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Code:  Section:

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**WELFARE AND INSTITUTIONS CODE - WIC**

**DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES [5000 - 5987]** (*Division 5 repealed and added by Stats. 1967, Ch. 1667.*)

**PART 1. THE LANTERMAN-PETRIS-SHORT ACT [5000 - 5550]** (*Heading of Part 1 amended by Stats. 1968, Ch. 1374.*)

**CHAPTER 4. Administration [5400 - 5405]** (*Chapter 4 added by Stats. 1967, Ch. 1667.*)

**5400.** (a) The Director of Health Care Services shall administer this part and shall adopt rules, regulations, and standards as necessary. In developing rules, regulations, and standards, the Director of Health Care Services shall consult with the County Behavioral Health Directors Association of California, the California Behavioral Health Planning Council, and the office of the Attorney General. Adoption of these standards, rules, and regulations shall require approval by the County Behavioral Health Directors Association of California by majority vote of those present at an official session.

(b) Wherever feasible and appropriate, rules, regulations, and standards adopted under this part shall correspond to comparable rules, regulations, and standards adopted under the Bronzan-McCorquodale Act. These corresponding rules, regulations, and standards shall include qualifications for professional personnel.

(c) Regulations adopted pursuant to this part may provide standards for services for persons with chronic alcoholism that differ from the standards for services for persons with mental health disorders.

(Amended by Stats. 2017, Ch. 511, Sec. 3. (AB 1688) Effective January 1, 2018.)

**5400.1.** (a) The State Department of Health Care Services shall issue guidance regarding Medi-Cal reimbursement for covered Medi-Cal services provided to an individual receiving involuntary treatment for a severe substance use disorder pursuant to this part. This guidance shall be consistent with Medi-Cal reimbursement for covered Medi-Cal services provided to an individual receiving involuntary treatment for a mental health disorder pursuant to this part, to the extent that federal financial participation under the Medi-Cal program is not jeopardized and all necessary federal approvals have been obtained.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement, interpret, or make specific this section, in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions, without taking further regulatory action.

(Added by Stats. 2024, Ch. 644, Sec. 6. (SB 1238) Effective January 1, 2025.)

**5402.** (a) The State Department of Health Care Services shall collect data quarterly and publish, on or before May 1 of each year, a report including quantitative, deidentified information concerning the operation of this division. The report shall include an evaluation of the effectiveness of achieving the legislative intent of this part pursuant to Section 5001. Based on information that is available from each county, the report shall include all of the following information:

(1) The number of persons in designated and approved facilities admitted or detained for 72-hour evaluation and treatment, admitted for 14-day and 30-day periods of intensive treatment, and admitted for 180-day postcertification intensive treatment in each county.

(2) The number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code in each county.

(3) The number of persons for whom temporary conservatorships are established in each county.

(4) The number of persons for whom conservatorships are established in each county.

(5) The number of persons admitted or detained either once, between two and five times, between six and eight times, and greater than eight times for each type of detention, including 72-hour evaluation and treatment, 14-day and 30-day periods of intensive

treatment, and 180-day postcertification intensive treatment.

(6) The clinical outcomes for individuals identified in paragraphs (1) to (4), inclusive.

(7) The services provided or offered to individuals identified in paragraphs (1) to (4), inclusive. Data pertaining to services provided or offered to individuals placed on each type of hold shall include, but not be limited to, assessment, evaluation, medication treatment, crisis intervention, and psychiatric and psychological treatment services. Data pertaining to services shall specify the payer information or funding used to pay for services.

(8) The waiting periods for individuals prior to receiving an evaluation in a designated and approved facility pursuant to Section 5150 or 5151 and waiting periods for individuals prior to receiving treatment services in a designated facility, including the reasons for waiting periods. The waiting period shall be calculated from the date and time when the hold began and end on the date and time when the individual received an evaluation or received evaluation and treatment services in a designated facility.

(9) If the source of admission is an emergency department, the date and time of service and release from emergency care.

(10) Demographic data of those receiving care, including age, sex, gender identity, race, ethnicity, primary language, sexual orientation, veteran status, and housing status, to the extent those data are available.

(11) The number of all county-contracted beds.

(12) The number and outcomes of all of the following:

(A) The certification review hearings held pursuant to Section 5256.

(B) The petitions for writs of habeas corpus filed pursuant to Section 5275.

(C) The judicial review hearings held pursuant to Section 5276.

(D) The petitions for capacity hearings filed pursuant to Section 5332.

(E) The capacity hearings held pursuant to Section 5334 in each superior court.

(13) Analysis and evaluation of the efficacy of mental health assessments, detentions, treatments, and supportive services provided both under this part and subsequent to release.

(14) Recommendations for improving mental health assessments, detentions, treatments, and supportive services provided under this part and subsequent to release.

(15) An assessment of the disproportionate use of detentions and conservatorships on various groups, including an assessment of use by the race, ethnicity, gender identity, age group, veteran status, housing status, and Medi-Cal enrollment status of detained and conserved persons. This assessment shall evaluate disproportionate use at the county, regional, and state levels.

(16) An explanation for the absence of any data required pursuant to this section that are not included in the report.

(17) Beginning with the report due May 1, 2025, the report shall also include the progress that has been made on implementing recommendations from prior reports issued under this subdivision.

(18) Beginning with the report due May 1, 2024, the number of persons admitted or detained, including 72-hour evaluations and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment, for each of the following conditions:

(A) Danger to self.

(B) Danger to others.

(C) Grave disability due to a mental health disorder.

(D) Grave disability due to a severe substance use disorder.

(E) Grave disability due to both a mental health disorder and a severe substance use disorder.

(19) (A) Beginning with the report due May 1, 2026, all of the information reported by facilities to county behavioral health directors pursuant to paragraph (3) of subdivision (b) of Section 5336.

(B) This paragraph shall be inoperative on January 1, 2030.

(b) (1) (A) Each county behavioral health director shall provide accurate and complete data to the department in a form and manner, and in accordance with timelines, prescribed by the department.

(B) County behavioral health directors shall provide the data specified in paragraphs (1) to (11), inclusive, of subdivision (a), and any other information, records, and reports that the department deems necessary for the purposes of this section.

(C) Data shall be submitted on a quarterly basis, or more frequently, as required by the department. The department shall not have access to patient name identifiers.

(2) (A) Each designated and approved facility that admits, detains, or provides services to persons pursuant to this part and Part 1.5 (commencing with Section 5585) and each other entity involved in implementing Section 5150 shall collect and provide accurate and complete data to the county behavioral health director in the county in which they operate to meet the reporting obligations specified in paragraphs (1) to (11), inclusive, of subdivision (a) and any other information, records, and reports that the county or the department deems necessary for the purposes of this section.

(B) A county may establish policies and procedures for this paragraph to ensure compliance with the requirements of this section. These facilities and entities shall collect and report data to the county behavioral health director consistent with the county's policies and procedures, if established.

(C) Data shall be submitted to the county behavioral health director on a quarterly basis, or more frequently, as required by the county.

(3) A county behavioral health director shall provide the accurate and complete data it receives pursuant to paragraph (2) to the department pursuant to paragraph (1).

(4) All data submitted to the department by each county behavioral health director shall be transmitted in a secure manner in compliance with all applicable state and federal requirements, including, but not limited to, Section 164.312 of Title 45 of the Code of Federal Regulations.

(c) Information published pursuant to subdivision (a) shall not contain data that may lead to the identification of patients receiving services under this division and shall contain statistical data only. Data published by the department shall be deidentified in compliance with subdivision (b) of Section 164.514 of Title 45 of the Code of Federal Regulations.

(d) The Judicial Council shall provide the department, by October 1 of each year, with data from each superior court to complete the report described in this section, including the number and outcomes of certification review hearings held pursuant to Section 5256, petitions for writs of habeas corpus filed pursuant to Section 5275, judicial review hearings held pursuant to Section 5276, petitions for capacity hearings filed pursuant to Section 5332, and capacity hearings held pursuant to Section 5334 in each superior court. The department shall not have access to patient name identifiers.

(e) The department shall make the report publicly available on the department's internet website.

(f) (1) The department may impose a plan of correction or assess civil money penalties, pursuant to paragraph (3), or both, against a designated and approved facility that fails to submit data on a timely basis or as otherwise required by this section.

(2) The department may impose a plan of correction or assess civil money penalties, pursuant to paragraph (3), or both, against a county that fails to submit data on a timely basis or as otherwise required by this section.

(3) The department may assess civil money penalties against a designated and approved facility or county in the amount of fifty dollars (\$50) per day from the date specified in the notice to impose civil money penalties from the department.

(4) (A) A designated and approved facility or county may submit an informal written appeal of a civil money penalty to the department within 30 calendar days of the date of issuance of a notice to impose civil money penalties.

(B) The designated and approved facility or county shall include any supporting documentation and explain any mitigating circumstances.

(C) The department shall make a determination on the appeal within 60 calendar days of receipt of the informal written appeal.

(5) (A) A designated and approved facility or county may request a formal hearing within 30 calendar days following the issuance of the department's final determination on the appeal pursuant to paragraph (4).

(B) All hearings to review the imposition of civil money penalties shall be held pursuant to the procedures set forth in Section 100171 of the Health and Safety Code.

(C) Civil money penalties imposed upon a designated and approved facility or county shall continue to accrue until the effective date of the final decision of the department.

- (g) (1) The Lanterman-Petris-Short Act Data and Reporting Oversight Fund is hereby created in the State Treasury.
- (2) The Lanterman-Petris-Short Act Data and Reporting Oversight Fund shall be administered by the State Department of Health Care Services.
- (3) Civil money penalties assessed and collected pursuant to subdivision (f) shall be deposited into this fund.
- (4) (A) Notwithstanding Section 13340 of the Government Code, moneys deposited in the Lanterman-Petris-Short Act Data and Reporting Oversight Fund shall be continuously appropriated, without regard to fiscal year, to the State Department of Health Care Services for the purposes of funding its oversight activities and administrative costs associated with implementing this section.
- (B) Notwithstanding any other law, the Controller may use the moneys in the Lanterman-Petris-Short Act Data and Reporting Oversight Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.
- (h) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section, in whole or in part, by means of information notices, provider bulletins, or other similar instructions, without taking any further regulatory action.
- (i) The department may enter into exclusive or nonexclusive contracts, or amend existing contracts, on a bid or negotiated basis for purposes of administering or implementing the requirements of this section. Contracts entered into or amended pursuant to this section shall be exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, Section 19130 of the Government Code, and Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code, and shall be exempt from the review or approval of any division of the Department of General Services.

*(Amended by Stats. 2024, Ch. 643, Sec. 5. (SB 1184) Effective January 1, 2025.)*

**5402.2.** The Director of State Hospitals shall develop a master plan for the utilization of state hospital facilities identifying levels of care. The level of care shall be either general acute care, skilled nursing care, subacute, intermediate care, or residential care.

*(Amended by Stats. 2012, Ch. 24, Sec. 133. (AB 1470) Effective June 27, 2012.)*

**5402.5.** (a) On or before December 1, 2023, the State Department of Health Care Services shall convene a stakeholder group to create a model care coordination plan to be followed when discharging those held under temporary holds pursuant to Section 5152 or a conservatorship. The stakeholder group shall include, at a minimum, the County Behavioral Health Directors Association of California, the California Chapter of the American College of Emergency Physicians, the California Hospital Association, Medi-Cal managed care plans, private insurance plans, other organizations representing the various facilities where individuals may be detained under temporary holds or a conservatorship, other appropriate entities or agencies as determined by the department, and advocacy organizations representing those who have been involuntarily detained or conserved, as well as individuals who have been detained or conserved.

(b) The model care coordination plan and process shall outline who will be on the care team and how the communication will occur to coordinate care. It shall specify that the care coordination is a shared responsibility between, at a minimum, the county, the facility, and the health care payer, if different from the county. The model care coordination plan shall, at a minimum, also address the following:

(1) The roles of each entity to ensure continuity of services and care for all individuals exiting involuntary holds, including how referrals will be made and appointments will be scheduled pursuant to subdivision (d) of Section 5008. This shall include all of the following:

(A) Identification of county resources, programs, and contact information to facilitate referrals for individuals exiting involuntary holds or intensive treatment, including, but not limited to, suicide prevention, substance use disorder treatment, Medi-Cal Enhanced Care Management, Full Service Partnerships, assisted outpatient treatment, early psychosis intervention services, and resources published pursuant to Section 5013.

(B) Hospital aftercare and discharge planning processes pursuant to Sections 1262 and 1262.5 of the Health and Safety Code.

(C) Hospital policies and procedures in compliance with nationally accepted accreditation standards to reduce the risk of suicide, including, but not limited to, screening and assessing patients for suicidal ideation and suicidal risk, developing a safety plan with patients at risk for suicide, and following written policies and procedures addressing the care, counseling, and followup care at discharge for patients at risk for suicide.

(2) A requirement that the care coordination plan for an individual exiting a temporary hold or a conservatorship include a detailed plan that includes a scheduled first appointment with the health plan, the mental health plan, a primary care provider, or another appropriate provider to whom the person has been referred.

(3) County procedures and contact information for the availability of designated persons for the purpose of conducting an assessment pursuant to Section 5150. Designated individuals shall be available on a 24-hours-per-day, seven-days-per-week basis in order to ensure that individuals are released from the hold as soon as possible after it is determined they no longer require detention. In no event may the individual be involuntarily held beyond when they would otherwise qualify for release.

(4) County procedures for facilities and professional persons to request designation to perform assessments and evaluations, pursuant to Sections 5151 and 5152.

(5) County procedures and contact information facilities are required to use to obtain an assessment and evaluation of an individual, pursuant to Sections 5151 and 5152.

(6) Defined expectations for information sharing, including notification of and transmittal of applications pursuant to Section 5150 and plans to periodically convene to identify and resolve challenges.

(c) (1) Each county mental health department shall ensure that a care coordination plan that ensures continuity of services and care in the community for all individuals exiting holds or a conservatorship pursuant to this part is established.

(2) All facilities designated by the counties for evaluation and treatment under this part shall implement the model care coordination plan on or before August 1, 2024.

(3) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement Section 5402.5 by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking any further regulatory action.

*(Added by Stats. 2022, Ch. 867, Sec. 5. (AB 2242) Effective January 1, 2023.)*

**5403.** (a) From July 1, 1991 to June 30, 1993, inclusive, regulations promulgated by the department shall not be subject to the approval of the California Conference of Local Mental Health Directors. The impact of this subdivision on regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(b) The department shall continue to involve the conference in the development of all regulations which affect local mental health programs prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

*(Amended by Stats. 1991, Ch. 611, Sec. 34. Effective October 7, 1991.)*

**5404.** (a) Counties may designate facilities to provide evaluation and treatment in accordance with Article 1 (commencing with Section 5150) of Chapter 2 of this part, and intensive treatment in accordance with Articles 4 through 4.7, inclusive, and Article 6 (commencing with Section 5300) of Chapter 2 of this part. Designated facilities shall meet those designation requirements duly established by the State Department of Health Care Services. Subject to requirements duly established by the State Department of Health Care Services, counties may designate appropriate facilities, that are not hospitals or clinics.

(b) The State Department of Health Care Services shall approve county designation of facilities to provide the types of treatment described in subdivision (a).

(c) All regulations relating to the approval of facilities designated by the county in accordance with this part, heretofore adopted by the State Department of Mental Health, or a successor, shall remain in effect and shall be fully enforceable by the State Department of Health Care Services with respect to the designation of any facility or program required to be approved to provide the types of treatment described in subdivision (a), unless and until readopted, amended, or repealed by the State Department of Health Care Services. The State Department of Health Care Services shall succeed to and be vested with all duties, powers, purposes, functions, responsibilities, and jurisdiction of the State Department of Mental Health, or a successor, as they relate to approval of facilities to provide the types of treatment described in subdivision (a).

(d) The State Department of Health Care Services shall, in consultation with the County Behavioral Health Directors Association of California, provider representatives, substance use treatment representatives, patients' rights advocates, disability rights advocates, and other relevant stakeholders, establish updated regulations for the purpose of developing designation requirements for facilities who are admitting and treating persons involuntarily pursuant to this part. At a minimum, the regulations shall include all of the following;

(1) Minimum substance use disorder related service requirements with sufficient substance use disorder staff to maintain appropriate substance use disorder only and cooccurring disorder programs, treatment setting, services, and safety measures, based on the individual patient's substance use disorder needs.

(2) Standards for offering medications for addiction treatment (MAT) or an effective referral process in place with narcotic treatment programs, community health centers, or other MAT providers.

(3) Length of stay standards consistent with evidence-based care for substance use disorders.

(4) Discharge planning for substance use disorder services, consistent with existing requirements.

(5) Privacy and data sharing requirements, including, but not limited to developing guidance and tools to facilitate data sharing for care coordination and discharge purposes.

(6) The process for transitioning and assisting designated facilities to meet updated regulatory requirements, including, but not limited to, providing substance use disorder services.

(7) Systems of public accountability and oversight that include, but are not limited to, readiness to meet, and ongoing maintenance of, required standards for staffing, facilities, and care established pursuant to this section.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Department of Health Care Services may implement, interpret, or make specific this section, in whole or in part, by means of plan or county letters, information notices, plan or provider bulletins, or other similar instructions, until the time regulations are adopted no later than December 31, 2027.

*(Amended by Stats. 2024, Ch. 644, Sec. 7. (SB 1238) Effective January 1, 2025.)*

**5405.** (a) This section shall apply to each facility licensed by the State Department of Health Care Services, or its delegated agent, on or after January 1, 2003. For purposes of this section, "facility" means psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, licensed pursuant to Chapter 9 (commencing with Section 77001) of Division 5 of Title 22 of the California Code of Regulations, psychiatric residential treatment facilities, as defined in Section 1250.10 of the Health and Safety Code, licensed pursuant to Section 4081 of the Welfare and Institutions Code, and mental health rehabilitation centers licensed pursuant to Chapter 3.5 (commencing with Section 781.00) of Division 1 of Title 9 of the California Code of Regulations.

(b) (1) (A) Prior to the initial licensure or first renewal of a license on or after January 1, 2003, of any person to operate or manage a facility specified in subdivision (a), the applicant or licensee shall submit fingerprint images and related information pertaining to the applicant or licensee to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the applicant or licensee. The Department of Justice shall provide the results of the criminal record check to the State Department of Health Care Services. The State Department of Health Care Services may take into consideration information obtained from or provided by other government agencies. The State Department of Health Care Services shall determine whether the applicant or licensee has ever been convicted of a crime specified in subdivision (c). The applicant or licensee shall submit fingerprint images and related information each time the position of administrator, manager, program director, or fiscal officer of a facility is filled and prior to actual employment for initial licensure or an individual who is initially hired on or after January 1, 2003. For purposes of this subdivision, "applicant" and "licensee" include the administrator, manager, program director, or fiscal officer of a facility.

(B) Commencing July 1, 2013, upon the employment of, or contract with or for, any direct care staff, the direct care staff person or licensee shall submit fingerprint images and related information pertaining to the direct care staff person to the Department of Justice for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct care staff person or licensee. The Department of Justice shall provide the results of the criminal record check to the State Department of Health Care Services. The State Department of Health Care Services shall determine whether the direct care staff person has ever been convicted of a crime specified in subdivision (c). The State Department of Health Care Services shall notify the licensee of these results. No direct client contact by the trainee or newly hired staff, or by any direct care contractor shall occur prior to clearance by the State Department of Health Care Services unless the trainee, newly hired employee, contractor, or employee of the contractor is constantly supervised.

(C) Commencing July 1, 2013, any contract for services provided directly to patients or residents shall contain provisions to ensure that the direct services contractor submits to the Department of Justice fingerprint images and related information pertaining to the direct services contractor for submission to the State Department of Health Care Services for purposes of a criminal record check, as specified in paragraph (2), at the expense of the direct services contractor or licensee. The Department of Justice shall provide the results of the criminal record check to the State Department of Health Care Services. The State Department of Health Care Services shall determine whether the direct services contractor has ever been convicted of a crime specified in subdivision (c). The State Department of Health Care Services shall notify the licensee of these results.

(2) If the applicant, licensee, direct care staff person, or direct services contractor specified in paragraph (1) has resided in California for at least the previous seven years, the applicant, licensee, direct care staff person, or direct services contractor shall only submit one set of fingerprint images and related information to the Department of Justice. The Department of Justice shall charge a fee sufficient to cover the reasonable cost of processing the fingerprint submission. Fingerprints and related information submitted pursuant to this subdivision include fingerprint images captured and transmitted electronically. When requested, the Department of Justice shall forward one set of fingerprint images to the Federal Bureau of Investigation for the purpose of obtaining any record of previous convictions or arrests pending adjudication of the applicant, licensee, direct care staff person, or direct services contractor. The results of a criminal record check provided by the Department of Justice shall contain every

conviction rendered against an applicant, licensee, direct care staff person, or direct services contractor, and every offense for which the applicant, licensee, direct care staff person, or direct services contractor is presently awaiting trial, whether the person is incarcerated or has been released on bail or on their own recognizance pending trial. The State Department of the Health Care Services shall request subsequent arrest notification from the Department of Justice pursuant to Section 11105.2 of the Penal Code.

(3) An applicant and any other person specified in this subdivision, as part of the background clearance process, shall provide information as to whether or not the person has any prior criminal convictions, has had any arrests within the past 12-month period, or has any active arrests, and shall certify that, to the best of their knowledge, the information provided is true. This requirement is not intended to duplicate existing requirements for individuals who are required to submit fingerprint images as part of a criminal background clearance process. Every applicant shall provide information on any prior administrative action taken against them by any federal, state, or local government agency and shall certify that, to the best of their knowledge, the information provided is true. An applicant or other person required to provide information pursuant to this section that knowingly or willfully makes false statements, representations, or omissions may be subject to administrative action, including, but not limited to, denial of their application or exemption or revocation of any exemption previously granted.

(c) (1) The State Department of Health Care Services shall deny any application for any license, suspend or revoke any existing license, and disapprove or revoke any employment or contract for direct services, if the applicant, licensee, employee, or direct services contractor has been convicted of, or incarcerated for, a felony defined in subdivision (c) of Section 667.5 of, or subdivision (c) of Section 1192.7 of, the Penal Code, within the preceding 10 years.

(2) The application for licensure or renewal of any license shall be denied, and any employment or contract to provide direct services shall be disapproved or revoked, if the criminal record of the person includes a conviction in another jurisdiction for an offense that, if committed or attempted in this state, would have been punishable as one or more of the offenses referred to in paragraph (1).

(d) (1) The State Department of Health Care Services may approve an application for, or renewal of, a license, or continue any employment or contract for direct services, if the person has been convicted of a misdemeanor offense that is not a crime upon the person of another, the nature of which has no bearing upon the duties for which the person will perform as a licensee, direct care staff person, or direct services contractor. In determining whether to approve the application, employment, or contract for direct services, the department shall take into consideration the factors enumerated in paragraph (2).

(2) Notwithstanding subdivision (c), if the criminal record of a person indicates any conviction other than a minor traffic violation, the State Department of Health Care Services may deny the application for license or renewal, and may disapprove or revoke any employment or contract for direct services. In determining whether or not to deny the application for licensure or renewal, or to disapprove or revoke any employment or contract for direct services, the department shall take into consideration the following factors:

(A) The nature and seriousness of the offense under consideration and its relationship to the person's employment, duties, and responsibilities.

(B) Activities since conviction, including employment or participation in therapy or education, that would indicate changed behavior.

(C) The time that has elapsed since the commission of the conduct or offense and the number of offenses.

(D) The extent to which the person has complied with any terms of parole, probation, restitution, or any other sanction lawfully imposed against the person.

(E) Any rehabilitation evidence, including character references, submitted by the person.

(F) Employment history and current employer recommendations.

(G) Circumstances surrounding the commission of the offense that would demonstrate the unlikelihood of repetition.

(H) The granting by the Governor of a full and unconditional pardon.

(I) A certificate of rehabilitation from a superior court.

(e) Denial, suspension, or revocation of a license, or disapproval or revocation of any employment or contract for direct services specified in subdivision (c) and paragraph (2) of subdivision (d) are not subject to appeal, except as provided in subdivision (f).

(f) After a review of the record, the director may grant an exemption from denial, suspension, or revocation of any license, or disapproval of any employment or contract for direct services, if the crime for which the person was convicted was a property crime

that did not involve injury to any person and the director has substantial and convincing evidence to support a reasonable belief that the person is of such good character as to justify issuance or renewal of the license or approval of the employment or contract.

(g) A plea or verdict of guilty, or a conviction following a plea of nolo contendere shall be deemed a conviction within the meaning of this section. The State Department of Health Care Services may deny any application, or deny, suspend, or revoke a license, or disapprove or revoke any employment or contract for direct services based on a conviction specified in subdivision (c) when the judgment of conviction is entered or when an order granting probation is made suspending the imposition of sentence.

(h) (1) For purposes of this section, "direct care staff" means any person who is an employee, contractor, or volunteer who has contact with other patients or residents in the provision of services. Administrative and licensed personnel shall be considered direct care staff when directly providing program services to participants.

(2) An additional background check shall not be required pursuant to this section if the direct care staff or licensee has received a prior criminal history background check while working in a mental health rehabilitation center, psychiatric residential treatment facility, or psychiatric health facility licensed by the State Department of Health Care Services, and provided the department has maintained continuous subsequent arrest notification on the individual from the Department of Justice since the prior criminal background check was initiated.

(3) When an application is denied on the basis of a conviction pursuant to this section, the State Department of Health Care Services shall provide the individual whose application was denied with notice, in writing, of the specific grounds for the proposed denial.

*(Amended by Stats. 2022, Ch. 589, Sec. 13. (AB 2317) Effective January 1, 2023.)*