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HEALTH AND SAFETY CODE - HSC

DIVISION 101. ADMINISTRATION OF PUBLIC HEALTH [100100 - 101997] (*Division 101 added by Stats. 1995, Ch. 415, Sec. 3.*)

PART 1. CALIFORNIA DEPARTMENT OF HEALTH SERVICES [100100 - 100922] (*Part 1 added by Stats. 1995, Ch. 415, Sec. 3.*)

CHAPTER 2. General Powers of the Department [100150 - 100335] (*Chapter 2 added by Stats. 1995, Ch. 415, Sec. 3.*)

ARTICLE 3. Regulatory Authorization and Review [100275 - 100315] (*Article 3 added by Stats. 1995, Ch. 415, Sec. 3.*)

100275. (a) The department may adopt and enforce regulations for the execution of its duties.

(b) All regulations heretofore adopted by the department or its predecessors relating to public health, the licensing and certification of health facilities, except the licensing of community care facilities, or any other function performed by the Division of Public Health of the department, and in effect immediately preceding July 1, 1978, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the director or as otherwise provided by Section 25 or other provisions of law. This subdivision shall not apply to any regulation relating to a function transferred to a different state agency or department as a result of another provision of the statutes enacted during the 1977–78 Regular Session.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100280. (a) The director shall adopt emergency regulations pursuant to Section 1267.7 implementing Chapter 327 of the Statutes of 1982, effective July 1, 1983, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of regulations shall be deemed to be an emergency, and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(b) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regarding the duration of emergency regulations, any regulations adopted by any state agency in order to implement this section, shall remain in effect until June 30, 1984.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100285. (a) Notwithstanding Section 11346.1 of the Government Code regarding the duration of emergency regulations, any regulations adopted by the director pursuant to Section 100280 and in effect on June 27, 1984, shall remain in effect until emergency regulations adopted pursuant to subdivision (b) become effective.

(b) The director shall adopt emergency regulations pursuant to Section 1267.7, to be effective August 1, 1984, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

(c) The director shall transmit emergency regulations adopted pursuant to subdivision (b) directly to the Secretary of State for filing, and the regulations shall become effective immediately upon filing.

(d) Upon completion of the formal regulation adoption process and prior to the expiration of the 120-day duration period of emergency regulations, the director shall transmit directly to the Secretary of State for filing the adopted regulations, the rulemaking file, and the certification of compliance, as required by subdivision (e) of Section 11346.1 of the Government Code.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any regulations adopted by the director pursuant to this section and any documentation filed with those regulations shall not be subject to any review, approval, disapproval, or repeal by the Office of Administrative Law.

(*Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.*)

100290. Notwithstanding any other provision of law, the department shall submit all of its regulations on matters related to statutory responsibilities delegated to or enforced by local health departments, except emergency regulations, to the California Conference of Local Health Officers for review and comment prior to adoption. If the department deems it appropriate to implement the proposed regulations or parts thereof, contrary to the recommendations of the conference, the department shall make a public finding summarizing the reasons for acting contrary to these recommendations.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100295. The department, after consultation with and approval by the Conference of Local Health Officers, shall by regulation establish standards of education and experience for professional and technical personnel employed in local health departments and for the organization and operation of the local health departments. These standards may include standards for the maintenance of records of services, finances and expenditures, that shall be reported to the director in a manner and at times as the director may specify.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100300. When a dispute arises as to the interpretation or enforcement of regulations of the department that are being enforced by a city, city and county, county, or district, a request for clarification or interpretation may be submitted to the department. The department shall make a determination of the proper interpretation and required enforcement when so requested by a party to the dispute.

In making its determination the department may conduct a hearing where all interested parties may present relative comments or arguments.

Determinations of the department made pursuant to this section shall be transmitted to the concerned local agency and the involved party or parties within 60 days after the receipt of the request. The determination of the department shall be binding upon the local agency and the parties subject to the regulations of the department, except when the matter may be subject to judicial review.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100305. Notwithstanding any other provision of law, the department by regulation may provide for the issuance and renewal on a two-year basis of licenses, certificates of registration, or other indicia of authority issued pursuant to this code by the department.

The department may by regulation set the fee for the two-year license, certificate of registration, or other indicia, not to exceed twice the annual fee for issuance or renewal set by statute.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100310. Notwithstanding any other provision of law, but to the extent consistent with applicable federal law or regulation, the director may, after a request by a board of supervisors of an affected county and after a public hearing held in accordance with Section 11346 of the Government Code, waive regulations pertaining to the provision of hospital services in a hospital operated by a county or under contract to a county for a county with a population of 200,000 or less on January 1, 1980, if the director makes a finding that the waiver would not affect adversely the health and safety of persons in the county.

The authority contained in this section shall be in addition to, and shall not supersede or limit, any other provision of law authorizing the waiver by the department of requirements contained in regulations adopted by the department relating to health facilities.

(Added by Stats. 1995, Ch. 415, Sec. 3. Effective January 1, 1996.)

100315. (a) The department and as applicable, the California Department of Aging, the State Department of Public Health, and the State Department of Social Services, may grant to a PACE program, as defined in Chapter 8.75 (commencing with Section 14591) of Part 3 of Division 9 of the Welfare and Institutions Code, exemptions from duplicative, conflicting, or inconsistent requirements in Chapter 1 (commencing with Section 1200), Chapter 3 (commencing with Section 1500), Chapter 3.2 (commencing with Section 1569), Chapter 3.3 (commencing with Section 1570), and Chapter 8 (commencing with Section 1725) of Division 2, and Divisions 3 and 5 of Title 22 of the California Code of Regulations, including the use of alternate concepts, methods, procedures, techniques, space, equipment, personnel, personnel qualifications, or the conducting of pilot projects, provided that the exemptions are implemented in a manner that does not jeopardize the health and welfare of participants receiving services under PACE, or deprive beneficiaries of rights specified in federal or state laws or regulations. In determining whether to grant exemptions under this section, the departments shall consult with each other.

(b) A written request and substantiating evidence supporting the request for an exemption under subdivision (a) shall be submitted by the PACE program to the department. A PACE program may submit a single request for an exemption from the licensing requirements applicable to two or more licenses held by that organization, so long as the request lists the locations and license numbers held by that organization and the requested exemption is the same and appropriate for all licensed locations. The written request shall include, but shall not be limited to, all of the following:

(1) A description of how the applicable state requirement duplicates, conflicts with, or is inconsistent with state or federal requirements related to the PACE model.

(2) An analysis demonstrating why the duplication, conflict, or inconsistency cannot be resolved without an exemption.

(3) A description of how the PACE program plans to comply with the intent of the requirements described in paragraph (1).

(4) A description of how the PACE program will monitor its compliance with the terms and conditions under which the exemption is granted.

(c) The department shall approve or deny any request within 60 days of submission. An approval shall be in writing and shall provide for the terms and conditions under which the exemption is granted. A denial shall be in writing and shall specify the basis therefor. Any decision to deny a request shall be a final administrative decision.

(d) If, after investigation, the department determines that a PACE program that has been granted an exemption under this section is operating in a manner contrary to the terms and conditions of the exemption, the department shall immediately suspend or revoke the exemption. If the exemption is applicable to more than one location or more than one category of licensure, or both, the department may suspend or revoke an exemption as to one or more license categories or locations as deemed appropriate by the department.

(Amended by Stats. 2011, Ch. 367, Sec. 6. (AB 574) Effective January 1, 2012.)