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I. Rationale

North Carolina General Statute 131D-6 (b) states that the North Carolina Department of Health and Human Services shall inspect and certify adult day care programs. The Social Services Commission adopted rules granting consultation to county departments of social services and providers, certification and monitoring responsibilities for Adult Day Care to the Division of Aging and Adult Services per 10A NCAC 06P.0401. County department of social services responsibilities include designating a social worker to be the Adult Day Care Coordinator responsible for consultation to service providers and all activities at the local level concerning certification, recertification reviews and supervision of the day care program to insure Standards are being met on an ongoing basis per 10A NCAC 06P.0402.

II. Legal Authority

The Older Americans Act of 1965, 42 USC§ 3025 (a) (1) (c) and 3025 (a) (2) (B); 3027 (a) (4)

Fed 45 CFR 1321.17 (f) (4) A7)

North Carolina General Statute 131D-6

Adult Day Care and Health Services Rules 10A NCAC .06P; 10A NCAC 06R; 10A NCAC 06S and specifically:

- 10A NCAC 06P.040
- 10A NCAC 06P.0402
- 10A NCAC 06R.0501 (a) (4); (a) (6) (C) and (a) (6) (D)
- 10A NCAC 06R.0507- program policies are provided at time of enrollment
- 10A NCAC 06R.0509 (d) and (d)(2)
- 10A NCAC 06S.0101

III. Receipt of Complaint

A. General Guidelines

The person making the complaint is referred to as the “caller,” the “complainant” and sometimes, the “reporter” and he or she expects a timely response to his/her complaint. The person taking the complaint is referred to as “staff” or the “receiver.” Generally, there are 3 basic types of complaints:

1. Uncertified Programs- an allegation that an individual is or individuals are providing adult day care and/or adult day health services without certification from the Division of Aging and Adult Services (DAAS) in violation of G.S. 131D-6.

2. Standards Violations- an allegation that an adult day care and/or adult day health provider is not meeting the minimum standards for certification.
3. Adult Abuse/Neglect/Exploitation Reports- an allegation that an adult day care and/or adult day health program participant is being abused/neglected/or exploited. The complainant should be directed to immediately report this allegation to the county department of social services, adult protective services section, where the program is located. Additionally, the receiver of this category of allegation shall contact the county department of social services, adult protective services section, where the program is located if the receiver has reasonable cause to believe that a disabled adult is in need of protective services. See Protection of the Abused, Neglected or Exploited Disabled Adult Act, Section 108A-102, Duty to Report.

The DAAS-600 form should be used to record any complaint.

Incidents precipitating complaint must have occurred within a reasonable amount of time and must be regulated by NC General Statute, federal law or the DAAS Standards for Certification.

B. Guidelines For Staff Taking the Initial Complaint

*****NOTE** Regardless of who takes the complaint, the local monitors will make the initial investigation visit to the program.***

The county department of social services' Adult Day Care Coordinator (Coordinator) or the local department of health's Adult Day Health Specialist (Specialist) should be the first contact to take complaints.

Complaints may be submitted via telephone call, mail, email, fax or in person.

1. Complaint Received By Local Monitors (Adult Day Care Coordinators or Adult Day Health Specialists)

The Coordinator or Specialist may take complaints for services and/or care provided to participants of adult day care, adult day health or adult day care/health programs. The Coordinator or Specialist will complete the DAAS-600 with all of the required information. Once completed, the Coordinator or the Specialist will contact the Adult Day Care Consultant (Consultant) at DAAS and advise him/her of the complaint. Complaints may be made by phone, in person, email, mail or facsimile.

If the complaint is taken locally and there is uncertainty about which Division in the Department of Health and Human Services or authority has responsibility for a complaint, the local authorities should contact the Adult Day Care Consultant at

DAAS to determine which Division in the Department of Health and Human Services or other authority has responsibility for the complaint.

If the complaint is the responsibility of another Division of the Department of Health and Human Services or authority, DAAS staff will contact the appropriate division or authority and forward the complaint to the appropriate entity. DAAS staff shall follow up with the appropriate division or authority to determine what actions were or were not taken regarding the complaint.

2. Complaint Received By North Carolina Division of Aging and Adult Services' Staff (Adult Day Care Consultants)

NC Division of Aging and Adult Services (DAAS) staff may take complaints for services and/or care provided to participants of adult day care, adult day health or adult day care/health programs.

Any complaint received by DAAS staff will be referred to the local monitors in the appropriate county department of social services and/or local department of health for complaint investigation. DAAS staff will do additional investigation as needed.

DAAS staff will forward a copy of the completed DAAS-600 to the Coordinator and if needed, the Specialist via fax or email within 48 business hours of receiving the complaint. If DAAS staff is unable to reach the Coordinator directly, the Consultant will contact the Adult Services Supervisor at the appropriate county department of social services.

3. Obtaining Specific Information about the Complaint

Receiver will obtain as much factual information as possible during the first contact with the complainant.

- What: what type of complaint is this?
- When: date and time complaint occurred?
- Who: make a list of all possible persons involved in complaint
- What: what have others already done to address complaint?
- Which: which agencies have already been contacted or need to be contacted about this complaint?
- What: Standards that may apply to the complaint- did program follow or not follow Standards related to complaint?

Request that the complainant be as fact specific as possible, avoiding descriptions, using opinions, judgments and non-factual information about what his/her complaint is. For example, if a complainant states "The adult day care is mean to my dad" or "The adult day staff does not feed the participants" ask the

complainant for facts of what is occurring such as, “What does that staff do when they are taking care of your dad?” or “What times does the program serve snacks and lunch?”

If the complainant wishes to remain anonymous, respect this wish and advise the complainant that the local monitor (the Coordinator or Specialist) who performs the initial investigation will be informed of the request for anonymity. However, the staff member (the Coordinator, Specialist or DAAS Consultant) receiving the complaint should inform the complainant that anonymity cannot be guaranteed. It shall be explained to the complainant that the program management/staff may determine whom the complainant is or what participant the complaint concerns during the investigation process.

If the complainant alleges abuse, neglect or exploitation, then receiver shall advise complainant to report such allegations to the appropriate county department of social services, Adult Protective Services unit. Additionally, the receiver of this category of allegation shall contact the county department of social services, adult protective services section, where the program is located if the receiver has reasonable cause to believe that a disabled adult is in need of protective services. See Protection of the Abused, Neglected or Exploited Disabled Adult Act, Section 108A-102, Duty to Report.

If the complaint indicates that participants are in imminent danger, make the initial visit immediately.

If the complaint does not indicate imminent danger for participants, make the initial visit within 72 hours of receiving complaint.

4. Multiple Complaints

If there are multiple complaints about the same issue, they can be condensed into 1 Complaint Investigation Report (DAAS-601), but there should be multiple Adult Day Services Intake Forms (DAAS 600) completed for each complaint received.

IV. Preparing for the Fact Finding Complaint Investigation Visit

A. Scheduling the Visit

Most visits should be unannounced and take into account the time of day referenced in the complaint. Such as: if the complaint was regarding the mid-day meal, the initial investigation visit to the program should be when the mid-day meal is served to observe the meal service.

B. What to Review Before the Actual Fact Finding Complaint Investigation Visit to the Program

- Review the DAAS-600 in detail.
- Review the program's file kept in your records. What does it reveal? Have there been other complaints in the past about this program? If so, was it the same type as the current complaint? What does the program's monitoring reports reveal? Is the program in compliance? Has the program received any Provisional Certifications? If yes, what for?
- Identify the Adult Day Care and Day Health Services Standards for Certification that were violated.

C. Questions to Ask and Answer Before Conducting the Actual Fact Finding Complaint Investigation Visit

- Who will you interview? Who will be the best source of information? Will you only interview persons at the facility?
- What areas do you need to observe? (Such as: if the complaint is regarding meals, you would observe meals being served and if the meals are prepared on site, the meal preparation and you would also contact the local Environmental Health Specialist to do the observation of the meal preparation. If the meals are catered, you would review the contract between the food vendor and the program to see what has been agreed upon, etc.)
- What time of day will you visit? (Such as: if the complaint is in reference to the am snack, you would want to visit the program when the am snack is served- this information should be available via the activity calendar)
- What documents/files will you want to review?
- Will you conduct surveillance? (This maybe necessary if there is an allegation of an uncertified provider providing services)

D. Forms/Equipment/Supplies Needed to Conduct a Complaint Investigation

Bring the Following Items with you to the facility:

- Adult Day Care and Health Services Standards for Certification Manual to reference as needed.
- Previous monitoring reports to reference if needed.
- Last Recertification Package to reference if needed.
- Completed DAAS 600 Form.
- Complaint Investigation Report Form (DAAS-601).

V. The Fact Finding Complaint Investigation Visit

The goal of the complaint investigation is to determine 1). if the complaint is covered by certification requirements 2). is substantiated or not; or 3). “inconclusive” when there is insufficient information to substantiate or unsubstantiate.

During the Coordinator and/or Specialist’s visit, he/she should monitor the following areas for compliance in addition to the alleged areas noted in the complaint:

- Staff/participant ratio
- Number of participants in attendance at time of visit versus maximum certified capacity
- Participant supervision by staff and activities

Note that a complaint investigation is not the same as an initial certification or recertification. However, if the Coordinator and/or Specialist note several Standards Violations, issue the program the violations and develop a corrective action.

A. Coordinator or Specialist’s Introduction to Program Staff

When the Coordinator and/or Specialist arrives at the program for the Fact Finding Complaint Investigation Visit, he/she should ask to speak with the program director/designee, introduce him/herself and present his/her official identification.

The Coordinator and/or Specialist may want to use the following explanation to explain the reason for his/her visit (using the mid-day meal as the reason for the complaint):

Hello, my name is _____ and I am the Adult Day Care Coordinator and/or Adult Day Health Specialist and I am here to follow up on a report we received regarding the mid-day meal. I will need to review the program’s recent menus for about the last 2 weeks and also observe the mid-day meal service. Do you have copies available? I may need to speak with the cook (if program has one) and the staff that assists with the mid-day meal service. (If the program contracts with a food vendor, inform program director that you’ll [Adult Day Care Coordinator and/or Specialist] need to review the program’s current contract with said food vendor). After I finish, I’ll talk with you about my findings. “Would you like to join me? Do you have any questions before I start? Please feel free to ask me questions or provide information to me at any time.”

B. Minimum Items that Coordinator or Specialist Should Request from Program

Once the introduction is complete between the Coordinator and/or Specialist and the program director/designee, the Coordinator and/or Specialist should request the following items:

- the file and medication administration record of the participant for whom the complaint is about (if the complainant wishes not to reveal his/her identity, pick

- several participant records including participant cited in complaint). One reason to review the medication administration record is so the Coordinator and/or Specialist can determine if the participant was taking his/her medications as ordered, if the program staff was administering the participant's medications as ordered, etc. All of which may have an affect on the participant's behavior. An example of this may be: a participant has an order for Tylenol to be administered every six hours while the participant is at the program, but in reviewing the medication administration record, the Coordinator and/or Specialists notes that the program staff documented that the participant has refused it every day for a week. The program staff indicates in the participant's progress notes that the participant has been aggressive and difficult to care for. One of the reasons that the participant may have been aggressive and difficult to care for is because he or she has been in pain because he or she has refused the Tylenol that was ordered for him or her. However, because the participant has refused his or her medications, should not be used to excuse the complainant's complaint, but rather, helps to better illustrate the situation that may have contributed in part to the complaint.
- the participant attendance sheets for the days(s) that the incident(s) occurred;
 - the time cards/sheets for staff members working the day(s) the incident(s) occurred.

1. Participant(s) File Review

In each participant's file that is reviewed, the Coordinator and/or Specialist should ensure that the following items are in the participant's file and are current:

- **Enrollment Application** (should be completed prior to first day of attendance according to the Standards)
- **Advance Directives** (Programs are required to have a policy on advance directives. If a participant has advance directives and this was indicated to the program, there must be a copy of the properly executed document for Power of Attorneys, Living Wills, etc and an Original with physician signature; notary seal and has not expired for Do Not Resuscitate Out of Facility Forms/Goldenrod forms with red stop sign)
- **Signed Statement from Participant/Caregiver that the program policies were explained to them, a copy was given to them and they agree to uphold the program policies** (This should have been obtained by the program at the time of enrollment)
- **Service Plan** (it is required to be written within the first 30 days of a participant's enrollment and revised every 6 months according to the Standards);
- **Health Care Plan** (it is required to be signed by a Registered Nurse according to the Standards and should be updated at a minimum of once every 6 months according to the Standards);
- **Progress Notes** (these are to be updated as needed, but minimally every 3 months according to the Standards);

- **Medical Report** (must be renewed every year on the anniversary date of the participant's enrollment into the program according to the Standards);
- **Medication List** (this is to be updated quarterly according to the Standards)

2. **Participant(s) Medication Administration Record Review**

In the review of each participant's Medication Administration Record, the Coordinator and/or Specialist should ensure that the following items are in the participant's file and are current:

- That the medications administered while participant is at program are documented and include the following information: participant's name; name, dosage, quantity and route of the medication; instructions for giving the medication; date and time medication is administered; and name or initials of person giving the medication. If initials are used, a signature equivalent to those initials shall be entered on this record.
- Ensure that the medication administration record matches the medications listed on the medical examination report that should be in the participant's record according to the Standards or as authorized by the participant's caregiver.

When reviewing participant records, look for factual and specific information related to the complaint.

Take notes and make sure your notes for your report are clear and factual.

C. **Staff Interviews**

1. **Preparing Questions Prior to Actual Fact Finding Complaint Investigation**

- Before speaking with staff, make sure you know what questions you will ask.
- Ask open-ended questions to try to get more information from staff than just yes/no questions.

2. **Actual Interviews**

- When speaking with staff, try to make the environment as private as possible so that they will feel more at ease talking with you. Explain who you are and what you are doing.
- Try to schedule a meeting during the initial visit with the Program Director and/or Health Care Coordinator and any other member of the

management staff that you feel you need to interview, to get their point of view on the complaint.

D. Recording Your Findings

- The steps leading up to the visit and the results of your visit to investigate the complaint will be compiled into a report. Use a narrative format; remember to include full names, dates and times of actions taken and include issues discussed, objective descriptions or observations.
- Record as much information as you can from the complainant- keep the notes you take from the initial contact.
- Include information from the participant's record that you locate during your visit in the report. Make copies of the parts of the participant's record that you include in your narrative portion of the investigation report as supportive documentation for your investigation report.
- Use the Complaint Investigation Report Form (DAAS-601) for the formal report (the narrative portion) and submit the completed report along with the Adult Day Services Intake Form (DAAS-600) to the Division of Aging and Adult Services, Adult Day Care Consultant, within 10 business days of the investigation visit.

E. Reaching a Conclusion: Verifying or Substantiating the Complaint

- *Substantiated:* A complaint should be deemed substantiated when the information compiled during the investigation indicates that the complaint occurred as reported by complainant.
- *Unsubstantiated:* A complaint should be deemed unsubstantiated when the information compiled during the investigation indicates that the complaint did not occur as reported by the complainant. If your investigation does not reveal that the complainant's complaint was verified or substantiated, this must be stated in the investigation report.
- *Inconclusive:* A complaint should be deemed inconclusive when the information compiled during the investigation is not sufficient to indicate whether the complaint occurred as reported by the complainant or not.

F. Corrective Action

If the investigation reveals that the program is in violation of the Adult Day Care and Adult Health Services Standards for Certification, a corrective action shall be completed using the DAAS-6215. Follow the steps regarding time frames for corrective action completion as indicated based on the type of violation it is. If the violation is identified

during the time of the Complaint Investigation Visit, complete the DAAS-6215 and issue it to Program Director/designee during the Exit Conference so that Coordinator and/or Specialist can explain violation to Program Director/designee, corrective action may be determined and date that corrective action is to be completed can be determined. Include the completed DAAS-6215 with the rest of the report.

G. Exit Conference

- Prior to leaving the program, have an exit interview with the program director/designee.
- During the exit conference, the Coordinator and/or Specialist shall inform the program director/designee of any violations that were noted during the investigation visit. At that time, issue the DAAS-6215 to the Program Director/designee, allow the program director/designee to complete the program director's comments section of the DAAS-6215 and determine the date that the corrective action shall be completed by the program.
- If the Coordinator and/or Specialist has not determined the outcome of the complaint at the end of his/her investigation visit, inform the program director or his/her designee that once a determination has been made, the program director or his/her designee will be notified within 5 business days. Once a conclusion has been reached, the Coordinator and/or Specialist should notify the program director in writing. During the review of the findings, if the Coordinator and/or Specialist determines that any program operation errors were made, the program director should be notified of these errors and inform of any needed corrections.
- The Coordinator and/or Specialist should tell the program director/designee that he/she may provide a written explanation/response to the complaint and/or the findings. Include the written explanation/response in the report.

VI. Compiling the Investigation's Findings

Gather all of the information regarding the complaint and forward it to the DAAS Adult Day Care Consultant.

The information should include:

- The completed Adult Day Services Intake Form (DAAS-600)
- The completed Complaint Investigation Report Form (DAAS-601) (the narrative portion)
- Violations of the Adult Day Care and Day Health Services Standards for Certification identified during the investigation visit.
- The completed DAAS-6215 with the completion date of the corrective action indicated if it has not been resolved yet.

The Coordinator and/or Specialist should make the follow up visit to the program to determine that the corrective action has been completed on the date that the corrective action was to be completed. If the corrective action has been completed, the Coordinator and/or Specialist should update the DAAS-6215. The updated DAAS-6215 indicating that the corrective action has been completed should be submitted to the Division of Aging and Adult Services, Adult Day Care Consultant, within 5 business days of the Coordinator and/or Specialists' follow up visit to the program.

The Coordinator and/or Specialist should draft and forward a letter to the complainant and advise him/her of the outcome of the investigation within 30 days of completing the investigation visit.

Prepare 2 or 3 copies of the Adult Day Services Complaint Intake Form (DAAS-600), the Complaint Investigation Report (DAAS-601) (the narrative portion) and Letter to Complainant. 3 copies are needed if the program is Adult Day Health Only or a Combination Program to ensure that the local Department of Health receives a copy. Forward one copy of each to:

- The County Department of Social Services and local Department of Health, if applicable- if program is an adult day health only or combination program
- One copy to DAAS, Adult Day Care Consultant

Prepare 1 copy of the Complaint Investigation Report (DAAS-601) (the narrative portion) and forward to:

- The Program Director

****NOTE** If the complaint requested that his/her identity not be revealed, make sure that this information is omitted from the copies of the above items provided to the Program Director.**