergency. [Eff NOV 22 1991]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-32 Program director. (a) Each center shall have a full time program director.

(1) The administrator may serve in this capacity except as specified in section 11-96-4(d);
(2) The program director shall be present on the premises and available to clients, employees, and relatives; and
(3) When the program director is temporarily absent, another staff member shall be designated in writing to serve as the acting program director.

(b) The program director shall have experience in working with impaired persons and be knowledgeable about their physical, social, and mental health needs.

(c) The duties of the program director shall be:

(1) Coordinating the development and implementation of the program, as determined by the multidisciplinary team; and
(2) Periodically holding team conferences to evaluate clients and adjust programs as needed. [Eff NOV 22 1991]

(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-33 Psychiatric or psychological services.

(a) Every adult day health center shall have available appropriate consultant staff trained in psychiatric care when there is a client in the adult day health center requiring the services while at the center.

(b) The consultant shall:

(1) Participate in the initial and continuing assessments for the development of an individual plan of care by the multidisciplinary team when indicated;

(2) Maintain signed progress records in the client's health record when providing services;

(3) Form liaisons with or be advisory to other members of the multidisciplinary team, family members and referral agencies that may yield information of value to psychiatric or psychological treatment; and

(4) Provide counseling and other services as appropriate to client needs.

(c) Sufficient space and privacy shall be provided for individual or group counseling.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-34 Recreation and social activities. (a) Every adult day health center shall provide a program of social and recreatioal activities that is supervised and directed by an activity coordinator to meet the needs and interests of each client.

(b) The activity coordinator's duties shall include at least the following:

(1) Participation in initial and continuing assessment of the client's needs for the development of the individual;

(2) Provision of a signed quarterly progress record and individualized activity plan in the client's health record;

(3) Posting of a schedule of planned activities in a central location readily accessible to client, family, guardian, or authorized representative;

(4) Involvement of clients in the planning of the program as appropriate;
(5) Utilization of volunteers as needed to implement the plan; and
(6) Utilization of the adult day health center's transportation to provide activities in the community as indicated by client's needs and interests.

(c) Each client shall engage in activities suitable to the client's needs and interests.

(d) The activity coordinator shall be a full time employee of the center.

(e) Space shall be provided that:
(1) Meets independent and group needs of all clients;
(2) Is accessible to all clients; and
(3) Allows adequate storage of equipment and supplies.

(f) Equipment shall be sufficient to meet the group and independent needs of each client.

[Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-35 Restraints. (a) There shall be written policies and procedures governing the use of restraints.

(b) Physical restraints shall be used only under physicians' orders for specified and limited periods of times and their use shall be documented.
(1) If physical restraints are used in an emergency situation, the attending physician shall be contacted immediately for orders supporting or discontinuing the temporary use;
(2) Only a staff member so designated in the written policy shall have the authority to apply restraints in an emergency situation;
(3) Regular observation and regular release of client shall be required while restraints are in use; and
(4) No restraints with locking devices shall be used.

(c) Restraints shall be used only under the following conditions:
(1) In emergency conditions to prevent imminent danger to health or safety by a client to

self or others; and

(2) For temporarily positioning the client to prevent the client from falling out of a chair or from a treatment table or bed.

(d) Restraints shall include only cloth vests, soft ties, soft cloth mittens, seat belts, or wheelchair trays. Soft ties means soft cloth which does not cause skin abrasion and which does not restrict blood circulation.

(e) Restraints shall not be used as punishment or as a convenience to the staff.

(f) Restraints shall be applied in a manner so that they can be speedily removed in case of fire or other emergency.

(g) Various types of adult chairs referred to as geriatric chairs are not defined as a restraint if the type of closing mechanism on the chair and the physical and mental capability of the specific client allows for easy removal. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-36 Sanitation. (a) Every center shall be in compliance with all applicable laws of the State of Hawaii and rules of the department relating to sanitation.

(b) Reports of annual inspections by state or county health authorities and records of action taken in correction of deficiencies and recommendations shall be kept on file at the facility.

(c) The center shall provide a sufficient number of water tight receptacles of metal, or other materials acceptable to the department, for rubbish, garbage, refuse and other discarded matter. In kitchens and food preparation areas, receptacles shall be kept closed by tight fitting covers except in the kitchen during peak hours of food preparation. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-37 Social services. (a) Every adult day health center shall have available social services as appropriate to assist clients and their families to solve social problems that arise as a result of the client's disability.

(b) Social services shall consist of the

following:

(1) Providing initial and continuing assessment of the client by the social worker in the formation of an individual plan of care by the multidisciplinary team as appropriate;

(2) Maintaining signed progress notes in the clients' health record at least quarterly;

(3) Assumption of responsibility for implementation and coordination of the discharge plan;

(4) Providing referral to outside resources and assisting with counseling when applicable;

(5) Providing problem oriented discussion groups among clients;

(6) Serving as a liaison with the client's family and home; and

(7) Providing referral and follow-up for referred persons not appropriate for adult day health care.

(c) Social services shall be provided or supervised by a social worker.

(d) A social work assistant shall provide social services only under the supervision of a social worker.

(e) Space to allow privacy shall be provided for the social worker when counseling clients or families of clients. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-38 Speech therapy services. (a) Speech therapy services shall be made available in each center as necessary, and be provided under a physician's order, and shall include:

(1) Initial and continuing assessment of the client by the speech therapist in the multidisciplinary team; and

(2) Progress notes, written at least quarterly, or more often, if necessary in the client's health record and signed by the speech therapist.

(b) The speech therapist shall work the number of hours necessary to meet the needs of each client as specified in the individualized plan of care developed by the multidisciplinary team.

(c) Space that is free from noise shall be provided to the extent that such conditions are

within the reasonable control of the center.
[Eff NOV 22 1991] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-96-39 Staffing. (a) Staffing shall be sufficient to carry out daily activities, nursing services, physician orders, and individualized plans of care.

(b) The program director of a center whose average daily attendance is twenty or less may also serve as the registered nurse, social worker, occupational therapist, physical therapist, activity coordinator, speech therapist or dietitian provided that the program director meets the qualifications, in accordance with 11-96-32, and is not also the administrator.

(c) Support employees shall include aides, maintenance, food service, and clerical employees sufficient in number to perform the necessary duties.

(d) Volunteers may be utilized in centers, but shall not be used to replace required professionally qualified employees unless they are so qualified. Each volunteer shall receive orientation, training, and supervision.

(e) When regular employees are absent, there shall be coverage by employees with suitable qualifications. [Eff NOV 22 1991]
(Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-40 Transportation safety. (a) Every adult day health center which provides direct transportation services for clients shall meet specific operational standards. The motor vehicle shall:

(1) Be operated only by drivers who have appropriate valid Hawaii drivers license;
(2) Be equipped with safety devices to protect clients during transportation;
(3) Be maintained in a safe and reliable condition and shall meet the provisions of the current Hawaii Vehicle Code.

(b) The center shall develop policies regarding transportation safety and maintenance of vehicles.
[Eff NOV 22 1991] (Auth: HRS §321-11)
(Imp: HRS §321-11)

§11-96-41 Transportation services. Transportation for clients to and from the center may be provided or arranged by the center. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)

§11-96-42 Severability. If a provision of this chapter or the application thereof to any person or circumstances is held invalid, the remainder of this chapter or the application of the provisions to other persons or circumstances shall not be affected thereby. [Eff NOV 22 1991] (Auth: HRS §321-11) (Imp: HRS §321-11)