SECTION 1. OVERVIEW OF ADULT DAY SERVICES REGULATIONS

This section provides a brief overview of states' approaches to regulating ADS providers in key areas and highlights similarities and differences among them.

Licensing, Certification, and Other Requirements

The majority of states approach ADS regulation by requiring licensure or certification in accordance with state standards. 25 states require licensure, ten states require certification; and four states require both licensure and certification (in these states, Medicaid and non-Medicaid providers have different requirements.) Thirteen states require ADS providers to seek approval from or enter into some type of agreement with a state agency. Exhibit 1 indicates whether a state requires licensure, certification, both, and/or some other arrangement.

Licensure

States vary in their approach to licensure, primarily licensing providers of specific ADS programs or operators of specific types of facilities or centers. Some states license a single program; others cover two or more program types under a single licensing category; some have separate licenses for specific types of programs in addition to basic licensure.

For example, Maine licenses two types of programs--adult day health services and social ADS programs--as Adult Day Services. Either program may operate a night program that provides services to persons with dementia. However, the ADS provider must have a separate license to operate a night program and must keep record keeping distinct.

States do not generally license by levels of care. Louisiana is an exception. The state licenses both adult day care and adult day health care and has a unique system of licensing with six distinct types of licensed services settings related to the capacities of the clients with developmental disabilities whom they serve. Louisiana is the only state that defines adult day care as a service only for persons with developmental disabilities rather than for "older persons with disabilities" or "adults with disabilities."

EXHIBIT 1. Approach to Regulation by States				
Licensure and Certification Requirements[a]				
State	**Licensure Only**	**Certification Only**	**Both Required**	**Other**
Alabama				■
Alaska		■		
Arizona	■			
Arkansas	■			
California			■	
Colorado		■		
Connecticut		■		
Delaware	■			
District of Columbia		■		■
Florida	■			
Georgia				■
Hawaii	■			
Idaho				■
Illinois				■
Indiana		■		
Iowa		■		
Kansas	■			
Kentucky			■	
Louisiana	■			
Maine	■			
Maryland			■	
Massachusetts				■
Michigan				■
Minnesota	■			
Mississippi				■
Missouri	■			
Montana	■			
Nebraska	■			
Nevada			■	
New Hampshire	■			
New Jersey	■			
New Mexico	■			
New York				■
North Carolina		■		
North Dakota				■
Ohio		■		
Oklahoma	■			
Oregon				■
Pennsylvania	■			
Rhode Island	■			
South Carolina	■			
South Dakota				■
Tennessee	■			
Texas	■			
Utah	■			
Vermont		■		
Virginia	■			
Washington				■
West Virginia	■			
Wisconsin		■		
Wyoming	■			
Total	**25**	**10**	**4**	**13**

[a] For more detailed information, please consult the individual state profiles in Section 2. For example, Kentucky requires licensure or certification depending on the type of services offered; adult day health care is licensed and adult day care is certified.

Several states address licensure in the context of co-location of an adult day care facility within an already licensed acute or LTC setting. For example, Florida does not require licensed assisted living facilities, licensed hospitals, and licensed

nursing homes that provide adult day care services to adults who are not residents to be licensed as adult day care centers (ADCCs), providing they do not represent themselves to the public as ADCCs. However, the state must monitor the facility during the regular inspection and at least biennially to ensure adequate space and sufficient staff. Other examples include:

- **Hawaii** licenses adult day health centers (ADHCs) under state administrative rules for freestanding ADHCs and also under state administrative rules for skilled nursing facilities and intermediate care facilities when they operate an adult day health center. The relevant provider regulations are very limited, for example, specifying only that the ADHC staff requirements do not reduce the requirements for the overall skilled nursing or intermediate care facility.

- **Minnesota** requires an identifiable unit in a licensed nursing home, hospital, or boarding care home that regularly provides day care for six or more functionally impaired adults who are not residents of the facility to be licensed as an adult day care center or ADS center. Additionally, the state allows licensed adult foster care providers to be licensed to provide family ADS.

- **Nebraska** does not require separate licensure if a licensed health care facility provides adult day care services exclusively to individuals residing in that health care facility.

- **Tennessee** requires adult day care programs, regardless of their location or affiliation, to comply with the adult day care services licensing requirements.

States generally do not license dementia-specific facilities or programs separately from adult day service programs. Few states have separate licensing requirements for providers who serve persons with dementia or other special needs. However, many states have special requirements in their standard ADS licensing requirements for providers who serve individuals with dementia. These requirements generally relate to staffing and training--requiring lower staff-to-participant ratios and dementia-specific training.

Certification

Ten states require certification in place of licensure. Of these, Alaska, Colorado, Ohio, Indiana, and Wisconsin require only Medicaid providers to be certified according to ADS certification standards; non-Medicaid providers do not have be certified. Adult day certification is voluntary for non-Medicaid providers in Wisconsin. The District of Columbia requires Medicaid providers to be certified; non-Medicaid providers must follow Office on Aging contracting requirements.

Like states that license providers, states that require certification distinguish between different types of ADS programs. For example:

- **Colorado** certifies two types of centers: ADS and specialized.

- **Ohio** requires ADS programs to be certified as "enhanced" or "intensive" by the Ohio Department of Aging.

***A few states certify Alzheimer's programs separately from other ADS programs*.** For example, Iowa certifies ADS programs as dementia-specific ADS programs. North Carolina does not have a separate certification, but allows certified adult day care centers to provide special care services by promoting programming, activities, or care specifically designed for persons with Alzheimer's disease or other dementias, mental health disabilities, or other special needs, diseases, or conditions. To provide special care services, providers must follow specific requirements in the certification standards.

Colorado is one state that does have specialized requirements for dementia-specific facilities. The state certifies specialized ADS centers (SADS) to provide intensive health supportive services for participants with a primary diagnosis of Alzheimer's or other dementias, Multiple Sclerosis, brain injury, chronic mental illness, or developmental disability or post-stroke participants who require extensive rehabilitative therapies. The state has staffing and service requirements specifically for SADS centers that differ from those for ADS centers.

One state has certification standards specific to co-location of an adult day care facility within an already licensed acute or LTC setting. Wisconsin's certification standards address adult day care programs operating in a multi-use facility that is not located in or connected to a nursing home (e.g., a residential care facility or hospital) and adult day care programs that are located in or connected to nursing homes. For the former, the standards addressed include staffing of the program from other parts of the multiuse facility to meet staff-to-participant ratios; planning of joint activities; space requirements (e.g., program must be separate from living areas); and facility requirements (e.g., program must have a separate door). For the latter, the standards list criteria related to external setting (e.g., name and location connote a community-based setting rather than a health care facility); interior setting (e.g., décor must reflect non-institutional settings); and integrity of the program that must be adopted (e.g., activities are unique and not part of nursing facility activity calendar).

Both Licensure and Certification

Only four states both license and certify providers. Kentucky licenses Medicaid providers of adult day health care but certifies facilities for the Adult Day Care and Alzheimer's Respite program. Nevada requires all facilities offering adult day or adult day health care to be licensed (including Medicaid waiver and State Plan providers) and requires Medicaid State Plan providers to meet adult day health care certification standards. Maryland licenses two types of adult day services--Day Care and Medical Day Care--but also offers a small social adult day care program called Senior Center Plus. Senior Center Plus providers do not have to be licensed but must meet Maryland

Department of Aging certification requirements. California licenses two types of facilities: adult day programs and adult day health care centers. Adult day health care centers must also be certified. In addition, each local area Agency on Aging designates at least one Alzheimer's day care resource center (ADCRC) in its Planning and Service Area to provide specialized Alzheimer's care and community outreach and education. Until recently, the law permitted ADCRCs to function without a facility license, although the majority of ADCRCs are located in licensed ADPs or ADHC centers.

Other Required Types of Provider Agreements

States that neither license nor certify generally require publicly funded ADS providers to enter into official, most often contractual, agreements with a state agency, specifying that they will comply with mandated requirements. These states do not have any requirements for providers who serve only private-pay clients. For example:

- **Alabama** requires adult day care providers receiving Department of Human Resources funds to enter into contracts with the Office of Social Service Contracts. Elderly and Disabled Waiver providers must have specific approval to offer adult day health care from the state Medicaid agency. The agency outlines specific requirements in its provider manual.

- **Illinois** requires ADS providers that have contracts under the Community Care Program (CCP) and are funded by state general revenues and the Medicaid waiver to follow CCP program regulations outlined in the administrative code.

- **Mississippi** requires publicly funded adult day care providers to enter into an agreement that uses a set of quality assurance standards. (The Mississippi legislature is considering certification or licensure requirements.)

- **South Dakota** requires publicly funded adult day care providers, including Medicaid Aged and Disabled Waiver providers who have a contractual relationship with the Office of Adult Services and Aging, to abide by adult day care regulations.

- **Washington** requires adult day care or day health centers that contract with the Department of Social and Health Services, an area agency on aging, or other Department designees to provide Medicaid services to department clients to abide by specific contracting requirements.

Two states have operating standards for providers:

- **Michigan's** Office of Services to the Aging (OSA) provides operating standards for service programs to be followed by publicly funded providers of adult day care services. Services may be provided only under an approved area plan through a formal contractual agreement between the area Agency on Aging and service provider agency. Medicaid (PACE [Program for All-Inclusive Care for the Elderly]

and waiver) adult day health care providers are also required to follow the OSA standards.

- **Oregon** has voluntary operating standards for ADS providers. However, all ADS providers (except for licensed LTC facilities providing ADS programs) are required to register their programs on a registry administered by the Department of Human Services, Seniors, and People with Disabilities and state their intent to voluntarily comply with the standards.

One state specifically developed provider standards to follow the Commission on Accreditation of Rehabilitation Facilities adult day services standards. The Idaho Commission on Aging requires adult day care programs to operate under guidelines it established, which are in accordance with the standards developed by the Commission on Accreditation of Rehabilitation Facilities.

One state has a separate type of arrangement/agreement specific to co-location of an adult day care facility within another acute or LTC setting. Adult day care services providers who want to operate in a licensed basic care or skilled nursing facility must obtain approval from the North Dakota Department of Health. There are no other requirements for adult day care providers operating in stand-alone or other types of facilities. Medicaid Aged and Disabled waiver adult day care providers must follow a separate set of administrative rules.

One state has an agreement that separately addresses services to persons with special needs. Michigan's operating standards recognize two types of adult day community services: adult day care and dementia adult day care. Some standards are the same for both types and some differ.

Definitions of Adult Day Services

States vary considerably in the terms they use for ADS. For example, Arizona and Pennsylvania license ***adult day health care facilities***, Delaware and New Mexico license ***adult day care facilities***, and Oklahoma licenses ***adult day care centers***. West Virginia licenses ***medical adult day care centers*** as a special type of ambulatory health care center. Nonetheless, the majority of state regulations define only one or two types of adult day services.

In those states with two types, the most frequent distinction between the two hinges on the provision of health and nursing services. For example, in Washington, ***adult day care*** is defined as a supervised daytime program providing core services appropriate for adults with medical or disabling conditions that do not require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician. ***Adult day health care*** is defined as a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services provided in adult day care. However, in some states that

define just one type of adult day services, which is not specified as day health services, these programs are allowed to provide a high level of care that would be considered an intermediate level of nursing home care in many states.

A few states define several delivery models within their basic definition, generally based on the level of need or the specialized needs of participants. For example, Ohio distinguishes between two level of adult day services--enhanced and intensive--and defines them as follows:

- ***Enhanced adult day service*** includes supervision of all activities of daily living (ADLs) and supervision of medication administration and/or hands-on assistance with one ADL (except bathing) and medication administration, comprehensive therapeutic activities, and health assessment and intermittent monitoring of health status.

- ***Intensive adult day service*** includes all services mentioned in enhanced services above, plus assistance with two or more ADLs; assistance with bathing; health assessment and regular monitoring of, or intervention with, health status; skilled nursing services (e.g., dressing changes and other treatments), and rehabilitative nursing procedures; rehabilitative and restorative services, including physical therapy, speech therapy, and occupational therapy; and social work services.

Colorado defines a ***specialized adult day services center*** as one that provides intensive health supportive services for participants with a primary diagnosis of Alzheimer's or other dementias, Multiple Sclerosis, brain injury, chronic mental illness, or developmental disabilities or for post-stroke participants who require extensive rehabilitative therapies. However, as noted above, very few states have a specific licensing category for ADS providers serving individuals with specific conditions.

Definitions of adult day services generally incorporate a statement about their purpose, thresholds for the number of people who can be served, limits on the number of hours a person may be served, and parameters for who may or may not be served. Definitions range from general to specific. Examples of states' definitions follow:

- **Georgia** defines ***adult day services*** as a program for providing a safe group environment with coordinated health and social services aimed at stabilizing or improving self-care as well as preventing, postponing, or reducing the need for institutional placement. The purpose of adult day services is to provide support for elderly individuals who do not fully function independently but who do not need 24-hour nursing care. Participants may have physical, social, and/or mental impairments, need assistance with ADLs less than that requiring placement in an institution, or have recently returned home from a hospital or institutional stay.

- **Rhode Island** defines ***adult day services*** as a community-based group program designed to meet the bio-psychosocial needs of adults with impairments through

individual plans of care. These structured, comprehensive, nonresidential programs provide a variety of health, social, and related support services in a protective setting. By supporting families and other caregivers, adult day services enable participants to live in the community.

- **Utah** defines ***adult day care*** as continuous care and supervision, for three or more adults 18 years of age and over for at least 4 but less than 24 hours a day, that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

- **Vermont** defines ***adult day services*** as community-based non-residential services to assist adults with physical and/or cognitive impairments to remain as active in their communities as possible by maximizing their level of health and independence and ensuring their optimal functioning. Adult day centers provide a safe, supportive environment where participants can receive a range of professional health, social, and therapeutic services. Adult day services also provide respite, support, and education to family members, caregivers, and legal representatives.

Participant thresholds and hourly limits. States do not vary much with regard to the maximum number of participants that providers may serve before licensure or certification is required. The maximum is generally between three and five individuals who are unrelated to the provider. Tennessee is an exception, setting the threshold at ten individuals.

States vary more with regard to specifying the maximum hours of services that ADS providers may furnish. For example, in Idaho participants may be served during any part of the day but only for less than 14 hours. Iowa's maximum is 16 hours in a 24-hour period. Some states, such as Kansas, do not specify minimums or maximums but only that facilities must operate fewer than 24 hours a day. On the other hand, Tennessee defines ***adult day care services*** as those that are provided for more than 3 hours per day but less than 24 hours per day, implying that providers who furnish services fewer than 3 hours a day do not have to be licensed.

Parameters for Who Can Be Served

The regulation of a service targeted to frail elders and individuals with disabilities needs to assure that providers can meet the needs of their clients. One option for assuring this is through explicit admission/retention/discharge criteria that set the parameters for who can be served.

Many states lack specific provisions regarding the types or level of functional or health needs that should trigger discharge. Most states do have provisions related to involuntary discharge, which generally give providers some discretion to determine

whether or not they can meet an individual's needs. For example, Vermont's rules limit involuntary discharges to the following situations: (1) the participant's care needs exceed those an adult day center is certified to provide, (2) an adult day center is unable to meet the participant's assessed needs, or (3) the participant presents a threat to himself or herself or to other participants or staff. Similarly, Alabama requires that providers discharge participants when the program of care can no longer meet their needs or when their condition presents an immediate and serious risk to the health, safety, or welfare of the participants or others.

In most states, parameters for who can be served are set (although indirectly) through provisions regarding mandatory and optional services that indicate a participant's level of need. For example, Virginia requires ***adult day health care centers*** (ADHC) to meet the needs of each participant, but specifies that a minimum range of services must be available to every Medicaid ADHC recipient, including nursing services and rehabilitation services. Virginia further specifies that centers can admit recipients who have skilled needs only if there is professional nursing staff immediately available on site to provide the specialized nursing care these recipients require. Provisions such as these indicate that persons with a high level of nursing or medical needs can be served in these centers. Additional examples follow:

- **Texas** specifies that day activity and health services include skilled nursing and personal care services, health education and counseling, health monitoring and health-related services, medication administration, and physical rehabilitative services.
- **New York** specifies that adult day health care may serve individuals who are functionally impaired, but not homebound, and require supervision; monitoring; and preventive, diagnostic, therapeutic, rehabilitative or palliative care or services, but do not require continuous 24-hour inpatient care and services.
- **Washington** defines ***adult day health*** as a supervised daytime program providing skilled nursing and rehabilitative therapy services in addition to core services provided in adult day care. The state further specifies that adult day health services are only appropriate for adults with medical or disabling conditions that require the intervention or services of a registered nurse or licensed rehabilitative therapist acting under the supervision of the client's physician.

  Washington defines adult day care also in terms of the participants who may be served (i.e., those needing: (1) personal care services, (2) routine health monitoring with consultation from a registered nurse, (3) general therapeutic activities, or (4) supervision and/or protection for clients who require supervision or protection for their safety). The regulations limit who can be served to those whose needs exceed the scope of authorized services that the adult day care center provides and those who are not capable of participating safely in a group care setting.

Generally, states permit medical models of ADS to serve individuals with a high level of nursing and medical needs. This level of care is assumed in states that cover ADS in their waiver programs because individuals must meet the state's nursing home level-of-care criteria to be eligible for waiver services. However, because these criteria vary considerably among states, individuals who are considered nursing home eligible in one state may have greater or lesser needs than those considered nursing home eligible in another state.

Required and Optional Services

All states identify a range of required and optional ADS in their licensing or certification requirements or other types of agreements. States list required and optional services for each type of ADS that they license, certify, or otherwise regulate (e.g., for adult day care and adult day health care).

The services we included in our review are:

- ADL assistance;
- health education;
- health monitoring;
- medication administration;
- nursing services;
- physical, occupational, and speech therapy;
- skilled nursing services;
- social services; and
- transportation.

We limited our review to these services because the purpose of this study is to better understand the role of ADS in addressing elderly persons' health and functional needs. We did not include services such as emergency services and nutritional services, because they are provided to all residents regardless of residents' functional or health status. See Section 2 for individual state information about which services are required and optional.

States generally require adult day care providers to furnish ADL assistance and health monitoring. Health education; physical, occupational, and speech therapy; and skilled nursing services are less likely to be cited as either required or optional.

States generally require adult day health care or medical adult day care providers to furnish more services than adult day care providers. In addition to ADL assistance, social services, and health monitoring, adult day health care providers are generally required to furnish medication administration; nursing services; physical, occupational, and speech therapy; and skilled nursing services.

Provisions Regarding Medications

Most states do not specify medication administration as a required service, except for adult day health care providers. The majority of states require licensed personnel to administer medications. States that permit unlicensed staff to administer medications

generally required that they do so under nurse delegation provisions, though a few require only consultation with a physician or pharmacist or specific training. Examples include the following:

- **Nebraska** defines medication administration as providing medications for another person according to the "five rights" (the right drug to the right recipient in the right dosage by the right route at the right time); medication provision means giving or applying a dose of medication to an individual and includes helping an individual in giving or applying the medication to himself or herself. ADS providers must ensure that medication aides and other unlicensed persons who provide medications are trained and have demonstrated the minimum competency standards specified in the relevant rules.

- **Vermont** requires an adult day center to have the capacity to administer medications to its participants and requires a medication management policy that describes a center's medication management practices with due regard for state requirements, including the Vermont State Nurse Practice Act. An adult day center must provide medication management under the supervision of a registered nurse or a licensed practical nurse under the direction of a registered nurse.

- **Wisconsin** specifies that if staff administer participants' medications, non-licensed staff must consult with the prescribing practitioner or pharmacist about each medication to be administered, and other conditions related to storage and documentation must be met.

- **Maine** allows unlicensed employees to administer medications only if they have completed, at a minimum, an approved medication course within the previous 12 months or were employed in a health care setting during the previous 12 months where medication administration was part of their responsibilities.

Most states require providers to have written policies for medication management and administration. For example, Georgia requires adult day care programs to have a written policy for medication management designating specific staff to be authorized and trained to assist with the administration of medications and designating the program's role in the supervision of self-administered medications and/or staff-administered medications.

Many states also specify requirements related to self-administration of medications. For example, Texas requires individuals who self-administer their medications to be counseled at least once a month by licensed nursing staff to ascertain if they continue to be capable of self-administering their medications.

Staffing Requirements

States vary with regard to the number of staff required. Most states specify minimum staff-to-participant ratios. As shown in Exhibit 2, mandatory ratios range between one to four and one to ten. Some states require different ratios for different types of ADS, and some states specify both a required ratio and a recommended ratio. Some states require lower ratios when serving participants with greater needs, but allow providers to determine what level of need requires the lower ratio. For example:

- **Georgia** requires programs to have an adequate number of qualified staff, according to the target population(s) and models of programming provided. In addition to administrative staff, a minimum of one direct service staff person is required for each eight non-severely impaired participants, or for each four severely impaired participants. The characteristics of the participants will determine the number and types of staff required.

- **Vermont** states that providers must have a sufficient number of responsible persons to safely meet the needs of participants, including one full- or part-time direct service staff member. The direct services staff-to-participant ratio must be a minimum of one-to-seven. As the number of participants with functional or cognitive impairments increases or the severity of the impairment increases, the ratio of direct services staff to participants must be adjusted to meet the needs of the participants.

Several states do not have minimum staff-to-participant ratios and allow providers to determine the number of staff, requiring only that they have "sufficient" staff to meet participants' needs. For example, Idaho states that staff must be adequate in numbers and skill to provide essential services but does not define essential services. The state further specifies that the number of staff per participant must increase appropriately if the number of participants in day care increases or if the degree of severity of participants' functional or cognitive impairment increases. However, we identified no state guidance to providers for what constitutes an "appropriate" increase.

Idaho's Medicaid provisions, on the other hand, have more specific requirements. Medicaid providers are required to have a minimum of one staff for every six participants, and a ratio of one-to-four when serving a high percentage of participants who are severely impaired.

EXHIBIT 2. Staffing Ratios by State[a]							
	1:4	**1:5**	**1:6**	**1:7**	**1:8**	**1:9**	**1:10**
Alabama							■
Alaska	■				■		
Arizona							
Arkansas	■	■			■		
California	■				■		
Colorado					■		
Connecticut				■			
Delaware	■				■		
District of Columbia							
Florida			■				
Georgia	■				■		
Hawaii			■				
Idaho							
Illinois							
Indiana	■		■		■		
Iowa							
Kansas							
Kentucky		■					
Louisiana						■	
Maine			■				
Maryland			■				
Massachusetts	■		■		■		
Michigan							■
Minnesota		■			■		
Mississippi							
Missouri							
Montana							
Nebraska							
Nevada							
New Hampshire					■		
New Jersey						■	
New Mexico		■					
New York				■			
North Carolina		■	■		■		
North Dakota							
Ohio			■				
Oklahoma					■		
Oregon	■		■				
Pennsylvania				■			
Rhode Island						■	
South Carolina					■		
South Dakota	■		■				
Tennessee					■		
Texas					■		
Utah			■		■		
Vermont				■			
Virginia			■				
Washington			■				
West Virginia			■				
Wisconsin			■		■		
Wyoming			■				
Total	**9**	**5**	**16**	**4**	**17**	**3**	**2**

[a] For more detailed information, please consult the individual state profiles in Section 2. For example, in Indiana, for Basic (Level 1) care, the minimum staff-to-client ratio is 1:8. For Enhanced (Level 2) care, the minimum staff-to-client ratio is 1:6. For Intensive (Level 3) care, the minimum staff-to-client ratio is 1:4.

Staffing for persons with dementia. Exhibit 3 lists the states that have special provisions for serving individuals with dementia, most of which relate to staffing and training requirements.

Required staffing ratios for persons with dementia are generally one staff to four participants, though Michigan requires Dementia Adult Day Care programs to have a minimum staff/volunteer/student-to-participant ratio of one-to-three. Some states specify lower ratios for people with cognitive impairment who may not have a diagnosis of dementia. For example, Minnesota states that when an adult day care/services center serves both participants who are capable of taking appropriate action for self-preservation under emergency conditions and participants who are not, it is required to maintain a staff-to-participant ratio of one-to-five for participants who are not capable of self-preservation and one-to-eight for participants who are capable of self-preservation.

EXHIBIT 3. Special Provisions for People with Dementia by State

State	Special Provisions for Persons with Dementia	State	Special Provisions for Persons with Dementia
Alabama		Montana	
Alaska	■	Nebraska	
Arizona		Nevada[c]	■
Arkansas	■	New Hampshire	
California[a]	■	New Jersey	■
Colorado	■	New Mexico	
Connecticut	■	New York	■
Delaware		North Carolina	■
District of Columbia		North Dakota	
Florida	■	Ohio	
Georgia	■	Oklahoma	
Hawaii		Oregon	■
Idaho		Pennsylvania	■
Illinois		Rhode Island	
Indiana		South Carolina	
Iowa	■	South Dakota	■
Kansas	■	Tennessee	■
Kentucky	■	Texas	
Louisiana[b]	■	Utah	■
Maine	■	Vermont	
Maryland		Virginia	
Massachusetts	■	Washington	
Michigan	■	West Virginia	
Minnesota	■	Wisconsin	
Mississippi		Wyoming	
Missouri	■	**Total**	**25**

[a] Only for Adult Day Health Care.
[b] Only for Adult Day Health Care.
[c] Only in the State Plan Adult Day Health Care program.

Types of staff. In addition to staffing ratios, virtually all states require specific types of staff for ADS programs. The major difference in requirements between adult day care and adult day health care is that states require the latter to have licensed nurses available in some capacity (e.g., as full time or part time employees or as consultants). Because most states require staffing consistent with participants' needs, licensed nurses are required if adult day health care service centers need skilled nursing services.

The following are examples of requirements regarding types of staff and nurse staffing:

- **Louisiana** requires the following staff positions. Administration: *director/director designee*; Health Services Qualified Professionals: consultant or full-time *registered nurse* (*RN*); *licensed practical nurse* (*LPN*) and *direct care staff*; Activities and Social Services: *consultant* (with an M.S.W.) and *social service designee*; Nutrition: *dietician consultant* and *food supervisor*; and Operations: *housekeeping staff* and *transportation staff*.

- **South Dakota.** A minimum of 10 hours of nursing must be provided in the facility per month to provide general consultation and health screening services.

- **New Jersey** requires that a registered professional nurse be the *director of nursing services*, and the *director* or a designated *registered professional nurse* be on duty and available in the facility at all times when the facility is operating and services are being provided.

- **Massachusetts** requires a *registered nurse* on site each day for a minimum of 4 hours whenever participants are present. The center must provide nursing coverage on site for a minimum of 8 hours total, four of which may be provided by a licensed practical nurse. When the average daily census reaches 35 or more, the center must provide nursing coverage on site for a minimum of 12 hours, of which 4 must be provided by an *RN*. When the average daily census reaches 50, the center must provide nursing service for 16 hours a day, 8 of which must be provided by an *RN*.

- **Colorado** requires all ADS centers to provide nursing services for regular monitoring of the ongoing medical needs of participants and the supervision of medications. These services must be available a minimum of 2 hours daily and must be provided by an *RN* or *LPN*. Certified nursing assistants (CNAs) may provide these services under the direction of an *RN* or an *LPN*. Supervision of CNAs must include consultation and oversight on a weekly basis or more according to the participant's needs.

  Specialized ADS centers providing a restorative model of care must have sufficient staff to provide the following: (1) nursing services during all hours of operation provided by a licensed *RN* or *LPN* or by a CNA under the supervision

of an *RN* or *LPN*, and (2) therapies to meet the restorative needs of the participants.

- **Illinois** requires a *program nurse* to be on duty at least one-half of a full-time work period when clients are in attendance, either as staff or on a contractual basis. With written department approval, the responsibilities of a program nurse may be performed by a full-time *program coordinator/director* or *administrator* who must meet the qualifications for a program nurse and fulfill responsibilities for all assigned positions.

In some states, the Medicaid program has specific requirements for nurse staffing to assure that the needs of waiver clients are met. For example:

- **Indiana.** For Intensive (Level 3) ADS providers, an *LPN* must be on staff full-time with monthly documented *RN* supervision or a half-time *RN* must be available for all hours of the program and available to fulfill all duties as noted for nurses in the Basic (Level 1) and Enhanced (Level 2) levels. Additionally, an *LPN* or *RN* provides more intensive nursing interventions such as colostomy care, tube feeding, injections, dressing changes, catheter care, blood sugar checks, etc. as appropriate and/or prescribed. There also must be full-time, qualified staff available to attend to the psychosocial needs of participants. These staff must have monthly documented supervision by a *licensed social worker*, *certified therapist*, or related professional.

- **South Carolina** requires a *licensed practical nurse* on site whenever home- and community-based waiver clients are present.

- **Texas** requires a minimum of one *registered nurse* or *licensed vocational nurse* on site 8 hours per day and states further that sufficient licensed nursing staff must be on site to meet the nursing needs of the clients.

Training Requirements

Virtually all states have both orientation and initial and ongoing training requirements, but they are minimal. Some requirements are quite general, while others are specific regarding the type of training and the number of hours required. Most states require at least one staff trained in first aid and CPR on duty at all times. Examples of the wide range of requirements follow:

- **Colorado.** ADS centers providing medication administration as a service must have qualified staff who have been trained in accordance with state law regarding qualified medication administration. All staff must be trained in the use of universal precautions (infection control). The operator and staff must have training specific to the needs of the populations served (e.g., elderly, blind, or disabled). All staff and volunteers must be trained in the handling of emergencies

including medical crises. Providers must have written procedures for dealing with medical crises.

- **Delaware**. Aide orientation and training must include at least 40 hours of instruction and supervised practicum and address the following topics: (1) the aide's role as a member of the adult day care team; (2) personal care services; (3) principles of good nutrition; (4) process of growth, development, and aging; (5) principles of infection control; (6) observation, reporting, and documentation of participant status; (7) maintaining a clean, safe, and healthy environment; (8) maintaining a least restrictive environment; (9) verbal/nonverbal communication skills; and (10) principles of body mechanics.

- **Georgia**. All adult day care staff who interact with participants and volunteers who are included as part of the staff-to-participant ratio, must complete an orientation within the first 2 weeks of employment. Content must include but not be limited to participant rights and program policies, including the client population served, medical and safety emergencies, health care delivery, universal precautions, and abuse.

  Within 90 days of employment, all employees who provide care to participants must receive a minimum of 18 hours of training in the areas relevant to their job, including participants' needs and abilities, physical and psychological aspects of participants' disabilities, personal care techniques, interpersonal communications skills, and patient rights. Infrequently employed substitute staff are not required to complete the 18 hours of initial training. Substitutes for direct service staff used on a regular basis with an on-call or other ongoing agreement must complete all training requirements.

  After the first year of employment, all employees with direct care or program activity responsibilities, including the *program administrator*, must complete 3 hours of continuing education quarterly or 12 hours annually on pertinent topics.

- **South Dakota.** Ongoing training includes at least four in-service training sessions per year to enhance quality of care and job performance. At the time of employment and annually, each employee must receive training in needs of the participants in the center's target population; fire, safety, disaster, and emergency plans; choking prevention and intervention techniques; body mechanics, transfer techniques, and assistance with ADLs; basics of nutritional care, food safety, and safe feeding techniques; and CPR and first aid.

- **South Carolina.** Each facility must have and execute a written orientation program to familiarize each new staff member with the facility and its policies and procedures. The program must include, at a minimum, fire safety measures and infection control. In-service training programs must be planned and provided to ensure that all employees maintain their understanding of their duties and responsibilities.

- **Texas.** The facility must provide all staff with training in the fire, disaster, and evacuation procedures within 3 work days of employment and provide direct care staff a minimum of 18 hours of training during the first 3 months of employment.

- **Utah.** Staff must receive 8 hours of initial orientation training designed by the *director* to meet the needs of the program, plus 10 hours of work-related training annually. *Directors* must obtain 10 hours of related training annually.

- **Virginia.** Staff must have at least 24 hours of training no later than 3 weeks after starting. Staff who are primarily responsible for the direct care of participants must attend at least 8 contact hours of staff development activities annually. These staff development activities must be in addition to first aid, CPR, and orientation training.

- **Washington.** Provision must be made for orientation of new employees, contractors, and volunteers. All staff, contractors, and volunteers must receive, at a minimum, quarterly in-service training and staff development that meets their individual training needs to support program services. Staff, contractors, and volunteers must receive training about documentation, reporting requirements, and universal precautions.

As noted in Exhibit 3, many states have specific requirements for ADS providers who serve persons with dementia, most relating to staffing and training. Examples follow:

- **Minnesota** requires adult day care facilities that serve persons with dementia to ensure that the facility's direct care staff and their supervisors are trained in dementia care. Areas of required training include: (1) an explanation of Alzheimer's disease and other dementias, (2) assistance with ADLs, (3) problem solving with challenging behaviors, and (4) communication skills. The facility must provide to consumers in written or electronic form a description of the training program, the categories of employees trained, the frequency of training, and the basic topics covered.

- **California** requires that adult day health care centers that provide care for adults with dementia provide staff training regarding the use and operation of egress control devices (precluding the use of exits) utilized by the center, the protection of participants' personal rights, wandering behavior and acceptable methods of redirection, and emergency evacuation procedures for persons with dementia.

- **Florida.** Newly hired adult day care center personnel who have direct contact with participants with Alzheimer's disease or dementia-related disorders must complete initial training of at least 1 hour within the first 3 months after beginning employment. The training must include an overview of dementias and must

provide instruction in basic skills for communicating with persons who have dementia.

- **Iowa.** All personnel employed by or contracting with a dementia-specific program must receive a minimum of 6 hours of dementia-specific education and training prior to or within 90 days of employment or the beginning date of the contract. The dementia-specific education or training must include, at a minimum, the following: (1) an explanation of Alzheimer's disease and related disorders; (2) the program's specialized dementia care philosophy and program; (3) skills for communicating with persons with dementia; (4) skills for communicating with family and friends of persons with dementia; (5) an explanation of family issues such as role reversal, grief and loss, guilt, relinquishing the caregiving role, and family dynamics; (6) the importance of planned and spontaneous activities; (7) skills in providing assistance with ADLs; (8) the importance of the care plan and social history information; (9) skills in working with challenging participants; (10) techniques for simplifying, cueing, and redirecting; and (11) staff support and stress reduction.

Monitoring

The majority of states require inspections--most of them annual inspections that coincide with an initial license application and annual license renewal. Several states also stipulate that unannounced visits by state personnel can occur at any time. Only one state does not have external monitoring. Alaska does not license or monitor ADS. The state's rules require only that an adult day care program conducts an internal evaluation, at least annually, of its operation and services. However, site visit inspections are required for programs receiving state grant funds.[1]

States vary in the extent of their monitoring of ADS providers. For example:

- **Arizona** renews licenses for 2 years, as opposed to 1 year, if a licensee has no deficiencies at the time of the licensure inspection.

- **Florida's** Agency for Health Care Administration may conduct an abbreviated biennial inspection of key quality-of-care standards (in lieu of a full inspection) of a center that has a record of good performance.

- **Delaware** requires regular inspections only once in a 3-year period.

- **Montana** conducts routine, unannounced licensure surveys every 1-3 years. A license's duration is dependant on the number and type of deficiencies found during inspection, and if any deficiencies relate to the health, safety, and welfare of a resident, a provisional license or a 1-year license is issued.

[1] We did not identify this requirement in the rules; a state staff person who reviewed the profile provided this information.

- **Nebraska** authorizes inspections of up to 25 percent of ADS providers based on a random selection of licensed providers. The state also conducts focused inspections in response to complaints and incidents or when 5 years have passed without an inspection.

- **New Hampshire** requires the Department of Health and Human Services to make at least one annual unannounced inspection and to monitor the utilization of adult day program services.

- **Mississippi** has Area Agencies on Aging monitor ADS providers on site each quarter. The state's Bureau of Audit and Evaluation in the Department of Human Services also monitors the providers annually, but does not necessarily visit the site.

- **Missouri** requires its Division of Aging to make at least two inspections per year, at least one of which is unannounced to the operator or provider.

- **North Carolina** monitors adult day health programs at least monthly to assure compliance with standards and also conducts an annual inspection.

A few states specify provisions for addressing complaints. For example, the Arkansas Office of Long Term Care conducts complaint inspections in adult day health care facilities to determine their validity, and in Missouri the state makes unannounced visits for investigative purposes when complaints have been filed regarding a program.

Relevant Medicaid Contracting Requirements

All states fund ADS for elderly persons through either their Medicaid State Plan or waiver program. State primarily use 1915(c) waivers; Tennessee is an exception using an 1115 waiver. Providers of Medicaid-funded ADS must meet all applicable regulatory requirements whether they include licensure, certification, or some other arrangement. Over one-third of the states require ADS providers to meet additional Medicaid provisions. Exhibit 4 indicates the states that have additional Medicaid requirements.

Additional Medicaid requirements are generally for ADS providers who furnish adult day health care services to waiver participants. Many of the states with additional Medicaid requirements license or certify adult day care only, while the Medicaid requirements are for adult day health care. These requirements, often health services, are in addition to those required for licensure and include additional staffing (type and number) and training. Some examples follow:

- **Maine** defines adult day health services and more extensively addresses services, staffing, and monitoring by waiver providers. Adult day health services

provided under the Medicaid State Plan have the same or similar requirements as the waiver program.

- **Mississippi's** additional requirements for Aged and Disabled Waiver providers include more detailed parameters for who can and cannot be served by, for example, describing individuals who are inappropriate for adult day service programs.

- **Missouri** licenses adult day care but has additional requirements for Aged and Disabled Waiver providers of adult day health care, including more extensive staffing (type and ratios) requirements.

- **Oklahoma** licenses adult day care but has additional requirements for ADvantage Waiver Program providers, including the provision of services not mandatory for adult day care providers, such as physical, occupational, speech/language, and/or respiratory therapy.

- **South Carolina** licenses adult day care services but has additional requirements for Community Long-Term Care Medicaid Waiver providers related to nursing staff-to-participant ratios and care managers.

EXHIBIT 4. Additional Medicaid Waiver and/or State Plan Adult Day Services Provider Requirements by State			
State	**Additional Requirements**	**State**	**Additional Requirements**
Alabama		Montana	
Alaska	■	Nebraska	■
Arizona	■	Nevada	■
Arkansas		New Hampshire	■
California	■	New Jersey	■
Colorado		New Mexico	■
Connecticut		New York	
Delaware	■	North Carolina	
District of Columbia	■	North Dakota	■
Florida	■	Ohio	■
Georgia	■	Oklahoma	■
Hawaii		Oregon	
Idaho	■	Pennsylvania	
Illinois		Rhode Island	
Indiana		South Carolina	■
Iowa		South Dakota	
Kansas	■	Tennessee	
Kentucky		Texas	■
Louisiana		Utah	
Maine	■	Vermont	■
Maryland	■	Virginia	■
Massachusetts		Washington	
Michigan		West Virginia	
Minnesota	■	Wisconsin	
Mississippi	■	Wyoming	
Missouri	■	**Total**	**26**

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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