

# ADMINISTRATIVE RULE OF MONTANA

## HEALTHCARE FACILITIES

### 37.106 Subchapter 26

#### Adult Day Care

##### Rule

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**37.106.2601 Application of Other Rules** (1) To the extent that other licensure rules in ARM Title 37, chapter 106, subchapter 3 conflict with the terms of ARM Title 37, chapter 106, subchapter 26, the terms of subchapter 26 will apply to adult day care centers. Authorizing statute(s): Sec. 50-5-103, MCA Implementing statute(s): Sec. 50-5-103, MCA History: NEW, 1995 MAR p. 853, Eff. 5/12/95; TRANS, from DHES, 2002 MAR p. 185.

**37.106.2602 General Services, Administration and Staffing** (1) An adult day care center shall provide assistance with activities of daily living, including but not limited to eating, walking, and grooming. (2) If an adult day care center is operated on the premises of another licensed health care facility: (a) the other facility may provide to day care clients any of the services for which the other facility is licensed, subject to the limitation that overnight service to an adult day care client is prohibited; (b) adequate facilities and staff must be provided to appropriately serve the clients of each licensed facility; and (c) the center must identify, in writing, those personnel responsible for operating its programs. (3) An adult day care center may not provide overnight service. (4) The center must provide recreational and social activities for clients, post a calendar of those activities where clients can see it, and retain a copy of each calendar for at least one year after the date of the last event recorded on it. (5) An adult day care center must provide an area in which clients desiring to do so may rest. A bed or lounge chair, as well as blankets and pillows, must be available and furnished to those who need them. If the center provides a bed or beds, it must: (a) keep each bed dressed in clean bed linen in good condition; (b) keep on hand a supply of clean bed linen sufficient to change beds often enough to keep them clean, dry, and free from odors; and (c) provide each bed with a moisture-proof mattress or a moisture-proof mattress cover and mattress pad. (6) There must be a written agreement between the center and each client or the client's legal representative pertaining to cost of care, type of care, services to be provided, and the manner by which the responsible party will be notified of significant changes in the client's condition and the need to seek emergency care for the client. (7) The legal representative of a client must be notified promptly if the client is removed from the center. A notation of the date of the contact and the person contacted must be made in the client's record. (8) Each client must have access to a telephone. (9) The center shall make adequate provisions for identification of client's personal property and for safekeeping of valuables, including keeping an accounting of any personal funds handled for the client by the center. (10) A client who is ambulatory only with mechanical assistance may only be kept on the ground floor of the center. (11) Each adult day care center must employ an administrator who must be in good physical and mental health, be of reputable and responsible moral character, and exhibit concern for the safety and well being of clients, and who: (a) is at all times responsible for the center and ensures appropriate supervision of the clients; and (b) has knowledge of and the ability to conform to the applicable laws and rules governing adult day care centers. (12) The owner of an adult day care center who meets the qualifications listed in (11) may serve as the administrator. (13) The administrator must: (a) oversee the day to day

operation of the center, including, but not limited to: (i) services to clients; (ii) record keeping; and (iii) employing, training and/or supervising employees. (b) protect the safety of clients; (c) be familiar with and assure compliance with the department's standards and rules relating to adult day care; (d) post the current license at all times at a place in the center that is conspicuous to the public; (e) provide documented orientation to all employees that includes information on the following: (i) an overview of the center's policies and procedures manual and a presentation regarding how the policies and procedures are to be used and implemented; (ii) a review of the employee's job description; (iii) services provided by the facility; (iv) simulated fire prevention, evacuation, and disaster drills; (v) basic techniques of identifying and correcting potential safety hazards in the facility; and (vi) emergency procedures, such as basic first aid. (f) review every accident and/or incident causing injury to a client or employee, take appropriate corrective action, and ensure that a record of all accidents and/or incidents and the corrective measures taken is maintained; (g) comply with the provisions of the Montana Vulnerable Adult Prevention of Abuse Act, 52-3- 801 et seq., MCA; (h) ensure that the center has a policies and procedures manual that governs the operations of the center, that is available to and followed by all employees, and that is available to clients upon request; (i) maintain a personnel record for each employee, including for substitute personnel, that meets the requirements of ARM 37.106.2620(3), and retain it for at least one year after the employee terminates employment; and (j) maintain an ongoing census of clients, documenting their attendance, and retain census data covering at least the past 12 months. (14) At least one employee must be present at the center at all times in which a client is present at the center. (15) Written daily work schedules for employees showing the personnel on duty at any given time must be kept at least one year. (16) The individual in charge of each work shift shall have keys to all doors in his/her possession. (17) The center must at all times employ sufficient staff to provide the services required by the number and characteristics of its clients.

Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; AMD, 1994 MAR p. 3194, Eff. 12/23/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/25.

**37.106.2603 Policies and Procedures** (1) The center shall have a written policies and procedures manual that must: (a) be available to and followed by all personnel; (b) be available to clients upon request; (c) include the following: (i) a description of all services provided to clients; (ii) policies and procedures ensuring the confidentiality of client records and safeguarding against loss, destruction, or unauthorized use of those records; (iii) infection control policies and procedures meeting the requirements of ARM 37.106.2609; and (iv) a disaster and fire plan meeting the requirements of ARM 37.106.322. (2) If an adult day care center is operated on the premises of another licensed health care facility, the center's manual may refer to the policies and procedures of the other licensed health care facility, as appropriate. The center manual must also include policies and procedures which are applicable to the center itself and which reflect how services between the two facilities are integrated. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994

MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/25.

**37.106.2606 Construction (1)** Any construction of or alteration, addition, or renovation to an adult day care center must meet all applicable local building and fire codes and be approved by the officer having jurisdiction to determine if the building codes are met by the facility and by the state fire marshal or his/her designee. (2) An adult day care center must have an annual fire inspection conducted by the appropriate local authorities and maintain a record of such inspection for at least one year following the date of the inspection. (3) The department adopts and incorporates by reference ARM 37.111.110, which sets forth requirements for construction and maintenance of water supply systems, and ARM 37.111.116, which sets forth requirements for construction and maintenance of sewage systems. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/25.

**37.106.2607 Environmental Control** (1) An adult day care center must be constructed and maintained so as to prevent as much as is practically possible the entrance and harborage of rats, mice, insects, flies, or other vermin. (2) Hand cleansing soap or detergent and individual towels must be available at each sink in the center. A waste receptacle must be located near each sink. (3) A minimum of 10 foot-candles of light must be available in all rooms and hallways, with the following exceptions: (a) All reading lamps must have a capacity to provide a minimum of 30 foot-candles of light; (b) All toilet and bathing areas must be provided with a minimum of 30 foot-candles of light; (c) General lighting in food preparation areas must be a minimum of 50 foot-candles of light; (d) Hallways must be illuminated at all times by at least a minimum of five foot-candles of light at the floor. Authorizing statute(s): Sec. 50-5-103, MCA Implementing statute(s): Sec. 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185.

**37.106.2609 Infection Control** (1) The adult day care center must establish and maintain infection control policies and procedures sufficient to provide a safe environment and to prevent the transmission of disease. Such policies and procedures must include, at a minimum, the following guidelines: (a) Any employee contracting a communicable disease that is transmissible to clients through food handling or personal care may not appear at work until the infectious disease can no longer be transmitted. The decision to return to work must be made by the administrator in accordance with the policies and procedures instituted by the center; and (b) If, after admission, a client is suspected of having a communicable disease that would endanger the health and welfare of other clients, the administrator shall contact the client's physician and shall ensure that appropriate safety measures are taken on behalf of that client and the other clients. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; REP, 2025 MAR, 37-1099, Eff. 1/11/25.

**37.106.2610 Maintenance and Housekeeping** (1) Each adult day care center shall have a written maintenance program describing the procedures that must be utilized by maintenance personnel to keep the building and equipment in repair and free from hazards. (2) All electrical, mechanical, plumbing, fire protection, heating, and sewage disposal systems must be kept in operational condition. (3) The temperature of hot water supplied to handwashing and bathing facilities must not exceed 120 E F. (4) An adult day care center shall provide housekeeping services on a daily basis or as needed. (5) Cleaners used in cleaning bathtubs, showers, sinks, urinals, toilet bowls, toilet seats, and floors must contain fungicides or germicides with current EPA registration for that purpose. (6) Floors must be covered with an easily cleanable covering. (7) Carpets are prohibited in bathrooms, kitchens, laundries, or janitor closets. (8) Walls and ceilings must be kept in good repair and be of a finish that can be easily cleaned. (9) An adult day care center must be kept clean and free of odors. Deodorants may not be used for odor control in lieu of proper ventilation. Authorizing statute(s): Sec. 50-5-103, MCA Implementing statute(s): Sec. 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185.

**37.106.2615 Laundry** (1) If an adult day care center that is not located on the premises of another licensed health care facility elects to process its laundry on the center site, it must: (a) set aside and utilize an area solely for laundry purposes; (b) equip the laundry room with a mechanical washer and a dryer vented to the outside, handwashing facilities, a fresh air supply, and a hot water supply system that supplies the washer with water of at least 110 E F during each use; (c) have a separate area or room designed for use as a laundry, including an area for sorting soiled and clean linen and clothing. No laundry may be done in a food preparation or dishwashing area; (d) provide well maintained containers to store and transport laundry that are impervious to moisture, keeping those used for soiled laundry separate from those used for clean laundry; (e) dry all bed linen, towels, and wash cloths in the dryer; (f) protect clean laundry from sources of contamination; and (g) ensure that center staff handling laundry cover their clothes while working with soiled laundry, use separate clean covering for their clothes while handling clean laundry, and wash their hands both after working with soiled laundry and before they handle clean laundry. Authorizing statute(s): Sec. 50-5-103, MCA Implementing statute(s): Sec. 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185.

**37.106.2616 Food Service** (1) An adult day care center must provide: (a) at least one meal a day to clients who stay at the center up to 10 hours; (b) two meals per day to clients who stay at the center over 10 hours; (c) three meals per 16-hour period. (2) Snacks must be offered between meals. (3) The center must establish and maintain standards relative to food sources; refrigeration; refuse handling; pest control; storage, preparation, procuring, serving, and handling food; and dishwashing procedures that are sufficient to prevent food spoilage and the transmission of infectious disease, including the following: (a) Food must be obtained solely from sources that comply with all laws and rules relating to food and food labeling; (b) The use of home canned foods is prohibited; (c) If food subject to spoilage is removed from its original container, it must

be kept sealed and labeled; and (d) Food subject to spoilage must be dated. (4) Foods must be served in such amounts and in such variety to meet the nutritional needs of each client. (5) Foods must be cut, chopped, and ground to meet individual needs. (6) Potentially hazardous food, such as meat and milk products, must be stored at 41 ° F or below. Hot food must be kept at 140 ° F or above during preparation and serving. (7) Freezers must be kept at a temperature of 0 ° F or below and refrigerators must be kept at a temperature of 41 ° F or below. Thermometers must be placed in the warmest area of the refrigerator and freezer to assure proper temperature. (8) Produce, food, and containers of food must be stored a minimum of six inches above the floor in a manner that protects the food from splash and other contamination. (9) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practice during all working periods in food service. (10) No food service employee who is either infected with a disease in a communicable form that can be transmitted by foods, a carrier of organisms that cause such a disease, or afflicted with a boil, an infected wound, or an acute respiratory infection, may work in the food service area in any capacity in which there is a likelihood of that person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other persons. (11) Tobacco products may not be used in the food preparation area. (12) If an adult day care center contracts with another establishment to prepare food for the clients, a record of each such contract must be maintained for at least one year. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/2025.

**37.106.2620 Client and Personal Records** (1) An adult day care center shall prepare a record for each client composed of at least the following information: name; address; sex; social security number; date of birth; marital status; insurance or financial responsibility information; religious affiliation; next of kin; the first day of service and the last day of service; the client's physician's name, address, and telephone number, if appropriate; required medications, if applicable; the date and time of visit to or by his/her physician; and a record of medications taken by the client as required in ARM 37.106.2621(3). (2) The center shall retain all client records for no less than five years following the last day of service to the client or the client's death, whichever date is earlier. (3) The center must maintain a personnel record for each employee that includes at least the following: (a) employment application or contract; (b) orientation; (c) performance appraisals, if applicable; and (d) a description of any significant incident involving both the employee and a client and its consequences. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/2025.

**37.106.2621 Medications** (1) If a client is required to take medication while at the center, the client must be capable of taking his/her own medications, with the following assistance from staff: (a) reminding the client to take the medication at the proper time; (b) removing medication containers from storage; (c) assisting with removal of a cap;

(d) guiding the hand of the client; and (e) observing the client take the medication. (2) All medications must remain in locked storage until the client is discharged. (3) The center must maintain for each client a medication administration record listing all medications administered and those that are refused or not administered. Authorizing statute(s): 50-5-103, MCA Implementing statute(s): 50-5-103, MCA History: NEW, 1994 MAR p. 1838, Eff. 7/8/94; TRANS, from DHES, 2002 MAR p. 185; AMD, 2025 MAR, 37-1099, Eff. 1/11/25.