

ADULT DAY CARE ACT**Title 63 of the Oklahoma Statutes
Section 1-870 et seq.****§1-870. Legislative statement of need**

The Oklahoma State Legislature hereby finds and declares that there is an inadequate range of community-based services for frail elderly and disabled adults and that there is an urgent need to establish, support and regulate a community-based system of quality adult day care programs to:

1. Provide a protective social environment which may include health remedial, restorative and social services designed to maintain maximum independence and to prevent premature or inappropriate institutionalization of functionally impaired elderly or disabled adults;

2. Provide periods of relief for family caregivers, sometimes called respite care, to enable them to continue caring for an impaired person at home; and

3. Enable family caregivers to continue gainful employment.

Added by Laws 1989, c. 192, § 1, eff. Nov. 1, 1989.

§1-871. Short title

Section 2 through 9 of this act¹ shall be known and may be cited as the "Adult Day Care Act".

Added by Laws 1989, c. 192, § 2, eff. Nov. 1, 1989.

§1-872. Definitions

As used in the Adult Day Care Act:

1. "Adult day care center" or "center" means a facility which provides basic day care services to unrelated impaired adults for more than four (4) hours in a twenty-four-hour period. A center shall be a distinct entity, either freestanding or a separate program of a larger organization. A center shall have a separately verifiable staff, space, budget and participant record system. The terms "adult day care center" or "center" shall not include retirement centers and senior citizen centers;

2. "Basic day care services" means supervised health, social supportive, and recreational services in a structured daytime program which serves functionally impaired adults who continue to live in their own homes, usually with the aid of family care givers;

¹ Sections 1-871 et seq. of Title 63.

3. "Department" means the State Department of Health; and
4. "Participant" means any person attending an adult day care center.

Added by Laws 1989, c. 192, § 3, eff. Nov. 1, 1989. Amended by Laws 1996, c. 104, § 1, eff. Nov. 1, 1996; Amended by Laws 1998, c. 319, § 1, eff. November 1, 1998

§1-873. Licensure requirement and standards - Centers required to be licensed

A. The State Board of Health, with the advice of the Long-Term Care Facility Advisory Board, created pursuant to Section 1-1923 of Title 63 of the Oklahoma Statutes, shall define minimum adult day care licensure requirements and rules including standards for:

1. Health and social services which may be provided to participants;
2. The range of services to be provided by a center based on the type of participants to be served;
3. Staff to participant ratios;
4. Staff and volunteer qualifications;
5. Staff training;
6. Food services;
7. Participant records and care plans;
8. Antidiscrimination policies;
9. Sanitary and fire standards; and
10. Any other requirements necessary to ensure the safety and well-being of frail elderly and disabled adults.

B. Centers to be licensed shall include all adult day care centers. Sheltered workshops and senior recreational centers which do not receive participant fees for services are not required to be licensed. It shall be unlawful to operate a center without first obtaining a license for such operation as required by the Adult Day Care Act, regardless of other licenses held by the operator. Organizations operating more than one center shall obtain a license for each site.

C. The license for operation of a center shall be issued by the State Department of Health. The license shall:

1. Not be transferable or assignable;
2. Be posted in a conspicuous place on the licensed premises;
3. Be issued only for the premises named in the application; and
4. Expire on July 31 of each year, provided an initial license shall expire one hundred eighty (180) days after the date of issuance.

D. A center shall meet the safety, sanitation and food service standards of the State Department of Health.

E. Local health, fire and building codes relating to adult day care centers shall be classified as an education use group.

F. The issuance or renewal of a license after notice of a violation has been sent shall not constitute a waiver by the State Department of Health of its power to subsequently revoke the license or take other enforcement action for any violations of the Adult Day Care Act committed prior to issuance or renewal of the license.

Added by Laws 1989, c. 192, § 4, eff. Nov. 1, 1989. Amended by Laws 1996, c. 104, § 2, eff. Nov. 1, 1996; Laws 2000, c. 48, § 1, emerg. eff. April 14, 2000.

§1-874. Application for license - Renewal - Proof of compliance with law

A. An applicant for a license to operate an adult day care center must file an application on a form approved by the State Department of Health and pay an initial license fee which shall be determined by the Department.

B. Applications for license renewal must be filed at least forty-five (45) days before the expiration date of the current license on a form approved by the Department and a license renewal fee must be paid which shall be determined by the Department. The annual license renewal fee shall not exceed Seventy-five Dollars (\$75.00). Revenue generated by the collection of license fees shall be deposited into the Department revolving fund, and shall be used to help finance the costs associated with the licensing of such center.

C. The applicant must provide evidence of compliance with the requirements of all applicable federal, state and local laws and regulations. In addition to other requirements, an applicant shall provide a statement of ownership and a financial statement.

Added by Laws 1989, c. 192, § 5, eff. Nov. 1, 1989.

§63-1-875. Inspection by State Department of Health

The State Department of Health shall at least annually and whenever it deems necessary inspect each adult day care center to determine compliance with the Adult Day Care Act and rules and regulations promulgated thereto.

Any licensee or applicant for a license shall be deemed to have given consent to any duly authorized employee or agent of the Department to inspect and enter the home in accordance with the Adult Day Care Act or rules promulgated thereto. Refusal to permit such entry or inspection may constitute grounds for the denial, nonrenewal, suspension or revocation of a license.

Added by Laws 1989, c. 192, § 6, eff. Nov. 1, 1989.

§1-876. Denial, suspension, non-renewal or revocation of license - Notice - Hearing - Reinstatement of suspended licenses

A. The State Department of Health may deny, suspend, deny renewal or revoke the license of an applicant or a licensed adult day care center which fails to comply with the licensing requirements and rules and regulations specified by the provisions of the Adult Day Care Act.

B. The Department shall give a center thirty (30) days' written notice that its license is to be suspended or revoked, and shall take action at the end of that time if the center is still out of compliance. However, if the health and safety of participants is threatened, the suspension or revocation shall be effective immediately, and the center closed.

C. Holders of suspended or revoked licenses shall be entitled to a hearing before Department licensure officials if requested within ten (10) days of their notification. The hearing shall be held at least ten (10) days before final action is taken and conducted pursuant to the Administrative Procedures Act.

D. Suspended licenses may be reinstated if deficiencies are corrected within a time frame established by the Department.

Added by Laws 1989, c. 192, § 7, eff. Nov. 1, 1989.

§1-877. Discontinuance of operation of a center - Notification of participants and Department - Surrender of license

A. If an adult day care center ceases operations, the center shall notify the participants in writing of its intention to do so at least thirty (30) days prior to the effective date of closure unless the Department has ordered immediate closure, which would require immediate participant notification. If ceasing operations for any reason other than license revocation, the center shall also notify the Department of its intention to do so at least thirty (30) days prior to the effective date of closure.

B. Immediately upon discontinuance of operations of a center, the owner-operator shall surrender the license to the Department and the license shall be canceled.

Added by Laws 1989, c. 192, § 8, eff. Nov. 1, 1989.

§1-878. Unlawful operation or misrepresentation - Penalties - Misdemeanor - Prosecution - Civil actions - Remedies

A. It shall be unlawful to operate an adult day care center, without possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act. It shall be unlawful for any holder of a license issued pursuant to the provisions of the Adult Day Care Act to advertise or hold out to the public that it holds a license for a center other than that for which it actually holds a license. It shall be unlawful for any individual or

entity to advertise or hold out to the public that it provides adult day care services without first possessing a current, valid license issued pursuant to the provisions of the Adult Day Care Act or the Continuum of Care and Assisted Living Act.

B. Any person who has been determined by the State Department of Health to have violated any provision of the Adult Day Care Act or any rule, or order issued pursuant thereto may be liable for an administrative penalty of not more than Five Hundred Dollars (\$500.00) for each day that such violation continues.

C. The amount of the penalty shall be assessed by the Department pursuant to the provisions of subsection B of this section, after notice and hearing. In determining the amount of the penalty, the Department shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on the ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Adult Day Care Act.

D. Any license holder may elect to surrender such license in lieu of such fine but shall be forever barred from obtaining a reissuance of such license.

E. Any person who violates any of the provisions of the Adult Day Care Act, upon conviction, shall be guilty of a misdemeanor. Each day upon which such violation occurs shall constitute a separate violation.

F. 1. The Attorney General or the district attorney of the appropriate district court of Oklahoma may bring an action in a court of competent jurisdiction for the prosecution of a violation by any person of a provision of the Adult Day Care Act or any rule or order issued pursuant thereto.

2. Enforcement of any action for equitable relief to redress or restrain a violation by any person of a provision of the Adult Day Care Act or for an injunction or recovery of any administrative or civil penalty assessed pursuant to the provisions of the Adult Day Care Act may be brought by:

- a. the district attorney of the appropriate district court of the State of Oklahoma;
- b. the Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma;
- or
- c. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law.

3. The court has jurisdiction to determine such action, and to grant the necessary or appropriate relief, including but not

limited to mandatory or prohibitive injunctive relief, interim equitable relief, and punitive damages.

Added by Laws 1989, c. 192, § 9, eff. Nov. 1, 1989; Amended by Laws 1998, c. 319, § 2, eff. November 01, 1998

§1-879.1 Intent of Legislature - Creation of Alzheimer's Research Advisory Council

Added by Laws 1990, HB 2000, c. 207, § 1, eff. July 1, 1990; Amended by Laws 2005, SB 234, c. 410, § 3, emerg. eff. July 1, 2005; Repealed by Laws 2007, HB 2111, c. 93, § 7, eff. November 1, 2007.

§1-879.2. Alzheimer's Research Advisory Council - Powers, duties and responsibilities.

The Alzheimer's Research Advisory Council shall:

1. Provide advice and make recommendations to the State Department of Health and other state agencies regarding Alzheimer's and related dementia issues and/or programs funded or coordinated by, but not limited to, the Department of Mental Health and Substance Abuse Services, the Department of Human Services, the State Department of Health, and the Department of Veterans Affairs;
2. Develop a plan for research relating to Alzheimer's disease and related dementias that addresses and interfaces with existing plans and requires involvement by one or more state agencies;
3. Examine the continuation and possible expansion of services provided through the existing autopsy network currently in operation at the Oklahoma Medical Research Foundation and the University of Oklahoma College of Medicine and provide specific recommendations including funding alternatives to the State Department of Health, no later than March 1, 1991;
4. Review the need for a statewide voluntary registry in order to conduct epidemiology studies for health planning and research purposes;
5. Recommend specific innovation service delivery models that address the unique needs of multi-cultural populations, including but not limited to ethnic sensitive practices, and culturally relevant programming; and
6. Submit before November 1 of each year to the State Department of Health, the Governor and the Oklahoma State Legislature a report, with copies to appropriate state agencies, summarizing the activities of the Alzheimer's Advisory Research Council for the past year and indicating short-term and long-term plans and recommendations for the coming years.

Added by Laws 1990, c. 207, § 2, operative July 1, 1990.